

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

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

	ITA No.1180/Hyd/2018		
	Assessment Year: 2014-15		
Sri Sampath Reddy Vem, H.No.1-81, Dhanasarika Samudram, Warangal - 500112. PAN: ADFPV 3598 L	Vs.	Income Tax Officer, Ward-4, Warangal, Station Road, Girmajipet, Warangal-002.	
(Appellant)		(Respondent)	
	Assessee by:	Sri A.V. Raghuram, AR	
	Revenue by:	Sri Nilanjan Dey, DR	
	Date of hearing:	12/12/2019	
	Date of pronouncement:	23/01/2020	

ORDER

This appeal is filed by the assessee against the order of the Ld. CIT(A)-8, Hyderabad in appeal No.10296/CIT(A)-8/Hyd/2017-18 dated 9th April, 2018 passed U/s. 143(3) r.w.s 250(6) of the Act for the A.Y. 2015-16.

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

- “1. On the facts and in the circumstances of the case, the order of the CIT (A)-8, Hyderabad allowing the appeal of the appellant only in part, is erroneous and unsustainable and is prejudicial to the appellant. The CIT(A) ought to have allowed the appeal in entirety.
2. The CIT(A) erred in sustaining the action of the A.O. in estimating the income of the appellant at 5% of the stock put up for sale. On the facts and in the circumstances of the case the income returned by the appellant ought to have been accepted by the Authorities below.

3. *The CIT(A) erred in sustaining addition of Rs. 1,21,435/- as unexplained expenditure U/s. 69C of the Act. The CIT(A) failed to appreciate that the said expenditure is claimed as charges recoverable by the Government in the form of cess, Seignorage and VAT.*
4. *The CIT(A) erred in sustaining the addition of Rs. 30,000/- as unexplained expenditure U/s. 69C of the Act.”*

3. At the outset, the Ld. AR submitted before us that the Ld. CIT (A) has passed ex-parte order without providing proper opportunity to the assessee of being heard. The ld. AR further submitted that the Ld. AO had also not appreciated the facts of the case while deciding the issue. It was therefore pleaded that the matter may be remitted back to the file of the Ld. AO 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. The ld. DR also argued by stating that the ld. AO had examined the issue thoroughly while adjudicating the appeal. 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 four occasions i.e., 09/02/2018, 01/03/2018, 13/3/2018 and finally on 27/03/2018. However, none appeared on behalf of the assessee before the CIT(A) on the abovementioned 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, and in the interest of justice, I hereby remit the matter back to the file of Ld. A.O. for de novo consideration in order to consider the appeal afresh by providing one more opportunity to the assessee of being heard. I also draw attention of the Ld. Revenue Authorities to take into consideration of the margin of profit granted by the State trading authorities to the assessee for selling the Indian manufactured liquor and also the provisions under the Act relating to mandatory maintenance of books of accounts and the special provisions for computing profits and gains of business on presumptive basis. 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 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) Sri Sampath Reddy Vem, C/o. A.V. Raghu Ram & VP. Vinod, Advocates, Flat No. 610, 6th Floor, Babukhan Estates, Basheerbagh, Hyd-1.
- 2) Income Tax Officer, Ward-4, Warangal, Station Road, Garimajipet, Warangal-002.
- 3) The CIT(A)-8, Hyderabad
- 4) The Pr. CIT-8, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File