

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

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

(THROUGH VIRTUAL HEARING)

ITA No.1616/Hyd/2017	
Assessment Year:2013-14	
Sri Koduri Satyanarayana, D.No. 1-5-139, Boiwada, Karimnagar. PAN: ACAPK 9274 E (Appellant)	Vs. The Income Tax Officer, Ward-1, Karimnagar. (Respondent)
Assessee by:	Shri K.A. Sai Prasad
Revenue by:	Ms. Kanika Agarwal, DR
Date of hearing:	02/11/2020
Date of pronouncement:	04/11/2020

ORDER

PER A. MOHAN ALANKAMONY, AM.:

This appeal is filed by the assessee against the order of the Ld. CIT (A)-2, Hyderabad in appeal No. 0068/2016-17, dated 30/06/2017 passed U/s. 144 r.w.s 147 of the Act for the AY 2013-14.

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

- (1) *The Ld. CIT (A) is not justified in disposing of the appeal without giving further opportunity to the appellant.*
- (2) *The Ld. CIT (A) in the facts and circumstances of the case, is not justified on confirming the disallowance of claim U/s. 54F.*

(3) The appellant reserves his right to add, amend, substitute or delete any ground of the appeal during the course of hearing.”

3. At the outset, the Ld. AR submitted before me that the Ld. AO had passed ex-parte order U/s. 144 r.w.s 147 of the Act without providing proper opportunity to the assessee and disallowed the deduction of Rs. 3,88,11,900/- claimed U/s. 54F of the Act. It was further submitted that on appeal, the Ld. CIT (A) also passed ex-parte order without providing adequate opportunity. Aggrieved by the order of the Ld. CIT (A), now assessee is in appeal before the Tribunal.

4. At the outset, the Ld. AR submitted before us that during the assessment proceedings and first appellate proceedings the assessee could not appear before the Ld. AO due to unavoidable circumstances. However both the Revenue Authorities passed ex-parte order without providing proper opportunity to the assessee of being heard. It was therefore pleaded that the assessee may be provided with one more opportunity to pursue his case before the Ld. Revenue Authorities. Ld. DR on the other hand objected to the submissions of the Ld. AR and argued that sufficient opportunities had been provided to the assessee, however, on the given dates of hearing, neither the assessee nor his Representative appeared before the Ld. AO and before the Ld. CIT (A). Under these circumstances, the Ld. Revenue Authorities had no other option but to pass ex-parte orders on merits based on the materials

available on record. Hence, it was pleaded that the orders passed by the Ld. Revenue Authorities do not call for any interference and appeal of the assessee may be dismissed.

5. 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) as well as the ld. AO had posted the case on several occasions. However, none appeared on behalf of the assessee before the Ld. AO on the given dates of hearing and even before the Ld. CIT(A). Further, the assessee did not place any cogent evidence on record to justify his stand. Hence, the Ld. Revenue Authorities were left with no other option except to pass orders based on the material available on record. In this situation, We do not find much strength in the arguments advanced by the ld. AR. However, considering the prayer and the submissions of the Ld. AR, in the interest of justice, We hereby remit the matter back to the file of Ld. AO for de-novo consideration thereby 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. Revenue Authorities in their proceedings failing which the Ld. Revenue Authorities shall be at liberty to pass appropriate orders in accordance with law and merits based on the materials on the record. It is ordered accordingly.

6. In the result, the appeal filed by the assessee is allowed for statistical purposes as indicated hereinabove.

Pronounced in the open Court on 04th November, 2020.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 04th November, 2020.

OKK

Copy to:-

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2.	The Income Tax Officer, Ward-1, Natraj Thetre Lane, Karimnagar-505001.
3.	The Commissioner of Income Tax (Appeals)-2, Hyderabad.
4.	Principal Commissioner of Income Tax-2, Hyderabad.
5.	Departmental Representative, ITAT, Hyderabad.
6.	Guard file.