

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

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

ITA No.577/Hyd/2019		
Assessment Year: 2008-09		
Sri Raji Reddy Bandaru, Hyderabad. PAN: AFLPB 5181 M	Vs.	Income Tax Officer, Ward-9(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Sri Kiran	
Revenue by:	Sri Sunil Kumar Pandey, DR	
Date of hearing:	03/03/2020	
Date of pronouncement:	19/03/2020	

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal is filed by the assessee against the order of the Ld. CIT(A)-7, Hyderabad in appeal No. 0526/CIT (A)-7/2016-17, dated 12/11/2018 passed U/s. 144 r.w.s 250(6) of the Act for the AY 2008-09.

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

- “1. *The order of the Appellate Commissioner is contrary to law, facts and circumstances of the case.*
2. *The Appellate Commissioner erred in confirming the addition of Rs. 14,43,000/- being addition made U/s. 69A of the Act by the AO.*
3. *Any other grounds which the appellant may urge either at or before the date of hearing.”*

3. At the outset, it is observed from the record that there is a delay of **94 days** in filing the appeal before the Tribunal. In this regard, the assessee had submitted an affidavit seeking condonation of delay wherein the reasons for not filing the appeal within the prescribed time limit was explained. For reference, the relevant portions from the affidavit is extracted herein below: -

“That I had fallen sick in the months of January and February of this year. Subsequently, after discharge from hospital, I was advised bed rest and immediately after recovery I had filed the appeal.”

4. On perusal of the affidavit filed by the assessee explaining the reasons for delay in filing the appeal before the Tribunal, I find merit in his submissions. Considering the fact that the delay in filing the appeal had occurred because of the assessee’s illness, in the interest of justice, I hereby condone the delay in the filing the appeal before the Tribunal.

5. At the outset, Learned Counsel for the Assessee submitted that the Ld. CIT(A) had erroneously confirmed the ex-parte order passed by the Ld.AO wherein addition was made for Rs. 14,43,000/- being the cash deposited in AP Co-operative Bank, Kamalanagar branch, Hyderabad as his unexplained investment U/s. 69A of the IT Act, 1961. The Learned Counsel for the Assessee further submitted that due to compelling and unavoidable reasons the assessee could not appear before the Ld. A.O., and the Ld. AO had passed ex-prate order without

providing proper opportunity to the assessee of being heard. The Ld.AR further submitted that now the assessee is in possession of all the requisite materials to argue his case and therefore pleaded that the matter may be remitted back to the file of the A.O. for fresh consideration thereby providing the assessee one more opportunity of being heard.

6. Learned DR strongly opposed to the submission of the Ld.AR and argued by stating that sufficient opportunities were provided by both the Ld. A.O. as well as the Ld. CIT (A). However, the assessee had grossly failed to represent his case before the Ld. AO and even before the Ld. CIT (A). It was further submitted that the Ld.AR of the assessee could not furnish any cogent material or documentary evidence to substantiate the assessee's claim. It was therefore pleaded that the orders of the Ld. Revenue Authorities do not call for any interference.

7. I have heard the rival submissions and carefully perused the materials on record. On perusal of the facts of the case and examining the Orders of the Ld. Revenue Authorities, it is apparent that sufficient opportunities were provided by the Ld. AO as well as the Ld.CIT(A) by posting the case for hearing number of times. It is also apparent that the assessee has not cooperated before the Ld A.O. during the assessment proceedings. Before the Ld. CIT (A) also the Ld.AR of the

assessee did not produce any documentary evidence to establish the source of the cash deposits made by the assessee in AP Co-operative Bank, Kamalanagar, Hyderabad. In this situation, I do not find much strength in the arguments advanced by the Learned Counsel for the Assessee. However, considering the prayer of the Ld. AR that the assessee is now in possession of all the materials and evidence in order to establish the source of the cash deposited in the bank account of the assessee which was not available during earlier occasions, in the interest of justice, I hereby remit the matter back to the file of the Ld. A.O. for fresh consideration thereby affording the assessee one more opportunity to present his case before the Ld. Revenue Authorities. I also make it clear that if the assessee does not promptly co-operate before the Ld. Revenue Authorities, they shall be at liberty to pass appropriate orders in accordance with law and merits based on the material before them.

8. In the result, appeal of the assessee allowed for statistical purposes as indicated herein.

Pronounced in the open Court on 19th March, 2020.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 19th March, 2020.

OKK

Copy to:-

- 1) Sri Raji Reddy Bandaru, H.No. 4-12-267, Bhagyalatha BDL Colony, Lakshminagar Colony, Vanasthalipuram, Hyderabad – 500 070.
- 2) Income Tax Officer, Ward-9(1), Hyderabad.
- 3) The CIT (A)-7, Hyderabad.
- 4) The Pr. CIT-7, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File