

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD 'B' BENCH : Hyderabad**

**Before Shri D.Karunakara Rao, Accountant Member  
And  
Shri V.Durga Rao, Judicial Member**

**ITA No. 1740/Hyd./2016  
Assessment Year: 2012-13**

The ACIT, Circle 14(1)  
6<sup>th</sup> Floor, C Block  
I.T. Towers, Masab Tank  
Hyderabad

vs. Shri Yalamanchili Sai Babu  
H.No.4 B, Shangrila Apartments  
Road No.2, Banjara Hills  
Hyderabad (Telangana) 500 034

&

**ITA No. 88/Hyd./2017  
Assessment Year: 2012-13**

Shri Yalamanchili Sai Babu  
H.No.4 B, Shangrila Apartments  
Road no.2, Banjara Hills  
Hyderabad 34  
PAN: AANPY5312Q

vs. ITO, Ward 14(2)  
Hyderabad

**(Appellant)**

**(Respondent)**

**Department by:** Sh. Nilanjan Dey, D.R.  
**Assessee by :** Sh. V. Siva Kumar, A.R.

**Date of Hearing** : 25/11/19  
**Date of Pronouncement** : 25/11/19

**ORDER**

**Per V.Durga Rao, J.M.**

These two appeals are directed against the order passed by Ld.CIT(A)-6, Hyderabad dated 12.10.2016 for A.Y. 2012-13.

2. When these appeals are taken up for hearing, the Ld.Counsel for the assessee has submitted that both the orders passed by the authorities below i.e. the AO as well as the CIT(A) are ex-parte orders and submitted that the issue may be remitted back to the AO to pass orders after hearing the party. It is also explained that the assessee is suffering from severe lever problem from 9.7.2013 onwards and subsequently lever transplantation has taken place and therefore he was not able to appear before the authorities below. He also submitted that one more opportunity should be given to the assessee.

2.1. On the other hand, Ld.DR strongly opposed assessee's request to remit the matter back to AO.

3. We have heard both the sides and have gone through the Medical Certificate filed by the assessee. We find that the assessee is suffering from lever problem since 9.7.2013 even upto 12.9.2016. During this period only the assessment order as well as the CIT(A)'s order were passed. We find that there is a sufficient cause for the assessee for not appearing before the authorities below. Keeping in view the medical condition of the assessee we are of the opinion that one more opportunity should be given to assessee to substantiate his case before the AO. We, therefore, keeping in view the principle of natural justice, set aside the order passed by Ld.CIT(A) and remit the matter back to the file of AO to pass order de-novo in accordance with law.

3.1. We also find that the assessee has filed a paper book and also petition for admission of additional evidence. We find that the assessee is not able to explain why this additional evidence filed before us not filed before the AO and even before the CIT(A). Thus, we find that the assessee has not explained any reasons for admission of additional evidence, therefore, the petition filed by assessee for additional evidence is rejected. However, we observe that if the additional evidence filed by assessee is relevant to pass the assessment order, the same may be considered by the AO while passing assessment order.

4. In the result, the appeal filed by assessee is allowed for statistical purposes.

5. Since we have remitted the matter back to the file of AO as regards assessee's appeal, Revenue's appeal is also treated as allowed for statistical purposes.

**6. In the result, both the appeals are treated as allowed for statistical purposes.**

Order pronounced in Open Court on 25<sup>th</sup> November, 2019.

Sd/-

**(D. KARUNAKARA RAO)  
ACCOUNTANT MEMBER**

Sd/-

**(V DURGA RAO)  
JUDICIAL MEMBER**

Dated: 25<sup>th</sup> November, 2019.

*\*GMV*

Copy forwarded to:

1. Sh. Yalamanchili Sai Babu, H.No.4B, Shangrila Apartments, Road no.2, Banjara Hills, Hyderabad 500 034.
2. ITO, Ward 14(2), Hyd.
3. ACIT, Circle 14(1), Hyderabad.
4. Pr.CIT-6, Hyd.
5. The CCIT, Hyderabad/CIT(A)-6, Hyderabad.
6. D.R. ITAT Hyderabad
7. Guard File

// C o p y //

1.	Draft dictated on	25/11/19
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3.	Draft placed before the second Member	
4.	Draft approved by second Member	
5.	Approved Draft comes to SrPS	
6.	Kept for Pronouncement	
7.	File sent to Bench Clerk	