

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

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

ITA No.1604/Hyd/2017 (A.Y.: 2009-10)		
ITA No.1733/Hyd/2017 (A.Y.: 2009-10)		
Ram Reddy Edunuri, Hyderabad. PAN: AACPE 7375 E	Vs.	Income Tax Officer, Ward-9(3), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Smt. S. Sandhya	
Revenue by:	Sri Sunil Babu, DR	
Date of hearing:	19/12/2019	
Date of pronouncement:	17/01/2020	

ORDER

Both the captioned appeals are filed by the assessee. ITA No.1604/Hyd/2017 is filed against the order of the Ld. CIT(A)-VII, Hyderabad in appeal No. 0093/ITO 9(3)/CIT(A)-VII/2013-14, dated 21/04/2015 passed U/s. 144 r.w.s 250(6) of the Act for the A.Y. 2009-10. ITA No.1733/Hyd/2017 is filed against the order of the Ld. CIT(A)-11, Hyderabad in appeal No. 335/ITO-W 9(3)/CIT(A)11/14-15/16-17, dated 17/02/2017 passed U/s. 271(1)(c) r.w.s 250(6) of the Act for the A.Y. 2009-10.

2. The assessee has raised the following grounds in ITA No. 1604/Hyd/2017:-

"1. *The Order of the Ld. CIT(A) is erroneous both on facts and in law.*

2. *The Ld. CIT(A) ought to have provided proper opportunity to the appellant before deciding the appeal.*
3. *The Ld. CIT(A) erred in confirming the addition of Rs. 28,75,900/- made by the A.O., without considering the fact that the appellant did not deposit Rs. 28,75,900/- into the bank.*
4. *The Ld. CIT(A) ought to have considered the fact that the local deposits amount to Rs. 18,61,900/- and that there are cash withdrawals.*
5. *The Ld. CIT(A) ought to have considered the fact that the appellant possessed the required sources for depositing the amount into the bank and that the turnover of the appellant amounted to Rs. 4,75,21,240/-.*
6. *The Ld. CIT(A) failed to see that the appellant recorded the deposits into the bank account and that therefore, the assessing Officer is not justified in making the addition.*
7. *Any other ground or grounds that may be urged at the time of hearing.”*

3. The assessee has raised the following grounds in ITA No. 1733/Hyd/2017:-

- “1. *The order of the Ld. CIT(A) is erroneous both on facts and in law.*
2. *The Ld. CIT(A) erred in finalising the appeal without providing further opportunity to the appellant.*
3. *the Ld. CIT(A) erred in confirming levy of penalty of Rs. 8,63,000/- U/s. 271(1)(c) of the Act.*
4. *The Ld. CIT(A) ought to have seen that the notice U/s. 274 of the Act was not validly issued as the Assessing Officer did not strike off the inappropriate portion in the notice.*
5. *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 in the quantum appeal ITA No. 1604/Hyd/2017, the Ld. CIT (A) did not condone the delay and dismissed the assessee’s appeal. The ld. AR further submitted that in the penalty appeal in ITA No. 1733/Hyd/2017 relating to the quantum appeal the Ld. CIT(A) has passed ex-parte order without

providing an opportunity to the assessee of being heard and without disposing off the quantum appeal on merits. It was further pleaded that the delay in filing the appeal before the ld. CIT (A) was due to the fact that the assessee's Representative discontinued his practice without intimating the assessee and hence, the assessee could not pursue the appeal before the Ld. CIT (A) within the stipulated time. It was therefore pleaded that the ld. CIT (A) may be directed to condone the delay and hear the appeal on merits. Ld. DR, on the other hand, vehemently opposed to the submissions of the Ld. AR and pleaded that the orders passed by the Ld. CIT(A) do not call for any interference and appeals 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. AR. The assessee could not file the appeal before the ld. CIT (A) within the stipulated time due to the fault of his Counsel. Therefore, I hereby remit the matter back to the file of Ld. CIT (A) with direction to condone the delay in filing the appeal before him and thereafter dispose off the appeal on merits by providing proper opportunity to the assessee of being heard. Since I have remitted back the quantum appeal to the file of the Ld. CIT (A), the penalty appeal is also remitted back to the file of Ld. CIT (A) to decide the issue after

adjudicating the quantum appeal on merits. Accordingly, both the appeals are remitted back to the file of Ld. CIT (A).

5. In the result, both the appeals filed by the assessee are allowed for statistical purposes as indicated hereinabove.

Pronounced in the open Court on 17th January, 2020.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 17th January, 2020.

OKK

Copy to:-

- 1) Ram Reddy Edunuri, House No.10-1/179, Indu Aranya Bandlaguda, Hyderabad – 500 068.
- 2) Income Tax Officer, Ward-9(3), IT Towers, AC Guards, Hyderabad.
- 3) The CIT(A)-VII, Hyderabad. (ii) The CIT (A)-11, Hyderabad.
- 4) The Pr. CIT-7, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File