

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

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

	ITA No.808/Hyd/2019		
	Assessment Year: 2009-10		
Thumma Show Reddy, Hyderabad. PAN: AAMPT 4267 E	Vs.	ACIT, Circle-15(1), Hyderabad.	
(Appellant)		(Respondent)	
	Assessee by:	Smt. S. Sandhya	
	Revenue by:	Sri Rajat Mitra, DR	
	Date of hearing:	19/11/2019	
	Date of pronouncement:	19/11/2019	

ORDER

This appeal is filed by the assessee against the order of the Ld. CIT(A)-8, Hyderabad in appeal No. 10308/CIT(A)-8/Hyd/2018-19, dated 13/2/2019 passed U/s. 144 r.w.s 147 & U/s. 250(6) of the Act for the A.Y. 2009-10.

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

- “1. The order of the Ld. CIT(A) is erroneous both on facts and in law.
2. The Ld. CIT(A) erred in confirming the action of the A.O. in initiating proceedings U/s. 147 without considering the fact that neither the notice U/s. 148 nor the notice U/s. 142(1) were served on the appellant.
3. The Ld. CIT(A) erred in not providing proper opportunity before deciding the appeal.

4. *the Ld. CIT(A) ought not to have confirmed the determination of capital gain of Rs. 14,42,300/- made by the A.O.*
5. *The Ld. CIT(A) ought to have seen that such capital gain is determined without deduction of the cost of acquisition and without applying the provisions of section 50(2) of the Act.*
6. *The Ld. CIT(A) erred in confirming the levy of interest U/s. 234A and 234B of the Act.*
7. *Any other ground that may be urged at the time of hearing.”*

3. At the outset, the Ld. AR submitted that the Ld. CIT (A) as well as the Ld. AO 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 AO 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. A.O. as well as the Ld. CIT (A). It was further submitted that the Ld. Revenue Authorities 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. Revenue Authorities need not be interfered 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) posted the case for

hearing on 11/4/2018, 25/4/2018, 15/5/2018, 5/6/2018, 12/6/2018, 2/7/2018 and finally on 30/01/2019. From the record it is apparent that neither the assessee nor his representative appeared before the Ld. CIT (A) on the aforesaid dates of hearing. It is also evident that the assessee has not responded to the notices issued by the Ld. AO. Therefore, the Ld. Revenue Authorities were left out with no other option except to adjudicate the appeal ex-parte on merits. 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. AO 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. Revenue Authorities in their proceedings failing which they 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 19th November, 2019.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 19th November, 2019

OKK

Copy to:-

- 1) Thumma Show Reddy, H.No. 37-93-37/5A, Madhuranagar Colony, Neredmet, Secunderabad – 500056.
- 2) ACIT, Circle-15(1), Income Tax Towers, AC Guards, Masab Tank, Hyderabad.
- 3) The CIT(A)-8, Hyderabad.
- 4) The Pr. CIT-7, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File