

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD 'B' BENCH : Hyderabad**

(Through Video Conference)

**Before Shri S.S. GODARA, Judicial Member
and
Shri L.P. SAHU, Accountant Member**

**ITA No. 1661/Hyd./2019
Assessment Year: 2016-17**

Shri Krishnaiah Bollineni
Hyderabad

vs. ACIT, Circle 1 (2)
Hyderabad

[PAN: ACVPB8494N]

(Appellant)

(Respondent)

For Assessee : Sri D.V. Anjaneyulu, AR
For Revenue: Sri Rohit Mujumdar, DR

Date of Hearing : 06/04/2021
Date of Pronouncement : 22 /06/2021

ORDER

PER S.S. GODARA, J.M.

This assessee's appeal for A.Y. 2016-17 arises against the CIT(A)-1 Hyderabad's order dated 27.08.2019 passed in case no.10406/2018-19 involving proceedings u/s 143(3) of the Income Tax Act, 1961 [for short 'the Act'].

Heard both the parties. Case file perused.

2. The assessee has pleaded the following substantive grounds in the instant appeal.

1. *The order of the Ld. CIT(A) in confirming the AO's Order is erroneous in law, contrary to the facts and probabilities of the case and against the principles of equity and natural justice.*
2. *Ld. CIT(A) erred in passing the appellate order ex-parte despite filing an adjournment request on 08/08/2019 sent electronically, is against the principles of natural justice and erroneous in law.*
3. *Ld. CIT(A) erred in upholding the order of AO who has mistakenly considered the date of dematerialization as the date of acquisition and calculated cost of inflation index on Long Term Capital Gains accordingly from FY 2011-12 instead of FY 1986-87 being the actual year of acquisition of the shares and hence addition sustained in this regard shall be deleted.*
4. *Ld. CIT(A) failed to appreciate that appellant has lent interest free advances out of accumulated surplus over the years and not out of interest bearing loans raised during the financial year and hence there cannot be any case of disallowing proportionate interest expenditure of Rs.6,91,225/- and is to be deleted.*
5. *Ld. CIT(A) erred in upholding order of AO who has not allowed additional expenditure incurred towards Horse Race of Rs.1,47,119/- based on actual account statement from Hyderabad Race Club solely relying on Goetze (India) Ltd vs CIT [2006] 284 ITR 323 (SC) ignoring Raghavan Nair Vs ACIT [2018] 162 DTR (Ker) 353 which has duly distinguished the case law relied by AO and hence the expenditure is to be allowed.*
6. *Ld. CIT(A) further erred in law in not allowing carry forward of loss for AY 2015-16 under the head 'owning and maintaining race horses' of Rs.61,942 simply by relying on the order of AO who has stated the return was filed belatedly and hence loss cannot be carried forward ignoring Jurisdictional High Court decision in CIT v BVR Glucose Products Ltd [2001] 250 ITR 512 (AP)*
7. *Ld. CIT(A) erred in confirming disallowance of deduction under Chapter VIA of Rs.30,000/- being amount paid towards medical insurance premium under the medical health card on a regular basis for many years.*
8. *For these and other reasons that may be urged at the time of hearing, the appellant prays the Honorable Tribunal to kindly delete the addition made by AO and sustained by CIT(A).*

2.1. We notice at the outset that the CIT(A)'s lower appellate order under challenge; affirming assessee's findings disallowing impugned long term capital gains as well as other heads (supra) has been passed ex parte.

2.2. Revenue's case before us is that CIT(A)'s lower appellate order has made it clear in para 3 page 3 that he had afforded three effective opportunities to the assessee on 25th July, and 8th of August, 2019. We do not see any indication in the said observations as to whether assessee had actually been served the relevant notice(s) or not. Faced with this situation we deem it proper to restore the assessee's instant appeal back to the CIT(A) for proper adjudication as per law within three effective opportunities of hearing.

This assessee's appeal is accepted for statistical purposes in above terms.

Order pronounced in Open Court on 22/06/2021.

Sd/-

(L.P. SAHU)
ACCOUNTANT MEMBER

Sd/-

(S.S. GODARA)
JUDICIAL MEMBER

Dated: 22nd June, 2021

*gmv

Copy of Order forwarded to:

1. Shri Krishnaiah Bollineni, C/o M/s Anjaneyulu & Co. Chartered Accountants, 30, Bhagyalakshmi Nagar, Gandhi Nagar, Hyderabad 500 080
2. ACIT, Circle 1(2), Hyderabad
3. ACIT, Range 1, Hyderabad.
4. CIT(A)-1, Hyderabad
5. Pr.CIT-1, Hyderabad.
6. D.R. ITAT Hyderabad
7. Guard File