

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

BEFORE SHRI A. MOHAN ALANKAMONY,
ACCOUNTANT MEMBER

ITA No. 1160/Hyd/2019		
A.Y. 2011-12		
Mylaram Bhoomaiah, R.R. District. PAN: AIVPB 3535 A	VS.	Income Tax Officer, Ward-13(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri A. Sai Ram	
Revenue by:	Shri B. Balakrishna, DR	
Date of hearing:	15/03/2021	
Date of pronouncement:	20/04/2021	

ORDER

This appeal is filed by the assessee against the order of the Ld. CIT(A)-4, Hyderabad in appeal No.10775/16-17/ITO, Ward-13(1)/CIT(A)-4/Hyd/18-19, dated 30/11/2018 passed U/s. 144 r.w.s 147 and U/s. 250(6) of the Act for the A.Y. 2011-12.

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

- “1. The order of the learned Income Tax Officer, Ward-13(1), Hyderabad is unsustainable in law and on facts of the case.
2. Income Tax Office, Ward-13(1), Hyderabad is not justified in rejecting the documents and explanations for the sources for cash deposit with State Bank of Hyderabad.
3. The Ld. CIT(A) erred in confirming the additions made by A.O. of Rs. 18,00,000/- by applying the provisions under section 68 of the Act.

4. *For these and other grounds that may be urged at the time of appeal hearing the appellant prays for relief.”*

2. At the outset, Ld. AR submitted before us that there is a delay of 170 days in filing the appeal before the Tribunal. In this regard, the assessee had filed an application seeking condonation of delay wherein the reasons for filing the appeal beyond the prescribed time limit was explained. For reference, the relevant portion from the affidavit is extracted herein below: -

- “
2. *That the appellant obtained certified copy of the order of the Ld. CIT(A) on 30/11/2018 from his counsel but due to illness and other reason could not file appeal before ITAT on time.*
3. *That there is a delay of 170 days in filing the previous appeal which is defective due to some errors in filing the application which is neither intentional nor deliberate but due to unavoidable circumstances beyond the control of the appellant as details in the present application.*
4. *That there are sufficient and plausible reasons for the acceptance of the present application and to condone the delay in filing the appeal.*
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.....”

3. On perusal of the affidavit filed by the assessee, it appears that the reason for the delay in filing the appeal before the Tribunal was due to illness the assessee. Therefore in the interest of justice, I hereby condone the delay of 170 days in filing the appeal before the Tribunal and proceed to adjudicate the appeal on merits.

4. At the outset, the Ld. AR submitted before us that the Ld. A.O. as well as the Ld.CIT(A) had passed ex-parte orders U/s. 144 r.w.s 147 &

250 of the Act respectively and without affording 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 before the Ld. CIT(A). 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.

5. 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). 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, 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.

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

Pronounced in the open Court on 20th April, 2021.

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 20th April, 2021

OKK

Copy to:-

- 1) Mylaram Bhoomaiah, H.No. 3-174-1, Medchal, Near Railway Station, Hyderabad.
- 2) Income Tax Officer, Ward-13(1), Aayakar Bhavan, Hyderabad.
- 3) The CIT (A)-4, Hyderabad.
- 4) The Pr. CIT-4, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File