

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

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

ITA No.783/Hyd/2018		
Assessment Year: 2014-15		
Balaji Sutrave, Bhainsa. PAN: BQMPS 0389 F	Vs.	Income Tax Officer, Ward-1, Nirmal.
(Appellant)		(Respondent)
Assessee by:	Sri M.V. Joshi	
Revenue by:	Sri K. Ravi Kiran - DR	
Date of hearing:	18/11/2019	
Date of pronouncement:	18/11/2019	

ORDER

This appeal is filed by the assessee against the order of the Ld. CIT(A)-5, Hyderabad in appeal No. 0400//2016-17/CIT(A)-5, dated 05/03/2018 passed U/s. 143(3) r.w.s 250(6) of the Act for the A.Y. 2014-15.

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

- “1. The Ld. CIT(A) has erred in dismissing the ground of appeal of the assessee on upholding the additions made by A.O. in the assessment order.
2. The Ld. CIT(A) ought to have properly appreciated the fact that the HUF of Mr. Balaji Sutrave had submitted its ROI duly projecting all the transactions future in bank accounts.
3. The Ld. CIT(A) ought also to have appreciated the factual position that the business transactions carried through banks are the receipts towards the sale Kappas under commission vbusiness carried on by HUF and, not relating to the appellant in his individual capacity.

4. *The Ld. CIT(A) has erred in upholding the contention of the A.O. in treating all the deposits found in bank accounts as that of the appellant in his individual capacity.*
5. *The Ld. CIT(A) ought to have dismissed the assessment order by rejecting the contention of the A.O. that non-furnishing of ROI by HUF would not lead to treating all the deposits made by HUF as that of individual.*
6. *The Ld. CIT(A) ought to well appreciate the fact that the specified investments, under dispute, are actually made by HUF out of its business activity and the individual (appellant) has not relation.*
7. *The appellant may add or modify or substitute or delete an / or rescind all or any of the grounds of appeal of any time before or at the time of hearing of the appeal.”*

3. At the outset, the Ld. AR 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. 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 record it is apparent that neither the assessee nor his representative appeared before the Ld. CIT (A) on the date of hearing but only filed written submissions. Therefore, the Ld. CIT (A) was left with no other option except to adjudicate the appeal ex-parte on merits based on the written submissions. 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 18th November, 2019.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 18th November, 2019

OKK

Copy to:-

- 1) Balaji Sutrave C/o. P. Murali & Co., Chartered Accountants, 6-3-655/2/3, 1st Floor, Somajiguda, Hyderabad – 82.
- 2) Income Tax Officer, Ward-1, Nirmal.
- 3) The CIT(A)-5, Hyderabad
- 4) The Pr. CIT-5, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File