

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

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

	ITA No.1233/Hyd/2018		
	Assessment Year: 2005-06		
Sri D. Ramulu, 9-85B, Burtonguda, Bollaram, Secunderabad. PAN: ALSPR 5587 J	Vs.	Income Tax Officer, Ward-10(2), Hyderabad.	
(Appellant)		(Respondent)	
	Assessee by:	Smt. S. Sandhya	
	Revenue by:	Smt. Komali Krishna, DR	
	Date of hearing:	05/11/2019	
	Date of pronouncement:	05/11/2019	

ORDER

This appeal is filed by the assessee against the order of the Ld. CIT(A)-6, Hyderabad in appeal No. 0256/2005-06/B2/CIT(A)-6, dated 05/02/2018 passed U/s.144 r.w.s 254 & U/s. 250(6) of the Act for the A.Y. 2005-06 for the A.Y. 2005-06.

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

- “1. *The order of the Ld. CIT(A) is erroneous both on facts and in law.*
2. *The Ld. CIT(A) erred in deciding the appeal ex-parte when the appellant’s representative was present and filed the written submissions.*

3. *The Ld. CIT(A) erred in confirming the addition of Rs. 6,05,000/- deposited in the bank as representing unexplained cash credit.*
4. *The Ld. CIT(A) ought to have considered the fact that the amounts were received from sale of agricultural lands and the evidences were submitted.*
5. *Any other ground or grounds that may be urged at the time of hearing.”*

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 proper opportunities had been provided to the assessee however, on the given dates of hearing, neither the assessee nor his Representative appeared before the Ld. A.O. as well as Ld. CIT (A) but only filed written submissions. It was further submitted that the Ld. CIT (A) had no other option but to pass ex-parte order on merits 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. from the facts of the case, it is apparent that even in the second round of litigation as the matter was remitted back to the file of the Ld. AO by the Tribunal the assessee had not furnished any particulars to justify his case. Further, neither the assessee nor his representative appeared before the Ld. CIT (A) on the date 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 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 05th November, 2019.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 05th November, 2019

OKK

Copy to:-

- 1) Sri D. Ramulu, 9-85B, Burtonguda, Bollaram, Secunderabad.
- 2) Income Tax Officer, Ward-10(2), IT Towers, AC Guards, Hyderabad.
- 3) The CIT(A)-6, Hyderabad.
- 4) The Pr. CIT-6, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File