

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. 498/Hyd/2021
(निर्धारण वर्ष / Assessment Year: 2016-17)

Sheetal Kapoor,
Hyderabad
[PAN No. ADOPK7168A] Vs. Asst.Commissioner of Income
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 30/10/2019 passed by the learned Commissioner of Income Tax (Appeals)-1, Hyderabad ("Ld. CIT(A)"), in the case of Smt. Sheetal 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 674 days stating that the order of the Ld. CIT(A) was misplaced due to renovation being carried out in her office and remained untraced. The same could be traced only on 01/12/2021. Hence, the appeal was filed belatedly. Ld. DR vehemently opposed the condonation of delay.

3. We have considered the facts and circumstances of the case. Assessee is an individual. She submits that she has no occasion to know the various processes involved in tax litigation and also the nuances involved in filing the appeal with delay. It is, therefore, prayed that the delay may be condoned. Having regard to the facts and circumstances of the case, we do not find any reason not to believe the facts stated by the assessee. Generally the assessee does not stand to gain by allowing the matters to be barred by limitation. Inasmuch as no rights are crystallised in any party by efflux of time, we are inclined to condone the delay and to give an opportunity to the assessee to present their case on merits so that the cause of justice would be advanced. The delay is, therefore, condoned and we shall now proceed to hear and dispose of the matter on merits.

4. Brief facts of the case are that the assessee is an individual. For the assessment year 2016-17, she filed her return of income on 09/03/2017 declaring an income of Rs. 5,31,12,060/- offering capital gains arising from the transfer of Ac.6-11 Gts., in Sy.No.58, Karmanghat, Saroornagar, Hyderabad, wherein she 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.

5. 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 18/06/2019, 24/07/2019, 16/10/2019 and 28/10/2019, but the assessee did not choose to appear. Ld. CIT(A), therefore, while recording that except making few statements, the assessee did not produce any proof 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.

6. 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 she 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.

7. 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.

8. 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. Smt. Sheetal 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