

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "SMC", HYDERABAD
(Through Virtual Hearing)

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

	ITA No. 1912/Hyd/2019		
	A.Y. 2011-12		
Raju Polemoni, Hyderabad. PAN: EYSPP 6897 N	VS.	Income Tax Officer, Ward-8(2), Hyderabad.	
(Appellant)		(Respondent)	
Assessee by:	Shri Shashank Dundu for Sri K.A. Sai Prasad		
Revenue by:	Shri B. Bala Krishna, DR		
Date of hearing:	15/03/2021		
Date of pronouncement:	07/04/2021		

ORDER

This appeal is filed by the assessee against the order of the Ld. CIT(A)-2, Hyderabad in appeal No.10374/2018-19/CIT(A)-2, dated 01/10/2019 passed U/s.144 r.w.s147 and U/s. 250(6) of the Act for the A.Y.: 2011-12.

2. The assessee has raised six grounds in his appeal and they are extracted herein below for reference:-

- “1. The order of the Ld. CIT(A) confirming the order U/s. 144 r.w.s 147 of the IT Act is arbitrary and contrary to the provisions of law and facts of the case.
2. The Ld. CIT(A) failed to give proper opportunity to represent the appeal.
3. The Ld. CIT(A) failed to appreciate the fact that the property in adverse position was sold for the prevailing

- market value of Rs. 6,00,000/- and hence the provisions of section 50C are not applicable to the facts of the case.*
4. *The Ld. CIT(A) is not justified in confirming the addition of Rs. 10,22,150/- adopting the sale consideration U/s. 50C of the Act.*
 5. *The Ld. CIT(A) failed to appreciate the settled legal position that in case of dispute regarding valuation an assessment making addition U/s. 50C without referring the matter to the valuation cell is bad in law.*
 6. *The appellant prays leave to add or amend or alter any of the grounds at the time of hearing of the appeal.”*

3. At the outset, the Ld. AR submitted that there is delay of 10 days in filing the appeal before the Tribunal beyond the prescribed time limit. In this regard, Ld. AR submitted that since he was out of station on urgent personal work during the period, the appeal could not be filed within the stipulated time. It was therefore pleaded that the delay in filing the appeal before the Tribunal may kindly be condoned.

4. On perusal of the condonation petition submitted by the Ld. AR, I find that the assessee was prevented by a reasonable and justifiable reason which led to the delay of 10 days in filing his appeal before the Tribunal i.e., due to non-availability of the Ld. AR during the relevant period. Therefore, since the delay in filing the appeal is not attributable to the assessee, in the interest of justice, I hereby condone the delay of 10 days in filing the appeal before the Tribunal and proceed to adjudicate the appeal on merits.

5. At the outset, the Ld. AR submitted before me stating that the Ld. CIT (A) has passed ex-parte order without providing proper opportunity to the assessee of being heard. Ld. AR further submitted that the Ld. A.O. had also passed ex-parte order U/s. 144 r.w.s 147 of the Act and the assessee was not afforded proper opportunity of being heard. It was therefore pleaded that the matter may be remitted back to the file of the Ld A.O. 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 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. A.O. as well as the Ld. CIT (A). Therefore the Ld. Revenue Authorities had no other option but to pass ex-parte orders 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.

6. I have heard the rival submissions and carefully perused the materials on record. On examining the facts of the case, I find merit in the submissions of the Ld. DR. The Ld. CIT (A) and the Ld. A.O. had posted the case on several occasions. However, none appeared on behalf of the assessee before the Ld.AO as well as before the Ld. CIT(A) on the dates of hearing. Therefore, the Ld. Revenue Authorities were left with no other option except to adjudicate the appeal ex-parte. In

this situation, I do not find much strength in the arguments advanced by the ld. AR. However, considering the issues involved in the appeal as well as the prayer of the Ld. AR, in the interest of justice, I hereby remit the matter back to the file of Ld. A.O. in order to consider the appeal afresh on merits by providing one more opportunity to the assessee of being heard. At the same breath, I 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 order in accordance with law and merits based on the materials on the record. It is ordered accordingly.

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

Pronounced in the open Court on the 07th April, 2021.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 07th April, 2021

OKK

Copy to:-

- 1) Raju Polemoni C/o. Katrapati & Associates, 1-1-298/2/B/3, 1st Floor, Ashok Nagar, Hyderabad – 500 020.
- 2) Income Tax Officer, Ward-8(2), 6th Floor, Signature Towers, Opp. Botanical Gardens, Kondapur, Hyderabad – 500 084.

- 3) The CIT (A)-2, Hyderabad.
- 4) The Principal Commissioner of Income Tax-2, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File