

आयकर अपीलिय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD

BEFORE
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 499/Hyd/2021
(निर्धारण वर्ष / Assessment Year: 2016-17)

Ravi Kapoor,
Hyderabad
[PAN No. ADFPK4318M]

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

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri K.A.Sai Prasad, AR
राजस्व द्वारा/Revenue by: Shri Y.V.S.T.Sai, CIT-DR

सुनवाई की तारीख/Date of hearing: 18/07/2022
घोषणा की तारीख/Pronouncement on: 22/07/2022

आदेश / ORDER

PER K. NARASIMHA CHARY, JM:

Aggrieved by the order dated 25/02/2020 passed by the learned Commissioner of Income Tax (Appeals)-1, Hyderabad ("Ld. CIT(A)"), in the case of Shri Ravi Kapoor ("the assessee") for the assessment year 2016-17, assessee preferred this appeal.

2. Assessee is, therefore, aggrieved and filed this appeal with a delay of 543 days and places reliance on the order dt.27-04-2021 of the Hon'ble Apex Court in the case of In Re Cognizance for Extension of Limitation in Miscellaneous Application No.665/2021 in SMW(C) No.3/2020 in support of their prayer that, for the purpose of reckoning the period of limitation, the period subsequent to 15-03-2020 has to be excluded. Recording the same, we condone the delay and proceed to hear the matter on merits.

3. Brief facts of the case are that the assessee is an individual. For the assessment year 2016-17, he filed his return of income on 09/03/2017 declaring an income of Rs. 5,21,14,480/- offering capital gains arising from the transfer of Ac.6-11 Gts., in Sy.No.58, Karmanghat, Saroornagar, Hyderabad, wherein he is the co-owner along with three others which was given on development basis to M/s.TNR Constructions India Pvt. Ltd. According to the agreement, 61% of the built up area falls to the share of the developer and 39% falls to the share of all the four co-owners. Assessment under section 143(3) of the Income Tax Act, 1961 (for short "the Act") was passed on 27/12/2018 making certain additions, namely, Rs. 2,30,453/- on disallowance from the cost of construction of shares, Rs. 13,15,917/- on disallowance from LRS and other charges and Rs. 34,578/- on disallowance of legal and other expenses.

4. Aggrieved by such an act of the learned Assessing Officer, assessee preferred an appeal before the Ld. CIT(A). Ld. CIT(A) recorded that notices were issued to the assessee for hearing on 04/06/2019, 02/07/2019, 27/12/2019, 03/01/2020 and 07/02/2020, but the assessee did not choose to appear. Ld. CIT(A), therefore, while recording that except relying on certain decisions of the Hon'ble High Court/ITAT, the assessee did not

produce any documents in support of grounds of appeal, Ld. CIT(A) agreed with the learned Assessing Officer and dismissed the appeal. Hence, the assessee is in this appeal before us.

5. It is submitted on behalf of the assessee that though the Ld. CIT(A) recorded that four notices were issued to the assessee, the order is silent on the aspect of service of notice. Learned AR submitted that the assessee does not stand to gain by absenting herself on the date of hearing before the Ld. CIT(A) and given an opportunity he is willing to appear before the Ld. CIT(A) to prosecute her defence against the assessment order. Learned DR, however, vehemently opposed this petition stating that nothing prevented the assessee from appearing before the Ld. CIT(A) and to get the matter disposed-of on merits.

6. We have gone through the record in the light of the submissions made on either side. The first appellate order shows that notices were issued to the assessee to appear before the Ld. CIT(A) on four occasions, but the impugned order is conspicuously silent as to the service of such notices. Be that as it may, the fact remains that the assessee does not stand to gain by absenting herself from appearing before the Ld. CIT(A). In these circumstances, in view of the assurance given on behalf of the assessee, we are inclined afford an opportunity of hearing to the assessee by setting aside the impugned order and restoring the appeal before the Ld. CIT(A) to be decided afresh on merits after giving an opportunity of hearing to the assessee.

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

Order pronounced in the open court on this the 22nd day of July, 2022

Sd/-
(RAMA KANTA PANDA)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 22/07/2022

TNMM

Copy forwarded to:

1. Shri Ravi Kapoor, C/o.Ch.Parthasarathy & Co., 1-1-298/2/B/3, 1st Floor,
Ashok Nagar, Hyderabad.
2. Asst. Commissioner of Income Tax, Circle-4(1), Hyderabad.
3. The CIT(Appeals)-1, Hyderabad.
4. The Pr.CIT-1, Hyderabad.
5. DR, ITAT, Hyderabad.
6. GUARD FILE

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ITAT, HYDERABAD