

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD 'B' BENCH : Hyderabad**

*(Through Video Conferencing)*

**Before Smt. P. Madhavi Devi, Judicial Member  
And  
Shri A. Mohan Alankamony, Accountant Member**

**ITA No. 804/Hyd./2016  
A.Y. 2010-11  
&  
ITA No. 2181/Hyd./2017  
A.Y. 2010-11**

Sri V.Narasimha Goud  
Hyderabad

vs. ITO Ward 15(4)  
Hyderabad

PAN: AQBPG6789K

**(Appellant)**

**(Respondent)**

**For Assessee:** Sh. S. Rama Rao, Adv.  
**For Revenue:** Sh. Narayana Murthy Nair, D.R.

**Date of Hearing** : 30/09/2020  
**Date of Pronouncement** 12/10/2020

**ORDER**

**Per Smt. P. Madhavi Devi, J.M.**

Both are Assessee's Appeals for A.Y. 2010-11 against the order of Ld.CIT(A)-7, Hyderabad dated 29<sup>th</sup> October,2015 confirming the additions made by the AO and also confirming the penalty levied by AO u/s 271(1)(c) of the I.T.Act respectively.

The appeals were taken up for hearing on 30.09.2020 through video conferencing and both the parties were heard.

2. On going through the order of the CIT(A), we find that none appeared on behalf of the assessee before the CIT(A). Before us, the Ld.Counsel for the Assessee prayed for an opportunity to present the facts before the CIT(A).

2.1. At the outset, we find that the appeal has been filed before the Tribunal with a delay of 154 days and assessee has filed application for condonation of delay stating as under.

*“Before Hon’ble ITAT Hyderabad*

*A.Y. 2010-11*

*V.Narsimha Goud Hyd vs.ITO, Ward 15(4), Hyd.*

**PETITION REQUESTING FOR CONDONATION OF DELAY**

*The petitioner is an individual. For the assessment year 2010-11, he filed the return of income admitting an income of Rs.2,79,409/- under the head Long Term Capital Gain derived because of the compensation received from the Government of Andhra Pradesh for compulsory acquisition of his land for Outer Ring Road. The Assessing Officer completed the assessment u/s 143(3) rws 147 on 23.01.2015 determining the total income at Rs.79,86,553/-. On an appeal filed, the Hon’ble CIT (A) vide order in ITA No.1058/CIT (A)-7/2014-15 dated 29.10.2015 dismissed the appeal.*

*The order passed by the learned Commissioner of Income-Tax (Appeals) was an ex parte order as the assessee could not appear before the learned CIT (Appeals) as he met with an accident due to slip while boarding the train on 9.8.2015 at Howrah Railway Station from where he was sent to Hyderabad by air after emergency treatment in the Railway hospital, which resulted in fractures in both the hips and he has become immobile. Railway Hospital prescription memo dated 09.08.2015 is annexed. As he was bed ridden and could not submit the evidences in support of the claims made in the return of income, the learned CIT (Appeals) decided the appeal ex parte. This fact is also mentioned in the appellate order of the CIT (A). The appeal was disposed of vide order dated 29.10.2015. As the petitioner during the relevant period, was bed ridden, the order of the CIT (Appeals) was served on some one else at his residential address which was not in his knowledge. The family members and also the petitioner are not educated. The date of service of the appellate order of CIT (Appeals) was not noted.*

*Due to the accident, the petitioner was admitted in Soorya Orthopaedic Hospital, Kamalanagar, ECIL, Hyderabad on 9.8.2015. The medical record and investigation reports at Lucid Medical Diagnostic Lab are annexed to this petition. The gravity of the injuries are mentioned at page No.5 of the medical record annexed. The petitioner humbly submits that he is aged about 60 years and, therefore, the recovery of his health took longer period. When he was under convalescence, his mother Smt. V. Satyamma passed away on 6.11.2015. A copy of Death Certificate of his mother is also annexed to this petition. The two major incidents disturbed the family. In this situation the appellate order of the CIT (Appeals) was lying unattended.*

*When the Assessing Officer initiated proceedings u/s 271(1)(c) and passed an order under the said section on 18.2.2016, the appellate order of CIT (A) has come to the knowledge of the petitioner. The petitioner was contemplating to discuss the matter with an Advocate for carrying the matter further in appeal before the Hon’ble ITAT. However, due to continued ill health and difficulty in movements, he could not consult the Advocate till 27.5.2016. The matter was discussed with the Advocate on 28.05.2015 and got the appeal papers ready by 29.05.2016. The same is being filed before the Hon’ble ITAT on 30.05.2016, 29th May being Sunday. Reckoning the date of the order, there is a delay of 154 days in filing the appeal. The petitioner humbly submits that the delay is for the reasons submitted above which are beyond the control*

*of the petitioner and is not intentional. The petitioner, therefore, prays the Hon'ble Income Tax Appellate Tribunal to kindly condone the delay and pass appropriate orders in the matter."*

Dt. 29.5.2016

Sd/- (V.Narsimha) Petitioner"

In support of his application and also the contents therein, the assessee has filed the Medical Certificates. Taking the same into consideration, and also the Medical Certificates in support of assessee's contentions, we condone the delay and proceed to dispose of the appeal as under:

3. We find that the addition made by the AO is on account of long term capital gain and the relevant facts were not produced before the CIT(A) due to which the CIT(A) has confirmed the assessment order. In view of the same, we deem it fit and proper to remand the issue to the file of CIT(A) for reconsideration of the issue and assessee is directed to file all relevant details before the CIT(A) for early disposal of the appeal.

4. Since the quantum appeal has been set aside to CIT(A), the penalty appeal in ITA 2181/H/17 is also set aside to the file of CIT(A), with a direction to decide the same after he decides the quantum appeal. Accordingly, we set aside the penalty appeal to the file of CIT(A).

5. In the result, both the appeals of the assessee are treated as allowed for statistical purposes.

Order pronounced on 12<sup>th</sup> October, 2020.

**Sd/-**  
**(A. MOHAN ALANKAMONY)**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**(P. MADHAVI DEVI)**  
**JUDICIAL MEMBER**

Dated: 12<sup>th</sup> October, 2020.

\*gmv

Copy forwarded to:

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2. ITO, Ward 15(4), Hyderabad /ACIT, Range 15, Hyderabad
3. CIT(A)-7, Hyderabad
4. Pr.CIT-7, Hyderabad.
5. DR, ITAT, Hyderabad.
6. Guard File.