

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC", HYDERABAD
(THROUGH VIDEO CONFERENCE)**

**BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER**

I.T.A. No. 1306/HYD/2019

Assessment Year: 2008-09

Smt.Marilyn P.Rao, L/R. of Sri Prabhakar Rao Dara, SECUNDERABAD [PAN: ABAPD1929N]	Vs	Income Tax Officer, Ward-13(5), HYDERABAD
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(Appellant)

(Respondent)

For Assessee	:	Shri P.C.Yadav, AR
For Revenue	:	Shri Rohit Mujumdar, DR

Date of Hearing : 15-12-2020

Date of Pronouncement : 18-12-2020

ORDER

This appeal is filed by the assessee aggrieved by the order of the Ld.Commissioner of Income Tax (Appeals)-4, Hyderabad, in appeal No.4/11006/16-17/W-13(5),Hyd/CIT(A)-4/Hyd/19-20, dated 24-05-2019.

2. Brief facts of the case are that the assessee is an individual, filed his return of income for the AY.2008-09 on 31-03-2009, admitting total income of Rs.1,88,200/-. Initially the assessment was completed u/s.143(3) r.w.s. 147 of the Income Tax Act [Act] on 28-03-2013, thereafter pursuant to the Order of the Ld. CIT U/s.263 of the Act the Ld.AO passes Order on 30/03/2016 wherein he made addition of Rs. 1,34,384/-

towards disallowance of interest and Rs.5,80,000/- towards income from other source. On appeal the Ld.CIT(A) dismissed the appeal by agreeing with his view.

3. Aggrieved, the assessee has filed this appeal before the Tribunal, raising the following Grounds:

“1. The learned Commissioner has not afforded a reasonable opportunity to the appellant to plead his case and violated the Principles of Natural Justice and as such, the impugned appellate order may be set aside.

2. The finding of the learned Commissioner that the appellant did not want to pursue the appeal is frivolous one and only reflects that he proceeded to dispose off the appeal with predetermined decision.

3. The ratio laid down in the decisions relied on by the learned CIT(A), Hyderabad has no application to the facts and circumstances of the case.

4. The impugned order passed by the A.O in making the addition of the cash deposits amounting to Rs.5,80,000/- made in the appellant's bank account maintained with SBH and confirmed by the CIT(A) as the total income of the appellant is unwarranted and unsustainable under law. The authorities below failed to appreciate the fact that the source for cash deposits in the bank account was out of the consideration of Rs.9,25,000/- received by the appellant on sale of his agricultural land to Mr.D.Prakash Rao, an agriculturist and younger brother of the deceased appellant, as evident from the agreement of sale entered into between them. It is therefore prayed that the A.O. may be directed to delete the addition of Rs.5,80,000/- from the total income.

5. In any event, the authorities below failed to consider the fact that the Purchaser of agricultural lands namely Mr.D.Prakash Rao, is an agriculturist. He remitted the money to the account of the appellant from the Bank at Huzurnagar, Nalgonda District. The addition is based on extraneous reasons and are liable to be deleted”.

4. At the outset, Ld.AR submitted before us that the Ld.CIT(A) has not offered proper opportunity to the assessee of being heard and passed *ex-parte* Order. It was further submitted that additional information is required to be furnished before the Ld. Revenue authorities, therefore one more opportunity may be given to argue the case before the Ld.CIT(A).

5. The Ld.DR vehemently opposed the submissions of the Ld.AR and prayed for confirming the Order of Ld.CIT(A).

6. I have heard the rival submissions through video conference and carefully perused the material on record. On verifying the facts of the case, I find that the Ld.CIT(A) has posted the case for hearing on several occasions. However neither the assessee nor his Authorised Representative appeared before the Ld.CIT(A) on the date of hearing. Therefore, the argument advanced by the Ld.AR does not have any merit. However, considering the submissions of the Ld.AR that additional evidence is required to be produced before the Ld.Revenue Authorities in order to avoid miscarriage of justice, in the interest of justice, I hereby remit the issue back to the file of Ld.CIT(A) for fresh consideration. Needless to mention that assessee shall be given a fair opportunity of hearing. I also hereby direct the assessee/assessee's representative to promptly co-operate with the Ld.CIT(A) in his proceedings failing which the Ld.CIT(A) shall be at liberty to pass

appropriate order in accordance with law and merit based on the materials on record.

7. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on the 18th December, 2020

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 18-12-2020

TNMM

Copy to :

*1.Smt.Marilyn P.Rao, L/R. of Shri Prabhakar Rao Dara,
#10-3-27/6, East Marredpally, Near New Water Tank,
Secunderabad.*

2.The Income Tax Officer, Ward-13(5), Hyderabad.

3.CIT(Appeals)-4, Hyderabad.

4.The Pr.CIT-4, Hyderabad.

5.D.R. ITAT, Hyderabad.

6.Guard File.