

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

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

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| | ITA No.1618/Hyd/2018 | | |
| | Assessment Year: 2014-15 | | |
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| Sri Madhusudan Reddy Baddam, Adilabad – 504 106. PAN: BYGPB 8471 D | Vs. | Income Tax Officer, Ward-1, Nirmal. | |
| (Appellant) | | (Respondent) | |
| | | | |
| | Assessee by: | Sri S. Rama Rao | |
| | Revenue by: | Sri M. Murthy Naik, DR | |
| | | | |
| | Date of hearing: | 20/01/2020 | |
| | Date of pronouncement: | 23/01/2020 | |

ORDER

This appeal is filed by the assessee against the order of the Ld. CIT(A)-5, Hyderabad in appeal No.0531/2016-17/CIT(A)-5, dated 16/02/2018 passed U/s. 143(3) r.w.s 147 of the Act for the Assessment year 2014-15.

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 deciding the appeal without providing proper opportunity to the appellant.*
3. *The Ld. CIT(A) erred in confirming the addition of Rs. 22,22,500/- made by the A.O. U/s. 56(2)(vii)(b) of the Act.*

4. *The Ld. CIT(A) ought to have seen that the real value of the property is Rs. 6 lakhs only and the value fixed by the Sub-Registrar is not the real market value.*
5. *The Ld. CIT(A) ought to have considered the circumstances and held that the provisions of section 56(2)(vii)(b) of the Act are not applicable.*
6. *The Ld. CIT(A) ought to have seen tht the rate adopted by the Sub-Registrar is not correct compared to the certificate issued by the sub-registrar which clearly indicates that the land cost is Rs. 1,50,000/- per acre which would amount to Rs. 2,70,000/- and that there is no value for the structure.*
7. *The Ld. CIT(A) ought to have considered the material available on record and held that no income U/s. 56(2)(vii)(b) of the Act is assessable in the assessment of the appellant.*
8. *Any other ground or grounds that may be urged at the time of hearing.”*

3. At the outset, Ld. AR submitted that there is a delay of 18 days in filing the appeal before the Tribunal. In this regard, the assessee has submitted an affidavit stating the reasons for the delay in filing the appeal before the Tribunal. For reference, the relevant portion from the affidavit is extracted herein below:

“.....The period of 60 days for filing appeal before the Hon’ble ITAT ended on 14/07/2018. During the relevant period i.e., from 10/07/2018 to 31/07/2018, the petitioner fell sick and was under medical treatment for low back pain. He was not in a position to move out. A copy of the medical certificate is annexed to this petition. The petitioner, thereafter, consulted the Advocate on 01/08/2018, got the appeal prepared and filed on the same day. In the process there is a delay of 18 days. The petitioner humbly submits that the delay is for the reasons submitted above which are beyond his control and is not intentional. The petitioner, therefore, prays the Hon’ble ITAT to kindly condone the delay.....”

3.1 On perusal of the affidavit filed by the assessee explaining the health condition of the assessee as the reason for the delay in filing the appeal before the Tribunal, in the interest of justice, I hereby condone the delay of 18 days and proceed to hear the appeal on merits.

4. At the outset, the Ld. AR submitted before us that the Ld. CIT (A) had passed ex-parte order without providing proper 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.

5. 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 several 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 pass the order 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 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.

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

Pronounced in the open Court on 23rd January, 2020.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 23rd January, 2020.

OKK

Copy to:-

- 1) Sri Madhusudan Reddy Baddam, Flat No.206, Block-A, Vaishnavi Towers, Divya Nagar, Nirmal, Adilabad-504106.
- 2) Income Tax Officer, Ward-1, Lalithamba Complex, Old Bus Stand Road, Nirmal.
- 3) The CIT(A)-5, Hyderabad
- 4) The Pr. CIT-5, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File