

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

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

ITA No. 2147/Hyd/2017		
AY:2005-06		
Keesara Venkat Reddy, Secunderabad. PAN: AABHK 3097 C (Appellant)	VS.	Income Tax Officer, Ward-11(2), Hyderabad. (Respondent)
Assessee by:	Shri M.V. Anil Kumar	
Revenue by:	Shri Sunil Kumar Pandey, DR	
Date of hearing:	15/04/2021	
Date of pronouncement:	19/04/2021	

ORDER

This appeal is filed by the assessee against the order of the Ld. CIT(A)-7, Hyderabad in appeal No. 718/2014-15, dated 6/9/2017 passed U/s. 144 r.w.s 250(6) of the Act for the A.Y. 2005-06.

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

- “1. *The Ld. CIT(A) as well as the A.O. erred in law and facts of the case in not accepting the fact that your appellant is not obliged to file a return of income as he has not taxable income in his individual hands as well as HUF capacity.*
2. *Your appellant submits that the A.O. erred in law and facts of the case in completing the assessment under 144 of the Income Tax Act, 1961 in his individual capacity in spite of*

*being aware of the fact that the investment is in his HUF Capacity.*

3. *Your appellant explained with the help of a cash flow statement the amount of Rs. 16,06,988/- have been deposited in the bank to meet his daughter's higher education abroad, it is not his unexplained investment.*
4. *Your appellant submits that the A.O. as well as CIT (A) erred in law and facts of the case in making the addition of Rs. 16,06,988/- as unexplained investment when such investments is properly explained and alternatively such investment does not pertain to your appellant in his individual capacity."*

5. At the outset, the Ld. AR submitted before us that the Ld. A.O. had also passed ex-parte order U/s. 144 of the Act and the assessee was not afforded proper opportunity of being heard. On appeal, the Ld. CIT(A) has also dismissed the appeal without considering the submissions of the assessee. 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. Even before the Ld. CIT(A), the assessee did not furnish the details as required by the Ld. Revenue Authorities. Therefore the Ld. Revenue Authorities had no other option but to pass 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. 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) and the Ld. A.O. had posted the case on several occasions. However, none appeared on behalf of the assessee before the Ld.AO. Before the Ld. CIT(A), though the case was adjourned number of times, the Ld. AR did not furnish the details as required by the Ld. CIT(A). Therefore, the Ld. Revenue Authorities were left with no other option except to adjudicate the appeal 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, on examining the Ld. CIT(A)'s order, We are of the view that the Ld. CIT(A) ought to have passed a reasoned order on merits. Moreover, considering the issues involved in the appeal as well as the prayer of the Ld. AR, in the interest of justice, We 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, 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 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 19<sup>th</sup> April, 2021.

Sd/-  
(P. MADHAVI DEVI)  
JUDICIAL MEMBER

Sd/-  
(A. MOHAN ALANKAMONY)  
ACCOUNTANT MEMBER

Hyderabad, Dated: 19<sup>th</sup> April, 2021

*OKK*

Copy to:-

- 1) Keesara Venkat Reddy C/o. M. Anandam & Co., Chartered Accountants, 7A, Surya Towers, S.P. Road, Secunderabad – 500 003.
- 2) The Income Tax Officer, Ward-11(2), Hyderabad.
- 3) The CIT (A)-7, Hyderabad.
- 4) The Principal Commissioner of Income Tax-7, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File