

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "A", HYDERABAD

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

आ.अपी.सं / ITA No. 500/Hyd/2021  
(निर्धारण वर्ष / Assessment Year: 2019-20)

Pooja Fashion,  
Hyderabad  
[PAN No. AATFP2385C]

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

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Kumar Pal Tated, AR  
राजस्व द्वारा/Revenue by: Shri A.P. Babu, DR

सुनवाई की तारीख/Date of hearing: 29/09/2022  
घोषणा की तारीख/Pronouncement on: 29/09/2022

आदेश / ORDER

**PER K. NARASIMHA CHARY, JM:**

Aggrieved by the order dated 23/09/2021 passed by the learned Commissioner of Income Tax (Appeals)-11, Hyderabad ("Ld. CIT(A)") in the case of Pooja Fashion ("the assessee") for the assessment year 2019-20, assessee preferred this appeal.

2. Brief facts of the case are that the assessee is a partnership firm engaged in the business of sale of readymade garments under the name and style of 'Pooja Fashion'. They have filed their return of income for the assessment year 2019-20 on 17/10/2018 declaring an income of Rs. 1,68,380/-. On 17/10/2018 police found cash of Rs. 49,31,000/- in the business premises of the assessee, they seized it and handed it over to the Income Tax department on which, the case was centralized. During the course of assessment though the assessee was issued with notices under section 143(2) and 142(1) of the Income Tax Act, 1961 (for short "the Act"), the assessee failed to respond the same and, therefore, the assessment was complete by making addition of such amount of Rs. 49,31,000/-under section 69A of the Act.

3. Though the assessee preferred appeal before the Ld. CIT(A), it seems there was no representation for the assessee on the dates of hearing. Ld. CIT(A) recorded that notices were issued on several occasions but the assessee did not appear either in person or through any authorised representative and, therefore, the Ld. CIT(A) disposed of the appeal ex-parte.

4. Assessee preferred appeal before the Tribunal but failed to pursue the same and, therefore, by order dated 27/01/2022 the Tribunal decided the matter ex-parte and dismissed the appeal. On that, the assessee filed a Miscellaneous Application stating that the authorities below decided the issue without discussing or deliberating the factual matrix of the case in the absence of the assessee and the Tribunal also during the Covid-19 pandemic decided the matter ex-parte. According to the assessee, the assessment order dated 31/03/2021, order dated 23/09/2021 of the First Appellate Authority as well as the Tribunal were passed during the pandemic period. Considering the hardship pleaded by the assessee, a Co-ordinate Bench of this Tribunal recalled the order dated 27/01/2022 in the appeal.

5. Today when this matter is heard, it is the submission of the learned AR that due to Covid-19 pandemic the assessee could not prosecute their defense before the authorities below and even the Hon'ble Supreme Court recognized the hardship caused to the parties due to Covid-19 pandemic in communicating with the authorities in passing the orders from time to time in Miscellaneous Application No. 665/2021. He, therefore, submitted that the non-appearance of the assessee before the authorities is not wilful as such, an opportunity may be granted to the assessee to prosecute their case before the learned Assessing Officer by submitting all the material evidences.

6. Learned DR vehemently opposed this application and submitted that the assessee wilfully abstain from appearing before the authorities below and also this Tribunal and when the assessee could prefer appeals, it is not open for the assessee to plead that he could not communicate with his authorized representatives for subsequent proceedings.

7. We have gone through the record in the light of the submissions made on either side.

8. Assessee pleads due to hardship due to the Covid-19 pandemic in communicating with the counsel, but the Revenue vehemently disputes the same. Be that as it may, it is a fact that the Hon'ble Supreme Court in the Suo Motu proceedings in the case of M.A.No. 21/2022 in M.A.No. 665/2021 in SMW(C) No.3 of 2020 by order dated 10/01/2022 held that in cases, where the limitation would have expired during the period between 15/03/2020 and 28/02/2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01/03/2022, and in the event of actual balance period of limitation remaining with effect from 01/03/2022 is greater than 90 days, that longer period shall apply. It clearly shows that the adjudicating authorities are expected to consider hardship caused by the pandemic and the absence of

parties during the period permitted by the Hon'ble Supreme Court for the purposes of limitation, has to be treated liberally.

9. With this view of the matter, we are of the considered opinion that there was sufficient reason for the assessee in not appearing before the authorities below which resulted in passing of ex-parte orders and interest of justice, the assessee must be given an opportunity to prosecute their defense diligently. We, therefore, set aside the impugned order and restore the matter to the file of the learned Assessing Officer to complete the assessment after affording an opportunity to the assessee.

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

Order pronounced in the open court on this the 29<sup>th</sup> day of September, 2022.

Sd/-

**(RAMA KANTA PANDA)**  
**ACCOUNTANT MEMBER**

Hyderabad,  
Dated: 29/09/2022

TNMM

Sd/-

**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Copy forwarded to:

1. Pooja Fashion, 5-1-815/5, KJ Market, Koti, Hyderabad.
2. The ACIT, Central Circle-1(4), Hyderabad.
3. CIT(A)-11, Hyderabad.
4. Pr.CIT(Central)-Hyderabad.
5. DR, ITAT, Hyderabad.
6. GUARD FILE

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ASSISTANT REGISTRAR  
ITAT, HYDERABAD