

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

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

ITA No.2292/Hyd/2018

&

ITA No. 2306/Hyd/2018

AYs: 2011-12 & 2012-13

Mohamme Husain Bikes,
MDH Bikes, Proddatur,
Kadapa Dist.

PAN: AANFM 1182 C

(Appellant)

Vs. Income Tax Officer,
Ward-2, Proddatur.

(Respondent)

Assessee by: Sri S. Rama Rao

Revenue by: Sri Nilanjan Dey, DR

Date of hearing: 11/09/2019

Date of pronouncement: 11/10/2019

ORDER

PER A. MOHAN ALANKAMONY, AM.:

These two appeals are filed by the assessee against the order of the Ld. CIT(A), Kurnool in appeal No.088 & 089/CIT(A)/KNL/2016-17, dated 07/09/2018 passed U/s. 143(3) r.w.s 263 & U/s. 250(6) of the Act for the assessment year 2011-12 and 2012-13.

2. These appeals pertain to consequential orders passed by the Ld. AO pursuant to the orders passed by the Ld. PCIT U/s. 263 of the Act

which was further adjudicated by the Ld. CIT (A) with respect to the appeals filed by the assessee.

3. At the outset the Ld. AR submitted before us that the assessee also preferred appeals with respect to the orders passed by the Ld. PCIT U/s. 263 of the Act for the assessment year 2011-12 and 2012-13 before the Tribunal which were adjudicated by the Tribunal vide order dated 28/02/2018 in ITA Nos. 847 and 848/Hyd/2016 and the issues raised in those appeals are the same as the issues raised in the present appeals filed before us. The Ld.DR could not controvert to the submission of the Ld.AR. Further on examining the facts we find merit in the submission of the Ld.AR and for reference we have extracted the relevant portion of the Order of the Tribunal dated 28/02/2018 hereinbelow: -

“7. Considered the rival submissions and perused the material on record. There is no dispute that the assessee has earned the other income, which are part of running of business ie., purchase and sale of bikes, for which, assessee has to incur the expenditure similar to the main business activity. According to us, these expenses cannot be separated, as the activities are inseparable. But, these other incomes have potential to generate some income, which may not be at the rate estimated by the Ld. Pr. CIT. Therefore, we direct the AO to estimate the other income @ 10% of the gross receipt apart from estimating the business income at 1.1% on the sales in order to meet the ends of justice. Therefore, the ground raised by the assessee is partly allowed.

8. As the facts and ground raised by the assessee in AY 2012-13 are identical to the AY 2011-12, following the conclusions drawn therein, the grounds raised in AY 2012-13 are partly allowed.”

4. Since, the issues raised in the present appeals before us are already adjudicated by the Tribunal vide Order dated 28/02/2018 in ITA Nos. 847 and 848/Hyd/2016 for the assessment year 2011-12 and 2012-13, the Consequential Orders passed by the Ld.AO pursuant to the Orders passed by the Ld.PCIT U/s.263 of the Act for the very same assessment years and the subsequent appellate Orders of the Ld.CIT(A) do not survive.

5. In the result, both the appeals of the assessee are dismissed.

Pronounced in the open Court on the 11th October, 2019.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 11th October, 2019

OKK

Copy to:-

- 1) MDH Bikes, D. No.15/430-2, Mydukur Road, Near Pandu Ranga Swamy Temple, Proddatur (Kadapa Dist).
- 2) ITO, Ward-2, Vasanthapet, Rameswaram Road, Proddatur, Kadapa Dist.
- 3) The CIT(A), Kurnool.
- 4) The Pr. CIT, Kurnool.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File