

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

BEFORE SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER
AND
SRI S.S. GODARA, JUDICIAL MEMBER

	ITA No.174/Hyd/2020		
	A.Y. 2015-16		
Diwakar Logistics, Hyderabad. PAN: AAHFD 0549 E (Appellant)	VS.	ACIT, Circle-1, Anantapur. (Respondent)	
	Assessee by	Sri K.C. Devdas	
	Revenue by	Sri T. Sunil Goutam, Sr. AR	
	Date of hearing:	04/01/2022	
	Date of pronouncement:	06/01/2022	

ORDER

PER A. MOHAN ALANKAMONY, A.M:

This appeal is filed by the assessee against the orders of the Ld. CIT(A), Kurnool in appeal No.10062/2018-19/A2/CIT(A)-Kurnool, dated 23/12/2019 passed U/s. 144 r.w.s 250(6) of the Income Tax Act, 1961.

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

- "1. The order of the Ld. CIT(A), Kurnool in passing the order U/s 144 of the Act is unsustainable both on facts and in law.*

2. *The Ld. CIT(A) erred in not conducting the short delay of 148 days as the assessee was prevented by a reasonable and sufficient cause in not filing the appeal before the Ld. CIT(A) in time.*
3. *The Ld. CIT(A) erred in holding that the appeal was not maintainable as the delay of 148 days in filing the appeal was not condoned.*
4. *The Ld. CIT(A) erred in dismissing the appeal in limine.*
5. *The Ld. CIT(A) erred in not considering the appeal on merits.*
6. *Any other ground or grounds that may be urged at the time of hearing.”*

3. At the outset, during the time of hearing of the appeal, the Ld. AR submitted before us that the Ld. AO had passed ex-parte order U/s. 144 of the Act without providing proper opportunity to the assessee of being heard. The Ld. AR further submitted that the assessee could not appear before the Ld. A.O. due to various constrains. It was further submitted that, on appeal the Ld. CIT(A) dismissed the appeal ex-parte by stating that the delay of 148 days in filing the appeal before the Ld. CIT (A) was not properly explained. It was therefore pleaded that the matter may be remitted back to the file of the Ld. A.O., so that the assessee can pursue the appeal effectively otherwise great injustice will be inflicted on the assessee. On the other hand, the Ld. DR vehemently argued in support of the orders of the Ld. Revenue Authorities and pleaded that the same may be confirmed.

4. After hearing the rival submissions and carefully perusing the materials on record, We find some merit in the arguments advanced by the Ld. AR. The Ld. CIT(A) ought to have provided proper opportunity to

the assessee to explain the reasons for the delay of 148 days in filing the appeal or at least passed a speaking order based on the materials available on record. Further, considering the fact that, the Ld.AO had also passed an ex-parte order, in the interest of justice, We hereby remit the entire matter back to the file of the Ld.AO for de-novo consideration. At the same breath, We also hereby caution the assessee and its Representative 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 orders 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 as indicated hereinabove.

Pronounced in the open Court on the 06th January, 2022.

Sd/-
(S.S. GODARA)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 06th January, 2022.

OKK

Copy to:-

- 1) Appellant: M/s. Diwakar Logistics (Firm), 15-1256, Sanjeev Nagar Road, Tadipatri-515411.
- 2) Respondent: ACIT, Circle-1, Anantapur.
- 3) The CIT (A), Kurnool.

- 4) The Principal Commissioner of Income Tax, Tirupati.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File