

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "B": HYDERABAD  
(THROUGH VIRTUAL CONFERENCE)**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 2036/H/2018 Assessment Year: 2007-08		
Konda Laxmaiah, Hyderabad.  PAN - ACCPK 0286E  (Appellant)	Vs.	Dy. Commissioner of Income-tax Officer, Circle - 3(1), Hyderabad.  (Respondent)
Assessee by:		Shri A.V. Raghuram
Revenue by:		Shri Rohit Mujumdar
Date of hearing:		11/08/2021
Date of pronouncement:		30/08/2021

**ORDER**

**PER L.P. SAHU, A.M.:**

This appeal filed by the assessee is directed against CIT(A) - 3, Hyderabad's order dated 16/11/2016 for AY 2007-08 involving proceedings u/s 143(3) rws 147 of the Income Tax Act, 1961 ; in short "the Act".

2. Briefly the facts of the case are that the assessee, an individual, filed his return of income for AY 2007-08 declaring income of Rs. 2,26,659/- and net agricultural

income of Rs. 8,00,000/-. The AO passed an order u/s 143(3) rws 147 of the Act by determining the income of the assessee at Rs. 37,49,659/- as against the returned income of the assessee of Rs. 2,26,659/-, by making an addition of short term capital gain of Rs. 35,23,000/- on the ground that the assessee did not offer any capital gain on sale of plot.

3. When the assessee preferred an appeal before the CIT(A), the CIT(A) dismissed the appeal of the assessee in-limine on the ground that the assessee filed the appeal with a little delay, for which the assessee failed to submit the genuine reasons for the delay in filing the appeal even though sufficient opportunities were provided to the assessee.

4. Aggrieved by the order of the CIT(A), the assessee is in appeal before the ITAT.

5. In the course of hearing, it was pointed out by the learned counsel of the assessee that the learned CIT(A) had dismissed the appeal in-limine without condoning the delay of 1 day in filing the appeal before him. Therefore, it would be in the interest of justice, the matter may be restored to his file for deciding various grounds of appeal on merits. The learned DR agreed with the aforesaid statement of the learned AR.

6. We have considered the facts of the case and the request made by the learned AR. We are of the view that interest of justice will be served if the matter is restored to the file of first appellate authority for deciding various grounds of appeal of the assessee on merits by condoning the delay. Accordingly, the CIT(A) is directed to afford reasonable opportunity of being heard to the assessee and thereafter decide the appeal on merits. We direct the assessee to appear before CIT(A) without seeking any unnecessary adjournments for speedy disposal of appeal.

7. In the result, appeal of the assessee is treated as allowed for statistical purposes.

Pronounced in the open court on 30<sup>th</sup> August, 2021.

**Sd/-  
(P. MADHAVI DEVI)  
JUDICIAL MEMBER**

**Sd/-  
(L. P. SAHU)  
ACCOUNTANT MEMBER**

Hyderabad, Dated: 30<sup>th</sup> August, 2021.

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*Copy to :*

<i>1</i>	<i>Konda Laxmaiah, H.No. 6-3-92/D, Ramgiri, Nalgonda</i>
<i>2</i>	<i>DCIT, Circle - 3(1), IT Towers, AC Guards, Hyderabad.</i>
<i>3</i>	<i>CIT(A) - 3, Hyderabad.</i>
<i>4</i>	<i>Pr. CIT - 3, Hyderabad</i>
<i>5</i>	<i>ITAT, DR, Hyderabad.</i>
<i>6</i>	<i>Guard File.</i>