

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD ' A ' BENCH, HYDERABAD.**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER AND
SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER
(Through Virtual Hearing)**

**ITA No.390/Hyd/2020
(Assessment Year : 2016-17)**

Shri Ashish Dugar,
Hyderabad-500 029.
PAN AAKPD 7703K

...Appellant.

Vs.

Asst. Commissioner of Income Tax,
Circle 4(1), Hyderabad.

.....Respondent.

Appellant By : None.

Respondent By : Shri Rohit Majumdar (D.R.)

Date of Hearing : 22.06.2021.

Date of Pronouncement : 07.07.2021.

O R D E R

Per Smt. P. Madhavi Devi, J.M. :

This is assessee's appeal for Assessment Year 2016-17 against the order of Commissioner of Income Tax (Appeals)-1, Hyderabad dt.27.01.2020.

2. The brief facts of the case are that the assessee, an individual, filed his Return of Income on 16.10.2016 admitting total income of Rs.53,57,910. The assessment was completed by the Assessing Officer accepting the returned income of the assessee. Thereafter, the assessee filed an appeal before the CIT(A) stating that during the assessment proceedings u/s. 143(3) of the Act, the assessee has filed a letter with the Assessing Officer requesting for set off of the loss on account of trading in futures and options of Rs.22,01,171 as speculative loss and not claimed as set off against business income. Thus according to him, the Assessing Officer should have considered the same and allowed the claim of the assessee. However since none appeared before the CIT(A) on behalf of the assessee, he confirmed the assessment order by dismissing the assessee's appeal. The assessee is in second appeal before us raising the following grounds :

“ 1. The learned Commissioner (Appeals) has erred in dismissing the appeal on the grounds of non appearance and In spite of notices sent online. The Commissioner (Appeals) has erred In completely Ignoring the submissions

made by the Assessee on line on the income tax portal on 3rd December.

2. The learned Commissioner (Appeals) has erred in noting that no evidence was submitted in support of the losses of RS.22,01,17/-on account of Futures and Options were placed before him. The Learned Commissioner(Appeals) have completely ignored that all the evidence relating to the losses on account of Futures and Options were placed before. the Assessing Officer during assessment proceedings. The Commissioner (Appeals) has not called for any evidence in any of the notices served to the Assessee nor has he reviewed the assessment file resulting in this erroneous conclusion.

3. The Commissioner (appeals) failed to appreciate that the non appearance of the Assessee was on account of the confusion relating to whether the submissions should be made online or in person resulting in the Assessee filing the documents online and waiting for instructions for further instructions online only.”

3. None appeared on behalf of the assessee at the time of hearing on 22.6.2021. However, since the order of the CIT(A) is exparte of the assessee and not on merits, we provide another opportunity to represent his case before the CIT(A) and remand the matter to the file of CIT(A) for de novo consideration of the appeal in accordance with law after giving the assessee a fair opportunity of hearing. The assessee is directed not seek

unnecessary adjournment without valid reason and co-operate in early disposal of the appeal.

4. In the result, the appeal of assessee is allowed, for statistical purposes.

Order pronounced in the open court on 7th July, 2021.

Sd/-
(A. MOHAN ALANKAMONY)
Accountant Member

Sd/-
(SMT. P. MADHAVI DEVI)
Judicial Member

Hyderabad, Dt. 07.07.2021.

* Reddy gp

Copy to :

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2.	ACIT, Circle 4(1), Hyderabad.
3.	Pr. C I T-1, Hyderabad.
4.	CIT(Appeals)-1, Hyderabad.
5.	DR, ITAT, Hyderabad.
6.	Guard File.

By Order

Sr. Pvt. Secretary, ITAT, Hyderabad.