

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

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

	ITA No.672/Hyd/2019		
	Assessment Year:2008-09		
Hematha Par Boiled Private Limited, Warangal. PAN: AABCH 0316 G	Vs.	ACIT, Circle-1, Warangal.	
(Appellant)		(Respondent)	
Assessee by:	Sri A. Kiran Manohar		
Revenue by:	Sri Kiran Katta, DR		
Date of hearing:	21/01/2020		
Date of pronouncement:	30/01/2020		

ORDER

This appeal is filed by the assessee against the order of the Ld. CIT(A)-9, Hyderabad in appeal No. 10370/CIT(A)-9/Hyd/2018-19, dated 06/03/2019 passed U/s. 154 r.w.s 250(6) of the Act for the assessment year 2008-09.

2. The assessee has raised the following grounds in its 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 action of the A.O. in determining the book profit for the year under consideration at Rs. 5,46,270/- without allowing the deduction of the losses relating to the earlier assessment years.
3. The Ld. CIT(A) ought to have considered the fact that originally the return was processed U/s. 143(1) of the Act and the appellant filed an application requesting the A.O. to modify the intimation U/s. 154 of the Act as the book profit was wrongly adopted.

4. *The Ld. CIT(A) ought to have considered the fact that there is no book profit for the year under consideration if the losses of the earlier years are taken into account and hence the order U/s. 154 ought to have been directed to be modified.*
5. *Any other ground 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 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) to consider the appeal afresh and thereby to provide one more opportunity to the assessee of being heard. Ld. DR, on the other hand, vehemently opposed to the submissions of the Ld. AR and argued that several opportunities had been provided to the assessee however, on the given dates of hearing neither the assessee nor its Representative appeared before the Ld. CIT (A). Ld. DR further submitted that in such situation, the Ld. CIT (A) had no other option but to pass ex-parte order 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 given dates of hearing. 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) 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 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 30th January, 2020.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 30th January, 2020.

OKK

Copy to:-

- 1) Hematha Par Boiled Private Limited, Survey No.8 & 11, Rajupet Village, Narsampet Mandal, Warangal.
- 2) ACIT, Circle-1, Aayakar Bhavan, Station Road, Warangal.
- 3) The CIT(A)-3, Hyderabad
- 4) The Pr. CIT-3, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File