

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad 'A' Bench, Hyderabad**

**Before Shri R.K. Panda, Vice-President**  
**AND**  
**Shri Laliet Kumar, Judicial Member**

Appeal in ITA No	Appellant	Respondent	A.Y
283/Hyd/2023	Sri Tata Venkata Siva Maheswara Rao, Hyderabad PAN:ACVPY4657M	A.C.I.T, Central Circle 3(2) Hyderabad	2013-14
284/Hyd/2023	-do-	-do-	2014-15
285/Hyd/2023	-do-	-do-	2015-16
286/Hyd/2023	-do-	-do-	2016-17
287/Hyd/2023	-do-	-do-	2017-18
288/Hyd/2023	-do-	-do-	2018-19
289/Hyd/2023	-do-	-do-	2019-20
Assessee by:		Shri Kumar Pal Tated, CA	
Revenue by:		Smt. T.H. Vijaya Lakshmi, CIT(DR)	
Date of hearing:		28/06/2023	
Date of pronouncement:		28/06/2023	

**ORDER**

**Per Bench:**

These are the connected appeals filed by the assessee directed against the common order dated 03.04.2023 of the learned CIT (A)-11, Hyderabad relating to A.Ys.2013-14 to 2019-20 respectively. Since identical grounds have been raised by the assessee in all these appeals, for the sake of convenience, all these appeals were heard together and are being disposed of by this common order.

2. We take ITA No.283/Hyd/2023 for the A.Y 2013-14 as the lead case. The grounds raised in this appeal read as under:

- “1. The CIT(A) erred in sustaining the order of AO completing the assessment u/s 143(3) r w s 153A of the Act by assessing the total income at Rs. 18,70,450/- which is not correct and against the provisions of law.*
- 2. The CIT(A) ought to have provided the sufficient opportunity of being heard since the assessee was not keeping the good health.*
- 3. The assessee urges before the Hon'ble ITAT to provide one more opportunity to the assessee for presenting the facts before lower authorities as the assessee was suffering with multiple health issues.*
- 4. The AO erred in making addition to income of the assessee for a search assessment without there being any incriminating material found during the course of search which is against the established position of law.*
- 5. The CIT(A) ought to have appreciated the fact that the AO erred in not issuing the Show Cause Notice (SCN), even though a notice issued as SCN was nothing but questionnaire which is against a principle of natural justice.*
- 6. The CIT(A) erred in sustaining the order of the AO making an addition of Rs. 16,85,600/- as unexplained cash credits without appreciating the fact that the same was part of total turnover of the assessee.*
- 7. The CIT(A) ought to have appreciated the fact that the AO erred in making addition u/s 68/69 without there being any unrecorded entries in the books of account.*
- 8. The CIT(A) ought to have appreciated the fact that the AO ought to have appreciated the fact that the provisions of section 68/69 cannot not be applied for the business transactions of the assessee.*
- 9. The CIT(A) erred in ignoring the submission that the AO ought to have appreciated the fact that in a search assessment, additions can be made based only on the incriminating material found during the course of search proceedings.*
- 10. The CIT(A) ought to have appreciated the fact that the AO erred in not appreciating the fact that the entire deposits in the bank were through proper banking channel and were already part of total turnover of the Company.*
- 11. The CIT(A) ought to have appreciated the fact that the AO erred in observing that the assessee is not carrying any business operations without bringing any evidence on record.*
- 12. The CIT(A) ought to have appreciated the fact that the AO erred in invoking the provisions of section 40A(3) of the Act without*

*appreciating the fact that the same are not applicable to the case of the assessee.*

*13. Without prejudice to the above, the CIT(A) erred in not appreciating the fact that the AO ought to have appreciated the fact that not the entire credits in the bank account can be income of the assessee and assessee earns only a small percent as his income.*

*14. The Appellant may add or alter or amend or modify or substitute or delete and/or rescind all or any of the grounds of appeal at any time before or at the time of hearing of the appeal.”*

3. Facts of the case, in brief, are that the assessee is an individual and has not filed his original return of income. A search and seizure action were carried in the case of the assessee on the basis of warrant of authorization issued by the Pr. DIT (Inv) Hyderabad to seize the cash found in vehicle check up during General Election, 2019. On 27.3.2019, cash belonging to Shri T.V.S. Maheswara Rao, Proprietor of M/s. Surya Mitra Traders and Director in M/s. Surya Mitra Infratech India (P) Ltd amounting to Rs.2,83,50,000/- was seized. Subsequently, the case was centralized to ACIT Central Circle 3(2) Hyderabad. During the assessment and appellate stage, assessee failed to appear before the authorities, hence additions were made by the Assessing Officer and upheld by the learned CIT (A).

4. At the outset, the learned AR submitted that the assessee was not keeping good health and was not in a position to participate during the assessment proceedings before the Assessing Officer and during the appellate proceedings before the learned CIT (A) as well. It was the submission of the learned AR that one more opportunity may be granted to the assessee so as to enable the assessee to explain his case before the Revenue authorities. The AR submitted that non-appearance before the

lower authorities was due to medical incapacity of the assessee which is duly supported by the medical evidence.

5. Per contra, the learned DR vehemently submitted that the assessee failed to provide any evidence before the lower authorities despite number of opportunities granted to the assessee. The learned DR drew the attention of the Bench to page 10 & 11 of the order passed by the learned CIT (A) wherein the details of notices sent by the learned CIT (A) w.e.f. 31.05.2021 to 10.03.2023 were given. In view of the above, it was submitted that despite number of opportunities granted by the learned CIT (A), the assessee failed to comply with the notices issued by the learned CIT (A) and failed to submit the requisite details.

6. We have heard the rival arguments made by both the sides and perused the orders of the AO and the learned CIT (A). Admittedly, during the assessment proceedings as well as the appellate proceedings, the Covid-19 was at its peak and the assessee has suffered corona virus during the said period and was admitted in hospital. The evidence to that effect has been brought on record before us. Further, the assessee thereafter was continued to be under medical treatment which is also supported by evidence and therefore, the explanation put forward by the learned Counsel for the assessee that on account of medical condition, the assessee was not in a position to participate in the assessment proceedings as well as during the appellate proceedings before the learned CIT (A) merit consideration. In the light of the above, we are of the opinion that one more opportunity is required to be granted to the assessee to put forward his case before the lower authorities. However, looking to the circumstances of the present case and non-compliance of the

statutory notices sent by the authorities, a cost of Rs.30,000/- is imposed on the assessee for all the appeals to be deposited in the Prime Minister's Relief Fund within two weeks. Subject to the payment of the above amount, we direct the learned Assessing Officer to decide the appeals afresh, as per fact and law, after affording due opportunity of being heard to the assessee. Needless to say, that the assessee shall furnish the requisite details as called for by the learned Assessing Officer as and when called for without seeking any adjournment failing which the learned Assessing Officer is at liberty to pass appropriate orders.

7. In the result, all the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the Open Court on 28<sup>th</sup> June, 2023.

<b>Sd/-</b> <b>(R.K. PANDA)</b> <b>VICE-PRESIDENT</b>	<b>Sd/-</b> <b>(LALIET KUMAR)</b> <b>JUDICIAL MEMBER</b>
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Hyderabad, dated 28<sup>th</sup> June, 2023.

**Vinodan/sps**

Copy to:

S.No	Addresses
1	Sri Tata Venkata Siva Maheswara Rao, 11-11-407/2, Road No.6 Showbagyapuram, Kothapet, Saroornagar, Hyderabad 500035
2	ACIT Central Circle-3(2) Hyderabad
3	Pr. CIT, Central, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*