

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

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

ITA No. 888/Hyd/2017		
Assessment Year: 2007-08		
Sana Estates & Earth Movers Limited, Hyderabad. PAN: AAJCS 5982 R	Vs.	Income Tax Officer, Ward-3(1), Hyderabad.
(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)-3, Hyderabad in appeal No. 0149/ITO-Ward-3(1)/CIT(A)-3/15-16, dated 06/02/2017 passed U/s. 143(3) r.w.s 147 of the Act for the A.Y. 2007-08.

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

- “1. *The order of the Ld. CIT(A) is erroneous to the extent it is prejudicial to the appellant.*
2. *The Ld. CIT(A) ought to have provided proper opportunity before deciding the appeal.*
3. *The Ld. CIT(A) erred in confirming the action of the A.O. in initiating proceedings U/s. 147 of the Act.*

4. *The Ld. CIT(A) erred in confirming the addition of Rs. 34,27,022/- made by the Assessing Officer by holding that the investment made in acquisition of property was not properly explained.*
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 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.

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 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.

5. 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) Sana Estates & Earth Movers Limited, 8-2-120/86/9/A/26, Rao & Raju Colony, Road No.2, Banjara Hills, Hyderabad-34.
- 2) Income Tax Officer, Ward-3(1), Signature Towers, Kondapur, Hyderabad.
- 3) The CIT(A)-3, Hyderabad
- 4) The Pr. CIT-3, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File