

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

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

ITA No.1172/Hyd/2019		
Assessment Year: 2010-11		
Zafar Alam, Hyderabad. PAN: ACDPA 8085 A	Vs.	ACIT (OSD), Ward-9(2), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Sri Mohd. Iqbal, AR	
Revenue by:	Smt. Matta Padma, DR	
Date of hearing:	07/11/2019	
Date of pronouncement:	07/11/2019	

ORDER

This appeal is filed by the assessee against the order of the Ld. CIT(A)-4, Hyderabad in appeal No. 10298/17-18/ITO, W-5(1)/CIT(A)-4/Hyd/19-20, dated 24/5/2019 passed U/s. 143(3) r.w.s 147 & U/s. 250(6) of the Act for the A.Y. 2010-11.

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

- “1. *The order of the Ld. CIT(A) is against the law, weight of evidence and probabilities of case.*
2. *The Ld. CIT(A) ought to have appreciated that the A.O. has not followed the precedence for service of notice, laid down in the manual of office procedure (volume-II Technical) (February 2003) of the Department, therefore, erred I not declaring the notice U/s. 148 as invalid.*

3. *The Ld. CIT(A) ought to have appreciated that the matter is referred to the valuation cell for valuation, therefore, erred in adopting the sale consideration art Rs. 9,00,000/-.*
4. *The Ld. CIT(A) ought to have appreciated that the assessee is holding a husk of title whereas and all the bunch of rights of ownership including possession of the property and right to receive the sale consideration are transferred to the co-vendor, therefore, the entire sale consideration was received by co-vendor and therefore, no amount is taxable in hands of the assessee.*
5. *The Ld. CIT(A) ought to have appreciated that the subject property is embedded with litigations, therefore, the assessee spent huge amounts for acquiring the same, therefore cost of acquisition should have ben decided as per the market value per sq yard as on 2001/2004 as per the market value per sq yard or actual amounts spent.*
6. *The Ld. CIT(A) erred in confirming the order of the A.O.*
7. *The Ld. CIT(A) erred in confirming the order of the A.O. as the demand notice does not contain the PAN number of the assessee, therefore, ought to have held that the demand is not enforceable.*
8. *The appellant craves leave to add to amend or modify the above grounds of appeal either before or at the time of hearing of the appeal, if it is considered necessary.”*

3. At the outset, the Ld. AR briefly narrated the facts of the case and submitted that the Ld. CIT (A) has passed 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 of the Ld CIT (A) in order to provide one more opportunity to the assessee to pursue the appeal. Ld. DR, on the other hand, vehemently opposed to the submissions of the Ld. AR and argued that several opportunities had been provided to the assessee however, on the given dates of

hearing, neither the assessee nor his Representative appeared before the Ld. CIT (A). It was further submitted that the Ld. CIT (A) had no other option but to pass ex-parte order based on the materials available on record. Hence, it was pleaded that the order passed by the Ld. CIT(A) is in order and appeal of the assessee may be dismissed.

4. I have heard the rival submissions and carefully perused the materials on record. On examining the facts of the case, I find merit in the submissions of the Ld. DR. The Ld. CIT (A) had posted the case on several occasions. However, none appeared on behalf of the assessee before the CIT(A) on the dates of hearing. Therefore, the Ld. CIT (A) was left with no other option except to adjudicate the appeal ex-parte. In this situation, I do not find much strength in the arguments advanced by the ld. AR. However, considering the prayer of the Ld. AR, in the interest of justice, I hereby remit the matter back to the file of Ld. CIT (A) in order to consider the appeal afresh on merits by providing one more opportunity to the assessee of being heard. At the same breath, I also hereby caution the assessee to promptly co-operate before the Ld. CIT (A) in the proceedings failing which the Ld. CIT (A) shall be at liberty to pass appropriate order in accordance with law and merits based on the materials on the record. It is ordered accordingly.

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

Pronounced in the open Court on 07th November, 2019.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated:07th November, 2019

OKK

Copy to:-

- 1) Zafar Alam C/o. Mohd Afzal, Advocate, 402, Sherson's Residency, 11-5-465, Criminal Court Road, Red Hills, Hyderabad-04.
- 2) ACIT (OSD), Ward-9(2), Hyderabad.
- 3) The CIT(A)-4, Hyderabad
- 4) The Pr. CIT-4, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File