

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

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

	ITA No.1802/Hyd/2018		
	Assessment Year: 2015-16		
Sri Bhaskar Rao Chinnigari, Nizamabad. PAN: AIZPC 6435 G	Vs.	Income Tax Officer, Ward-3, Nizamabad.	
(Appellant)		(Respondent)	
Assessee by:	None		
Revenue by:	Sri Ravi Babu, DR		
Date of hearing:	16/12/2019		
Date of pronouncement:	16/12/2019		

ORDER

1. This appeal is filed by the assessee against the order of the Ld. CIT(A)-5, Hyderabad in appeal No. 0230/2017-18/CIT(A)-5, dated 24/07/2018 passed U/s. 143(3) r.w.s 250(6) of the Act for the A.Y. 2015-16.

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

- “1. *The order of the Appellate Commissioner is contrary to law, facts & Circumstances of the case.*
2. *The Appellate Commissioner ought not to have passed the appellate order ex-parte when in fact there was compliance from the assessee.*
3. *The appellate Commissioner erred in confirming the addition of Rs. 5,78,465/- being 50% of the opening balance of cash made by the A.O.*
4. *The appellate Commissioner erred in confirming the order of the Ld. A.O. who added the above amounts U/s. 115BBE of the Income Tax Act, when no such addition was warranted.*
5. *The appellate Commissioner erred in confirming the disallowance of Rs. 98,405/- being unabsorbed depreciation of earlier years made by the A.O.*

6. *Any other ground or grounds which the appellant may urge either at or before the date of hearing.*”

3. At the time of hearing before the Bench the Counsel of the assessee did not appear however Mr. A.V. Raghuram, Advocate appeared on behalf of the Counsel, CA Mr. A. Srinivas and sought for adjournment. However, on perusing the order of the Ld. CIT (A) it was observed that the Ld. CIT (A) has passed ex-parte order on merits because before the Ld. CIT (A) none appeared. Ld. DR vehemently pleaded that adjournment may not be granted and the appeal may be taken up for hearing.

4. After hearing the Ld. DR and perusing the order of the Ld. CIT (A), I find that the Ld. CIT (A) had provided sufficient opportunities to the assessee of being heard. However, on the given dates of hearing, neither the assessee nor his Representative appeared before the Ld. CIT (A). In this situation, it is obvious that the Ld. CIT (A) had no other option but to pass ex-parte order on merits based on the materials available on record. Therefore, I do not find much merit in the appeal of the assessee. However, considering the prayer of the assessee, in the interest of justice, I hereby remit the matter back to the file of Ld. CIT (A) in order to decide 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. 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, appeal filed by the assessee is allowed for statistical purposes as indicated hereinabove.

Pronounced in the open Court on 16th December, 2019.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 16th December, 2019

OKK

Copy to:-

- 1) Sri Bhaskar Rao Chinnigari C/o. DVR and Co., Chartered Accountants, 5-6-216, Saraswathi Nagar, Nizamabad – 503 003.
- 2) Income Tax Officer, Ward-3, Nizamabad.
- 3) The CIT(A)-5, Hyderabad
- 4) The Pr. CIT-5, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File