

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. 242/Hyd/2020		
	A.Y. 2016-17		
Nandaluru Subramanyam Reddy, Kadapa. PAN: AWHPR 2353 N	VS.	Income Tax Officer, Ward-1, Kadapa.	
(Appellant)		(Respondent)	
Assessee by	Sri S. Rama Rao		
Revenue by	Sri T. Sunil Goutam, Sr. AR		
Date of hearing:	04/01/2022		
Date of pronouncement:	10/01/2022		

ORDER

PER A. MOHAN ALANKAMONY, A.M:

This appeal is filed by the assessee against the order of the Ld. CIT(A), Kurnool in appeal No. 10285/2018-19/B2/CIT(A)-Kurnool, dated 14/01/2020 passed U/s. 143(3) r.w.s. 250(6) of the Act for the A.Y. 2016-17.

2. The assessee has raised five grounds in his appeal and they are extracted herein below for reference:

- 1. The order of the CIT(A), Kurnool is erroneous both in law and facts of the case.*

2. *The CIT(A) has passed order without giving proper opportunity to the appellant. The appellant could not have communication regarding date of hearing and hence could not submit written submissions.*
3. *The CIT(A) has confirmed the order of the assessing officer without considering the facts of the case.*
4. *The estimation of income at 5% on fruits commission business is not justified.*
5. *pray to accept the income returned by the appellant.”*

3. At the outset, the Ld. AR submitted before us 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 several opportunities had been provided to the assessee however, on the given dates of hearing, neither the assessee nor his Representative appeared before the Ld. CIT (A). It was further submitted that 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 from the order of the Ld. CIT(A) that when the case was posted for hearing before the Ld. CIT (A),

none appeared on behalf of the assessee on the dates of hearing. Moreover, neither the adjournment letter nor written submissions were filed before the Ld. CIT(A). 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 prayer of the Ld. AR and the issues involved in the appeal, 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 cooperate 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 as indicated hereinabove.

Pronounced in the open Court on the 10th January, 2022.

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

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 10th January, 2022.

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Copy to:-

- 1) Appellant: Nandaluru Subramanyam Reddy, Dadivandlapalli, RR Palli, Rlykodur, Andhra Pradesh – 516101.
- 2) Respondent: Income Tax Officer, Ward-1, Aayakar Bhavan, Nagarajpet, Kadapa – 516001.
- 3) The Commissioner of Income Tax (Appeals), Kurnool.
- 4) The Principal Commissioner of Income Tax, Tirupati.
- 5) The DR, ITAT, Hyderabad
- 6) Guard File