

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

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

	ITA No.27/Hyd/2019		
	Assessment Year:2010-11		
Sadiya Sultana, Hyderabad. PAN: BFTPS 6734 L	Vs.	Income Tax Officer, Ward-7(3), Signature Tower, Kondapur, Hyderabad.	
(Appellant)		(Respondent)	
	Assessee by:	Sri P.C. Yadav	
	Revenue by:	Sri M.H. Naik, DR	
	Date of hearing:	16/12/2019	
	Date of pronouncement:	20/01/2020	

ORDER

This appeal is filed by the assessee against the order of the Ld. CIT (A)-3, Hyderabad in appeal No. 0044/ITO-7(3)/Hyd/CIT(A)-3/2017-18, dated 26/10/2018 passed U/s. 144 r.w.s 147 of the Act for the AY 2010-11.

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

- "1. The finding of the Ld CIT (A) that there was no representation on 25/10/2018 the date on which the hearing of the appeal was fixed is factually incorrect, contrary to the record of the case and erroneous in law and as such, it is liable to be vacated and the impugned order, as a consequence, deserves to be set aside.*
- 2. The Ld Commissioner did not look into the record of the case and proceeded to pass the impugned order. There was a representation made by the AR of the appellant prayed for a short adjournment, which was filed in the office of the Ld. CIT (A), Hyderabad and not refused the same.*

3. *The finding of the Ld Commissioner that the appellant did not want to pursue the appeal is frivolous one and only reflects that he proceeded to dispose off the appeal with predetermined decision.*
4. *The ratio laid down in the decisions relied on by the Ld CIT (A), Hyderabad has no application to the facts and circumstances of the case.*
5. *Without prejudice to the above grounds, non-appearance of the appellant in appeal proceedings may adversely affect the facts findings but it cannot override the legislated law which lays down certain conditions to exists.*
6. *The issuance of notice U/s. 148 of the Act is illegal as there was no escapement of income either by virtue of belief of assessing Officer's reason or otherwise. The appellant voluntarily filed her return of income vide filing acknowledgment no.215036130050411 and duly disclosed the entire transactions falling in the net of tax laws including the sale of property which is subject matter of the assessment under appeal and there was no lapse on her part.*
7. *The Ld CIT failed to appreciate the fact that in view of the factual position, the impugned order is barred by limitation and the assessment is liable to be annulled.*
8. *The Authorities below erred in invoking provisions of section 50C of the Act for the reason that the appellant in a candid manner disputed the value determined by the registering authority by filing a duly sworn affidavit before Assessing Authority. In such a factual situation the Assessing Officer ought to failed to do so. Without valuation report referred to above, the Assessing officer has no jurisdiction to substitute the value of the Sale Dee.*
9. *The Ld CIT erred in confirming the charging of interest charged under section 234A and 234B of the IT Act, 1961 under the facts and circumstances of the appellant's case and the same is liable to be deleted."*

3. At the time of hearing, the Ld. AR submitted a letter before us seeking adjournment on the ground that a paper book is required to be filed and the same is not ready. However, on verifying the records, it is observed that on the earlier occasions also the case was adjourned at the request of the assessee. Further, from verifying the orders of the Ld. Revenue Authorities, it is apparent that they have passed ex-parte orders because there was no representation by the assessee before the

Ld. AO as well as before the Ld. CIT (A). Therefore, considering the above facts and circumstances of the case I hereby reject the adjournment application filed by the assessee and remit the matter back to the file of Ld. AO for fresh consideration, thereby providing the assessee with one more opportunity to pursue her case before the Ld. Revenue Authorities. At the same breath, I 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 orders in accordance with law and merits based on the materials on the record. It is ordered accordingly.

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

Pronounced in the open Court on 20th January, 2020.

Sd/-

(A. MOHAN ALANKAMONY)

ACCOUNTANT MEMBER

Hyderabad, Dated: 20th January, 2020.

OKK

Copy to:-

- 1) Sadiya Sultana, 11-2-1204/1/133, Habeeb Nagar, Hyderabad – 500 057.
- 2) Income Tax Officer, Ward-7(3), Singature Tower, Kondapur, Hyderabad.
- 3) The CIT(A)-3, Hyderabad
- 4) The Pr. CIT-3, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File