

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ‘ A ‘ Bench, Hyderabad
(Through Video Conferencing)

Before Shri S.S. Godara, Judicial Member
AND
Shri Inturi Rama Rao, Accountant Member

ITA Nos.2296 & 2297/Hyd/2018		
Assessment Year: 2010-11 and 2011-12		
SRB Heights Private Limited, Hyderabad. PAN : AAKCS3795D.	Vs.	The Income Tax Officer, Ward 3(3), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	None	
Revenue by:	Shri T. Sunil Goutam	
Date of hearing:	03.03.2022	
Date of pronouncement:	04.03.2022	

ORDER

Per S. S. Godara, J.M.

These assessee's twin appeals for A.Ys. 2010-11 and 2011-12 arise against the Commissioner of Income Tax (Appeals) – 3, Hyderabad's separate orders; both dated 26.09.2018 passed in case Nos.0100 and 10283/ITO-3(3)/Hyd/CIT(A)-3/2017-18 involving proceedings u/s 143(3) r.w.s. 144 of Income Tax Act, 1961 [in short, 'the Act'] respectively.

Cases called twice. None appears at assessee's behest. It is accordingly proceeded exparte.

2. We next note with the able assistance coming from the Revenue side that both the lower appellate orders under challenge have refused to even admit the assessee's appeal vide following detailed discussion :

"VI.... In the appellant's case, it is seen that the appeal itself is not admissible, as no appeal can be admitted where no return has been filed by the assessee and the assessee has paid an amount equal to the amount of advance tax which was payable by the assessee. Further, the proviso to Section 249(4)(b) states that. on an application made by the appellant in this behalf, the CIT(A) may, for any good and sufficient reason to be recorded in writing, exempt the appellant from the operation of the provision of Section 249(4)(b) In the instant case the appellant has not filed the return of income nor has the appellant has made any application with good and sufficient reasons to exempt Section 249(4)(b). Hence, the appeal of the appellant is dismissed on this count.

VII) Ground Nos. 1, 2, 3 and 5 in appeal relates to issues of notice u/s 148 and completion of assessment u/s.143(3) r.w.s 147 of the Act. From the facts and circumstances brought out in the assessment order, it is apparent that the provisions of Section 147 are applicable. It is also noted that the appellant has not filed return of income for the AY 2010-11 and there was adequate reason to believe that income has escaped assessment as per the provisions of the Income Tax Act. It is also noticed that the appellant was not serious at the time of assessment proceedings and thereby the assessment order was correctly passed u/s 144 of the Income Tax Act. Considering the facts and circumstances, Ground Nos.1, 2, 3 and 5 in appeal are dismissed.

VIII) Ground Nos. 4 and 6 in appeal relates to addition of Rs.1,18,50,000/- u/s 68 of the Act. Facts of the case, grounds of appeal and assessment order were perused. The appellant was given adequate opportunities in assessment and a show cause letter was also issued. The appellant failed to prove satisfactorily the source and nature of credits aggregating to Rs.1,18,50,000/- received during the accounting year 2009-10 (AY 2010-11). Even in appeal, it is seen that the appellant did not appear nor furnish documentary evidences to substantiate the credits of Rs.1,18,50,000/ -. Considering the fact sand circumstances of the instant case, Ground Nos. 4 and 6 in appeal are dismissed."

The only difference between the latter assessment year is that of the quantum addition under section 68 amounting to Rs.7,00,000/-.

3. Mr. Goutam vehemently contended during the course of hearing that the assessee has all along been non-cooperative before the Assessing Officer as well as CIT(A). He fails to dispute that CIT(A) has erred in law and on facts in treating the assessee's appeal as not even admissible merely because it had not filed its return. There is no such pre-condition of admissibility of an appeal in case of non-filing of return followed by payment of self-assessment tax in the corresponding statutory provision u/s 249 of the Act. Coupled with this, the CIT(A) has not even afforded effective opportunities of hearing to the assessee before declining its twin appeals. We therefore deem it appropriate to restore the assessee's both the instant appeals back to the CIT(A) for his afresh lower appellate adjudication u/s 250(6) of the Act within three effective opportunities of hearing. Ordered accordingly.

4. This assessee's appeals are allowed for statistical purposes in above terms. A copy of this common order be placed in respective case files.

Order pronounced in the Open Court on 04th March, 2022.

Sd/- (INTURI RAMA RAO) ACCOUNTANT MEMBER	Sd/- (S.S. GODARA) JUDICIAL MEMBER
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Hyderabad, dated 04th March, 2022.

TYNM/sps

Copy to:

S.No	Addresses
1	SRB Heights Private Limited, H.No.8-2-269/S/78, Sagar Society, Banjara Hills, Hyderabad.
2	The Income Tax Officer, Ward 3(3), Hyderabad.
3	The CIT(Appeals) - 3, Hyderabad.
4	The Pr.CIT - 3, Hyderabad.
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order