

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

BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

ITA No.559/Hyd/2016		
Assessment Year: 2011-12		
Nimma Narasimha Reddy, Hyderabad. PAN: ABDPN 3178 L	Vs.	DCIT, Circle-3(2), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Sri T. Chaitanya Kumar	
Revenue by:	Smt. K. J. Divya, DR	
Date of hearing:	25/11/2019	
Date of pronouncement:	04/12/2019	

ORDER

PER A. MOHAN ALANKAMONY, AM.:

1. This appeal is filed by the assessee against the order of the Ld. CIT(A)-3, Hyderabad in appeal No.1352/CIT(A)-3, Hyd/14-15, dated 23/10/2015 passed U/s. 144 r.w.s 143(3) & U/s. 250(6) of the Act for the A.Y. 2011-12.

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

- "1. On the facts and in the circumstances of the case, the order of the Ld. CIT(A) is erroneous, illegal and unsustainable in law.*
- 2. The Ld. CIT(A) erred in confirming the action of the A.O. without giving any further opportunity.*

3. *The Ld. CIT(A) erred in confirming the action of the A.O. in completing the assessment U/s. 144 of the IT Act without considering the facts of the case.*
4. *The Ld. CIT(A) erred in sustaining the addition made by the A.O. of Rs. 1,23,31,950/- as unexplained cash deposits as income of the appellant without giving any further opportunity.*
5. *The Ld. CIT(A) erred in sustaining the addition of Rs. 1,23,31,950/- in respect of trade receipts. The CIT(A) failed to appreciate that the parameters applied for making addition U/s. 68 of the Act cannot be applied with equal force to the trade receipts.*
6. *the Ld. CIT(A) erred in confirming the action of the A.O. in determining the total income of Rs. 1,82,69,411/- as against the income admitted of Rs. 58,37,461/-.*
7. *Any other ground may be urged at the time of hearing.”*

3. At the outset, the Ld. AR submitted that the Ld. CIT (A) has passed ex-parte order without providing proper opportunity to the assessee of being heard. Further, Ld AR submitted that during the course of assessment proceedings also the assessee could not comply with the notices issued by the Ld. AO due to severe stress as a result of acute financial crisis faced by the assessee in his business. Explaining the delay in filing the appeal before the Ld. CIT(A), Ld. AR submitted that the assessee met with an accident in the month of June, 2015 and therefore he could not file the appeal within the prescribed time limit and further pursue his appeal before the Ld. CIT(A). It was further submitted that the Ld. CIT(A) did not condone the delay and dismissed the appeal ex-parte. 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 sufficient 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) as well as the Ld. AO. It was further submitted that in the absence of any cogent reason for not filing the appeal within the stipulated time, the Ld. CIT (A) had no other option except 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) does not call for any interference and appeal of the assessee may be dismissed.

4. We have heard the rival submissions and carefully perused the materials on record. On examining the facts of the case, we find merit in the submissions of the Ld. DR. It appears from the record that the Ld. CIT (A) had posted the case for hearing on four occasions i.e., 07/07/2015, 06/08/2015, 27/08/2015 and finally on 19/10/2015. However, none appeared on behalf of the assessee before the CIT(A) on the dates of hearing. It is also apparent from the record that the assessee had neither complied with the notices issued by the Ld. A.O. during the course of assessment proceedings nor requested for adjournments citing the reasons. Moreover, the appeal was filed before the Ld. CIT(A) with a delay of 30 days. Therefore, the Ld. CIT (A) was left with no other option except to adjudicate the appeal ex-parte. In this situation, we do not find much strength in the arguments advanced

by the ld. AR. However, considering the prayer of the Ld. AR, and in the interest of justice, we hereby set-aside the order of the Ld. CIT (A) and remit the matter back to the file of Ld. A.O. in order to consider the appeal afresh by providing one more opportunity to the assessee of being heard. At the same breath, we also hereby caution the assessee to promptly co-operate 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, appeal filed by the assessee is allowed for statistical purposes as indicated hereinabove.

Pronounced in the open Court on 04th December, 2019.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 04th December, 2019

OKK

Copy to:-

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- 2) DCIT, Circle-3(2), Hyderabad.
- 3) The CIT(A)-3, Hyderabad
- 4) The Pr. CIT-3, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File