

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.137/Hyd/2020		
	A.Y. 2018-19		
JB Estates, Hyderabad. PAN: AAFFJ 2681 M	Vs.	ACIT, Circle-5(1), Hyderabad.	
(Appellant)		(Respondent)	
Assessee by:	Shri B. Satyanarayana Murthy		
Revenue by:	Shri D.J. Prabhakar Anand, DR		
Date of hearing:	17/06/2021		
Date of pronouncement:	24/06/2021		

ORDER

PER A. MOHAN ALANKAMONY, A.M:

This appeal is filed by the assessee against the order of the Ld. CIT(A)-4, Hyderabad in appeal No. 4/10098/2019-20/DCIT, Cir-5(1)/CIT(A)-4/Hyd/19-20, dated 29/11/2019 passed U/s. 143(1) r.w.s 250(6) of the Act for the A.Y. 2018-19.

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

- “1. *The order of the CIT (A) is contrary to the facts of the case and the provisions of law.*
2. *The Ld. CIT(A) is not justified in passing the orders and disposing the appeal ex-parte. The Ld. CIT(A) should have given another opportunity to represent the matter.*
3. *The Ld. CIT(A) is not justified in sustaining the taxing of the rentals of Rs. 86,02,708 once as offered by the appellant under the head income from house property and the second time under the head income from business computed by the CPC.*
4. *The Ld. CIT(A) should have seen that the rentals were taxed twice under the head income from house property and also under the income from business.”*

3. At the outset, the Ld. AR submitted before us stating that the Ld. CIT (A) has passed ex-parte order without providing proper opportunity to the assessee of being heard. It was therefore pleaded that the matter may be remitted back to the file of the Ld CIT (A) 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 its Representative appeared before the Ld. CIT (A). Therefore the Ld. CIT (A) had no other option but to pass ex-parte order based on the materials available on record. Hence, it was pleaded that the order passed by the Ld. CIT(A) does not call for any interference.

4. 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. It appears that the Ld. CIT (A) had posted the case on several occasions. However, none appeared on behalf of the assessee before the CIT(A) on the dates of hearing. Therefore, the Ld. CIT (A) was left with no other option except to adjudicate the appeal ex-parte. In this situation, We 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, We hereby remit the matter back to the file of Ld. CIT (A) 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. CIT (A) in the proceedings failing which the Ld. CIT (A) 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.

5. In the result, appeal filed by the assessee is allowed for statistical purposes.

Pronounced in the open Court on the 24th of June, 2021.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 24th June, 2021.
OKK

Copy to:-

- 1) M/s. JB Estates, C/o. Venugopal & Chenoy, Chartered Accountants, Tilak Road, Hyderabad – 500 001.
- 2) The Assistant Commissioner of Income Tax, Circle-5(1), Hyderabad.
- 3) The CIT(A)-4, Hyderabad.
- 4) The Pr. CIT-4, Hyderabad.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File