

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad**

**Before Shri Inturi Rama Rao, Accountant Member
AND
Shri Laliet Kumar, Judicial Member**

ITA No.179/Hyd/2022		
Assessment Year: 2015-16		
Jaladi Apparao, R/o.Medak District. PAN : AZIPJ8296J.	Vs	The Asst.Commissioner of Income Tax, Circle 8(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:		Sri A.V. Raghuram
Revenue by:		Sri Kumar Adithya
Date of hearing:		28.07.2022
Date of pronouncement:		28.07.2022

ORDER

Per Laliet Kumar, J.M.

This appeal is filed by the assessee feeling aggrieved with the order of Commissioner of Income Tax (Appeals) – 11, Hyderabad for the assessment year 2015-16 on the following grounds :

“1. The order of the ld.CIT(A) is erroneous both on facts and in law so far as it is prejudicial to the appellant.

2. The ld.CIT(A)-11, Hyderabad erred in dismissing the appeal without providing further opportunity.

3. The ld.CIT(A), Hyderabad, should have considered the statement of facts submitted by the appellant wherein the appellant has made the

submissions. By not considering the statement of facts, the ld.CIT(A) erred in confirming the estimated income at 8% of gross receipts.

4. The ld.CIT(A) – 11, Hyderabad ought to have considered the fact that the profit rate in this line would not be 8% as estimated by the Assessing Officer.”

2. The brief facts of the case are that assessee has filed return of income for A.Y. 2015-16 on 30.09.2015 declaring income of Rs.22,20,110/- and the case was selected under ‘complete’ category and accordingly, notice u/s 143(2) of the Act dt.23.08.2016 was issued and the same was duly served on the assessee. As there was no response from the assessee from time to time, finally a show cause letter was issued on 22.11.2017, for which also no response was given by the assessee. As there was no information available even on record with regard to the expenditure claimed, the Assessing Officer had estimated the profits of the assessee at 8% of the turnover by taking into consideration of nature of business and finally completed the assessment u/s 144 of the Act by determining the total income at Rs.2,38,68,446/-.

3. Feeling aggrieved with the order of Assessing Officer, assessee carried the matter before ld.CIT(A), who dismissed the appeal of assessee on non-prosecution and on merits.

4. Feeling aggrieved with the order of ld.CIT(A), assessee is in now in appeal before us.

5. Before us, ld.AR submitted that the learned lower authorities have decided the issue without discussing or deliberating the factual matrix of the case and that assessee failed to appear due to Covid – Pandemic situations prevailing in the country. Ld.AR further submitted that as the assessee has sufficient cause from putting in appearance

before the ld.CIT(A), matter may kindly be remitted back to the authorities below for afresh adjudication.

6. Per contra, the ld.DR has not raised any objection for remanding the matter back to the file of lower authorities.

7. We have heard the rival contentions of both the parties and perused the material available on record and also the order passed by the lower authorities. On perusal of the impugned order passed by ld.CIT(A), we found that ld.CIT(A) passed an exparte order confirming the action of the Assessing Officer in his assessment framed on 13.12.2017. The assessee further appears to have filed his appeal and the same was dismissed on 23.02.2022 on account of non-appearance, non-compliance and for not providing any evidences in support of claim of expenditure or any books of accounts. Before us, ld.AR submitted that assessee failed to appear due to Covid – Pandemic situations prevailing in the country and hence, assessee was prevented by sufficient cause from putting in appearance before the ld.CIT(A). Perusal of the impugned order shows that the merits of the assessee’s appeal before the ld.CIT(A) have neither been discussed nor decided by the ld.CIT(A). In view of the above reasons, in our view, the ends of justice will be met if the matter may be sent back to the file of ld.CIT(A) with a direction to decide the issue after considering the documents available on record and affording the opportunities of hearing to the assessee in accordance with law.

8. The assessee shall be at liberty to file documents, if any, as required for proving his case and the ld.CIT(A) shall consider the evidences, if any, filed by the assessee. Needless to say the ld.CIT(A) shall examine those documents / evidence filed by the assessee and also the other documents available on record. After considering the

documents filed by the assessee and the submissions made by the assessee, the Id.CIT(A) shall pass a detailed speaking order dealing with the contentions of the assessee. We have not adjudicated the other grounds on merits as we are setting aside the orders passed by the lower authorities to the file of Id.CIT(A) for fresh adjudication. Needless to say, we have not adjudicated any other ground, all the grounds are required to be adjudicated by the Id.CIT(A) in the remand proceedings.

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

Order pronounced in the Open Court on 28th July, 2022.

Sd/- (INTURI RAMA RAO) ACCOUNTANT MEMBER	Sd/- (LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 28th July, 2022.
TYNM/SPS

Copy to:

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2	Asst.Commissioner of Income Tax, Circle 8(1), Kothaguda, Hyderabad.
3	CIT(Appeals) – 11, Hyderabad.
4	PCIT(Central), Hyderabad.
5	DR, ITAT 'A' Bench, Hyderabad.
6	Guard File

By Order