

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

BEFORE SHRI A. MOHAN ALANKAMONY,  
ACCOUNTANT MEMBER

ITA No.556/Hyd/2018		
Assessment Year: 2011-12		
Sri Erra Sridhar Reddy, 9-6/2, Dwarakapuram Colony, Dilsukhnagar, Saroornagar Mandal, Rangareddy Dist, Hyderabad – 500 060. PAN: BFWPS 0618 J	Vs.	Income Tax Officer, Ward-9(3), IT Towers, AC Guards, Masab Tank, Hyderabad-500004.
(Appellant)		(Respondent)
Assessee by:	Sri A.V. Raghuram	
Revenue by:	Sri Nilanjan Dey – 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)-7, Hyderabad in appeal No. 630/CIT(A)-7/2014-15, dated 24/03/2016 passed U/s. 144 r.w.s U/s. 250(6) of the Act for the A.Y. 2011-12.

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

- “1. *On the facts and in the circumstances of the case, the order of the Ld. CIT(A) dismissing the appeal of the appellant is erroneous, illegal and unsustainable in law apart from being in violation of principles of natural justice and has to be set aside.*

2. *Without prejudice to above, the Ld. CIT(A) erred in sustaining the asst. order without going into the contentions raised by the appellant and as well as from the facts emanating from record.*
3. *The Ld. CIT(A) erred in sustaining the addition of Rs. 13,38,837 which addition is based on estimation made by the A.O. at a higher rate of 5% of stock put up for sale.*
4. *Without prejudice to above, the Ld. CIT(A) ought to have appreciated that the A.O. committed illegality by estimating the income on the stock put up for sale as well as taking the income which is admitted by the appellant in the return of income.*
5. *The Ld. CIT(A) erred in sustaining the addition of Rs. 20,37,037 made by the A.O. on the alleged ground that the source was not explained. The authorities below failed to appreciate that the appellant has been running the business for the earlier and the amount of Rs. 20,37,037 which is part of total licence fee paid is out of business funds of the appellant.”*

3. At the outset, the Ld. AR submitted that due to the problems cropped up in the assessee's domestic front, the assessee could not comply with the notices served by assessee and without providing an opportunity to the assessee, the Ld. A.O. had completed the assessment ex-parte U/s. 144 of the Act. On appeal, the Ld. AR could not attend on the final date of hearing due to unavoidable circumstances however, the ld. CIT (A) had disposed off the appeal ex-parte by not considering the contentions raised the assessee and dismissed the appeal by upholding the order the Ld. A.O. 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 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). It was further

submitted that the Ld. CIT (A) had no other option but to pass the order based on the materials available on record. Hence, it was pleaded that the order passed by the Ld. CIT(A) needs no interference 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) as well as the ld. AO had posted the case for hearing on several occasions. From the record it is apparent that neither the assessee nor his representative appeared before the Ld. CIT (A) as well as the Ld. AO on the given dates of hearing / final hearing. Therefore, the ld. AO and the Ld. CIT (A) were left out with no other option except to adjudicate the appeal ex-parte based on the materials available on record. 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 cooperate before the Ld. Revenue Authorities in their proceedings failing which the Ld. Revenue Authorities 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 19<sup>th</sup> November, 2019.

Sd/-  
(A. MOHAN ALANKAMONY)  
ACCOUNTANT MEMBER

Hyderabad, Dated: 19/11/2019

OKK

Copy to:-

- 1) Sri Erra Sridhar Reddy C/o. A.V. Raghu Ram, P. Vinod, Peddi Rajulu Advocates, 610, Babukhan Estate, Basheerbagh, Hyderabad-1,
- 2) Income Tax Officer, Ward-9(3), IT Towers, AC Guards, Hyderabad-04.
- 3) The CIT(A)-7, Hyderabad
- 4) The Pr. CIT-7, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File