

IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH "A", HYDERABAD

BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND  
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

|   |                          |  |
|---|--------------------------|--|
|   | ITA No.556/Hyd/2017      |  |
|   | Assessment Year: 2002-03 |  |
|   |                          |  |
| P. Sudhakar Reddy,<br>Hyderabad.<br>PAN: AASPP 6599 D | <b>Vs.</b>               | ACIT,<br>Central Circle-5,<br>Hyderabad. |
| (Appellant)   |                          | (Respondent)                             |
|   |                          |  |
| Assessee by:  | Sri P. Murali Mohan Rao  |  |
| Revenue by:   | Smt. Nivedita Biswas, DR |  |
|   |                          |  |
| Date of hearing:                                      | 24/09/2019               |  |
| Date of pronouncement:                                | 24/09/2019               |  |

**ORDER**

**PER A. MOHAN ALANKAMONY, AM.:**

This appeal is filed by the assessee against the order of the Ld. CIT(A)-12, Hyderabad in appeal No. 0295/2014-15, dated 29/12/2016 passed U/s. 144 LW.S 153A & U/s.250(6) of the Act for the assessment year 2002-03.

2. The assessee has raised the following grounds in his appeal:

1. *The order of the Ld. CIT(A)-5, Hyderabad is erroneous both on facts and in law.*
2. *The Ld. CIT(A) erred in upholding the assessment made U/s. 153A of the Act as the assessee does not belong to*

*the group of persons against whom the search is requisitioned.*

3. *The Ld. CIT(A) ought to have appreciated the fact that assessment U/s. 153A of the Act should not have been made as the material found in the premises of the concerned company which presumed to be belonging to the assessee who has no relation with the company and thus is a third person.*
4. *The Ld. CIT(A) erred in upholding the disallowance made by the Assessing Officer of Rs. 1,33,000 relating to advances and interest.*
5. *The Ld. CIT(A) ought to have appreciated that the loose sheets of paper was merely a scrap of hand written paper and not any stamp paper or a letter head.*
6. *The Ld. CIT(A) ought to have appreciated that the document which is handwritten paper cannot be treated as proper documentary evidence through which addition can be made by the A. O.*
7. *The assessee may add, alter or modify or substitute any other point to the grounds of appeal at any time before or at the time of hearing of the appeal."*

3. At the outset, the Ld. AR submitted before us that the Ld. CIT (A) has passed an ex-parte order without providing an opportunity to the assessee of being heard. It was therefore pleaded that the matter may be remitted back to the file to the Ld CIT (A) in order to provide one more opportunity to the assessee to pursue the appeal. The Ld DR on the other hand submitted that several opportunities have been provided to the assessee however, the assessee and his representative failed to cooperate with the Ld. CIT (A) in his proceedings. Since, neither the assessee nor his Counsel was present at the time of hearing during several occasions, the Ld. CIT (A) was forced to pass ex-parte

order based on the materials on record. It was therefore requested that the Orders of the Ld. Revenue Authorities may be confirmed.

4. We have heard the rival submissions and carefully perused the materials on record. On perusing the order of the Ld. CIT (A), it is apparent that the appeal was posted for hearing on 20/01/2015, 02/03/2015, 16/04/2015, 29/10/2015, 19/11/2015, 23/12/2015, 22/06/2016, 23/08/2016, 22/09/2016 and finally on 26/12/2016. In all these occasions, neither the assessee nor his Counsel appeared before the Ld. CIT (A). Therefore, the Ld. CIT (A) was right in his rem to pass an ex-parte Order, however it should have been on merits based on the materials on record. In the present case before us, though we do not find much strength in the arguments advanced by the ld. AR, it appears from the order of the Ld. CIT (A) that he has dismissed the appeal in limine for want of prosecution which in our considered view is not appropriate. Therefore, in the interest of justice, we hereby remit the matter back to the file of Ld. CIT (A) in order to consider the appeal afresh by providing one more opportunity to the assessee of being heard. At the same breath we also hereby caution the assessee to promptly cooperate before the Revenue in their proceedings failing which the Ld. CIT (A) shall be at liberty to pass appropriate order on merits based on the materials on the record.

5. In the result, appeal of the assessee is allowed for statistical purposes.

Pronounced in the open Court on 24<sup>th</sup> September, 2019.

Sd/-

**(P. MADHAVI DEVI)**  
**JUDICIAL MEMBER**

Sd/-

**(A. MOHAN ALANKAMONY)**  
**ACCOUNTANT MEMBER**

Hyderabad, Dated:24<sup>th</sup> September, 2019

**OKK**

Copy to:-

- 1) Sri P. Sudhakar Reddy C/o. P. Murali & Co., Chartered Accountants, 6-3-655/2/3, 1<sup>st</sup> Floor, Somajiguda, Hyderabad - 82.
- 2) ACIT, Central Circle-5, Hyderabad.
- 3) The CIT(A)-12, Hyderabad
- 4) The Pr. CIT-12, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File