

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

BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER

ITA No.518/Hyd/2019	
Assessment Year: 2015-16	
Sri Rachit V Shah, Hyderabad. PAN: AOCPS 1898 E	Vs. Income Tax Officer, Ward-7(3), Hyderabad.
(Appellant)	(Respondent)
Assessee by:	Ms. Anam Siddiqui
Revenue by:	Smt. M. Narmada, DR
Date of hearing:	11/03/2020
Date of pronouncement:	12/03/2020

ORDER

PER A. MOHAN ALANKAMONY, AM:

This appeal is filed by the assessee against the order of the Ld. CIT(A)-3, Hyderabad in appeal No. 0166/ITO-7(3)/Hyd/CIT(A)-3/2017-18, dated 21/01/2019 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. In computing the total income the Ld. A.O. has disallowed / exemption U/s. 54F of Income Tax Act, 1961 claimed by the assessee to the tune of Rs. 2,63,67,705/-.
2. The A.O. has erred in law by not considering the return filed by the assessee in response to the notice issued U/s. 142(1) of the Act on 10/11/2017.
3. The order suffers from lack of natural justice as no hearing was given to the assessee and without statement of facts. Hence order of CIT(A) is liable to be set aside.

4. *The appellant craves right to add, to amend or modify the above grounds of appeal either before or at the time of hearing of the appeal, if it is considered necessary.”*

3. At the outset, the Ld. AR submitted before us that the Ld. CIT (A) has passed ex-parte order without providing an 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 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 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 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.

4. We have heard the rival submissions and carefully perused the materials on record. On examining the facts of the case, we 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 adjudicate the appeal ex-parte. In this situation, we 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, we hereby remit the matter back to the file of Ld. CIT (A) in order to consider the appeal afresh on merits by providing one more opportunity to the assessee of being heard. At the same breath, we 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 12th March, 2020.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 12th March, 2020.

OKK

Copy to:-

- 1) Sri Rachit V. Shah, 15-6-519, Begum Bazar, Hyderabad.
- 2) Income Tax Officer, Ward-7(3), Hyderabad.
- 3) The CIT(A)-3, Hyderabad
- 4) The Pr. CIT-3, Hyderabad
- 5) The DR, ITAT, Hyderabad
- 6) Guard File