

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

BEFORE SHRI A. MOHAN ALANKAMONY,  
ACCOUNTANT MEMBER

ITA No.1153/Hyd/2017		
Assessment Year: 2010-11		
J. Khaja Mohinuddin, C/o. S.N. Suppliers, Nandyal. PAN: AEKPJ 5318 J	Vs.	Income Tax Officer, Ward-3, Anantapur.
(Appellant)		(Respondent)
Assessee by:	Sri Kiran	
Revenue by:	Sri Nilanjan Dey, DR	
Date of hearing:	18/12/2019	
Date of pronouncement:	20/01/2020	

ORDER

This appeal is filed by the assessee against the order of the Ld. CIT(A), Kurnool in appeal No.0012/CIT(A)/KNL/2013-14, dated 17/04/2017 passed U/s. 143(3) r.w.s 250(6) of the Act for the A.Y. 2010-11.

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

- “1. The order of the Ld. CIT(A) is erroneous both on facts and in law.
2. The Ld. CIT(A) erred in confirming the addition of Rs. 8,64,558/- made by the A.O. on the ground that there was a difference in the balance as per the books of account of the appellant, in the account of Premier Diginet Systems Private Limited and the closing balance in the books of the said company.
3. The Ld. CIT(A) ought to have considered the fact that there was no difference between the figures as per the books of account of premier Diginet Systems Private Limited ad the amount as per the

*books of account of the appellant and that no such addition could be made.*

4. *The Ld. CIT(A) erred in confirming the addition of Rs. 4,110/- as representing the difference between the books of account of the appellant and the account of Brahmand Computers.*
5. *The Ld. CIT(A) erred in confirming the addition of Rs. 1,250/- as representing the difference between the books of account of the appellant and the account of Mahasakti Enterprises.*
6. *The Ld. CIT(A) erred in confirming the addition of Rs. 1,46,175/- being disallowance of interest paid by the appellant on OD Account. The Ld. CIT(A) ought to have seen that the amount was paid to the appellant's wife and two sons for purchase of a house property jointly with the appellant.*
7. *The Ld. CIT(A) ought to have considered the fact that the appellant was in possession of interest free funds and therefore, the Ld. CIT(A) ought to have held that the addition of Rs. 1,46,175/- was not correctly made by the A.O.*
8. *Any other ground or grounds that may be urged at the time of hearing."*

3. At the outset, the Ld. AR submitted before us 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 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). It was further submitted that the Ld. CIT (A) had no other option but to pass ex-parte order on merits 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. 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 seven occasions. However, none appeared on behalf of the assessee before the CIT(A) on the 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 thereby 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 20<sup>th</sup> January, 2020.

Sd/-  
(A. MOHAN ALANKAMONY)  
ACCOUNTANT MEMBER

Hyderabad, Dated: 20<sup>th</sup> January, 2020.  
OKK

## Copy to:-

- 1) J. Kaja Mohinuddin, C/o. S.N. Suppliers, Opp. Silpa Sahakar, Tekke, Nandyal - 518501.
- 2) Income Tax Officer, Ward-3, Ananthapur, Andhra Pradesh.
- 3) The CIT(A), Kurnool.
- 4) The Pr. CIT, Kurnool.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File