

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

BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER
(Through Virtual Hearing)

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| ITA No. 390/Hyd/2015 | | |
| Assessment Year:2010-11 | | |
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| Praja Coir Products, D.No.4-207/1, Main Road, Tallamada Village, Sathupally, Mandal, Khammam District. PAN: AAKFP 5093 L | Vs. | Income Tax Officer, Ward-2, Khammam. |
| (Appellant) | | (Respondent) |
| | | |
| Assessee by: | Shri S. Rama Rao | |
| Revenue by: | Shri Aluru Venkata Rao, DR | |
| | | |
| Date of hearing: | 20/10/2020 | |
| Date of pronouncement: | 20/10/2020 | |

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal is filed by the assessee against the order of the Ld. CIT (A), Vijayawada in appeal No. 99/CIT(A)/VIJ/13-14, dated 21/08/2014 passed U/s. 143(3) r.w.s 250(6) of the Act for the AY: 2010-11.

2. The assessee has raised nine grounds in its appeal which are extracted herein below for reference:

(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 additions made by the AO without considering the explanations submitted.*
- (3) *The Ld. CIT (A) erred in holding that the capital introduced by the partners of Rs. 19,52,027/- is the income of the appellant U/s. 68 of the IT Act and further erred in holding that the partners have not explained the source for investment in partnership firm of Rs. 19,52,027/-.*
- (4) *The Ld. CIT (A) erred in confirming the action of the AO in holding that the unsecured loans of Rs. 34,00,000/- were not properly explained and further erred in confirming the addition made of Rs. 34,00,000/-.*
- (5) *The Ld. CIT (A) erred in confirming the addition of Rs. 8,63,022/- made by the AO on account of difference in the account of St. Mary's Rubber.*
- (6) *The Ld. CIT (A) erred in confirming the addition of Rs. 10,529/- made by the AO on account of difference in the account of Nalanda Associates.*
- (7) *The Ld. CIT (A) erred in confirming the addition made by the AO of Rs. 1,01,492/- on the ground that there is difference in VAT payment.*
- (8) *The Ld. CIT (A) erred in confirming the action of the AO in making addition of Rs. 3,93,057/- on the ground that there was a difference in the cash balance as on 31/3/2010.*
- (9) *Any other ground or grounds that may be urged at the time of hearing.*

Additional grounds of Appeal:

- (10) *The Ld. CIT (A) erred in not considering the Ground No.3 claiming depreciation on plant and machinery, godown, vehicles and other assets used or the purpose of business activity.*
- (11) *The Ld. CIT (A) ought to have directed the AO to allow set off of loss of Rs. 4,32,180/- determined for the assessment year 2009-10 against the profit derived for the year under consideration."*

3. The Ld. AR at the beginning of the hearing submitted that the Ld. CIT (A) has passed the 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) 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 proper opportunities had been provided to the assessee however, on the given date of hearing though the assessee's Counsel represented before the Ld. CIT (A), neither he made effective

representation nor produce any additional evidence against the additions made by the AO except filing the written submissions. It was further submitted that in this circumstance, the Ld. CIT (A) had no other option but to pass the 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. Moreover, before the CIT(A) the Ld. Counsel for the assessee had appeared and also filed written submissions. Thereafter, the Ld. CIT (A) had passed appropriate Order. 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, in the interest of justice, We hereby remit the matter back to the file of Ld. CIT (A) in order to provide one more opportunity to the assessee of being heard and to pass appropriate Order after considering its submissions. At the same breath, We also hereby caution the assessee and its Representative 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 20th October, 2020.

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

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 20th October, 2020.

OKK

Copy to:-

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| 1. | Praja Coir Products C/o. Sri S. Rama Rao, Advocate, Flat No. 102, Shriya's Elegance, 3-6-643, Street No.9, Himayatnagar, Hyderabad – 500029. |
| 2. | Income Tax Officer, Ward-2, Khammam. |
| 3. | The Commissioner of Income Tax (Appeals), Vijayawada. |
| 4. | The Commissioner of Income Tax, Vijayawada. (ii) the Addl. CIT, Khammam Range, Khammam. |
| 5. | The Departmental Representative, ITAT, Hyderabad. |
| 6. | Guard File |

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| 1. | Draft dictated on | | | |
| 2. | Draft placed before author | | | |
| 3 | Draft proposed & placed before the second Member | | | |
| 4 | Draft discussed/approved by second Member | | | |
| 5 | Approved Draft comes to the Sr.P.S./PS | | | |
| 6. | Kept for pronouncement on | | | |
| 7. | File sent to the Bench Clerk | | | |
| 8 | Date on which file goes to the Head Clerk | | | |
| 9 | Date of Dispatch of order | | | |