

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

BEFORE SHRI A. MOHAN ALANKAMONY,  
ACCOUNTANT MEMBER

ITA No.955/Hyd/2019		
Assessment Year: 2014-15		
Okkanti Srinivasa Rao, Hyderabad. PAN: AASPO 4781 P	Vs.	Income Tax Officer, Ward-11(4), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Sri V. Siva Kumar	
Revenue by:	Sri Rajat Mitra, 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)-1, Hyderabad in appeal No. 0050/17-18/ITO, Ward-11(4), Hyd/CIT(A)-1/Hyd/2018-19, dated 08/02/2019 passed U/s. 271(1)(c) r.w.s 250(6) of the Act for the A.Y. 2014-15.

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

- “1. *The order of the Ld. CIT(A) is erroneous in law and on the facts of the case.*
2. *The Ld. CIT(A) erred in confirming the penalty of Rs. 3,11,060 levied U/s. 271(1)(c) by the A.O.*
3. *The Ld. CIT(A) erred in not following the ratio laid down by the Hon’ble Supreme Court in the case of SSA’s Emerald Meadows, which was specifically relied upon by the appellant.*
4. *The Ld. CIT(A) erred in confirming the penalty for the reason that the details of appeal against the quantum demand are not available, since the penalty proceedings are independent of assessment proceedings.*

5. *The Ld. CIT(A) ought to have considered that, due to non-striking off of the particular limb of section 271(1)(c) in the notice U/s. 274, would result in quashing of penalty proceedings.*
6. *The Ld. CIT(A) ought to have considered that a single addition in the assessment, would not result in concealment of income and furnishing of inaccurate particulars of income, both.*
7. *The Ld. CIT(A) ought to have considered that, both the limbs of section 271(1)(c) are mutually exclusive and cannot exist simultaneously, especially for a single addition made in the assessment.*
8. *Any other ground or grounds that may be raised during the appellate proceedings with the prior permission from the Hon'ble Tribunal."*

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 six occasions i.e., 05/04/2018, 15/05/2018, 17/07/2018, 25/09/2018, 23/10/2018 and finally on 24/01/2019. However, none appeared on behalf of the assessee before the CIT(A) on the above 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 18<sup>th</sup> November, 2019.

Sd/-  
(A. MOHAN ALANKAMONY)  
ACCOUNTANT MEMBER

Hyderabad, Dated: 18<sup>th</sup> November, 2019

*OKK*

Copy to:-

- 1) Okkanti Srinivasa Rao, Plot No.71, H.No. 49-285/2, Padma Nagar, Phase-1, Chintal, Butbullapur Mandal, Hyderabad-54.
- 2) Income Tax Officer, Ward-11(4), Hyderabad.
- 3) The CIT(A)-1, Hyderabad
- 4) The Pr. CIT-5, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File