

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

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

आ.अपी.सं / ITA No.	निर्धारण वर्ष / A.Y.	अपीलार्थी / Appellant	प्रत्यर्थी / Respondent
278/Hyd/2023	2016-17	Sri Sanjay Agarwal, Hyderabad [PAN No. AFFPA7786K]	Assistant Commissioner of Income Tax, Central Circle-3(2), Hyderabad
279/Hyd/2023		Sri Basant Kumar Agarwal, Hyderabad [PAN No. AFFPA7787J]	
280/Hyd/2023		Smt. Tripti Agarwal, Hyderabad [PAN No. ANXPA0662J]	

निर्धारिती द्वारा/Assessee by: Shri A.V. Raghuram, AR  
राजस्व द्वारा/Revenue by: Shri KPRR Murthy, DR

सुनवाई की तारीख/Date of hearing: 22/06/2023  
घोषणा की तारीख/Pronouncement on: 07/07/2023

आदेश / ORDER

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

Aggrieved by the order(s) passed by the learned Commissioner of  
Income Tax (Appeals)-11, Hyderabad ("Ld. CIT(A)"), assessees preferred

these appeals for the assessment year 2016-17. Facts involved in all these appeals are similar (except the amount of addition made by the learned Assessing Officer), mostly the grounds of appeal. We, therefore, deem it just and convenient to dispose of these appeals by way of this common order, taking the appeal in ITA No. 278/Hyd/2023, as a lead case.

2. At the outset, it is submitted by the learned AR that the auditor who has been looking after the income tax matters of these assesseees could not attend before the learned CIT(A) due to medical emergency of his mother, and precisely for this reason only, the assessee could not understand the nuances involved as to the limitation to file the appeals also, occasioned in the late filing of the appeals.

3. In the affidavits filed in support of the petitions to condone the delay, the assesseees stated this fact of the said auditor not being available and went for medical treatment of his mother. It was further stated by the assesseees that they were not aware of the time lines of filing appeals and process involved for filing appeals before the Tribunal and was under bonafide impression that it would be taken care of by their auditor. After resuming to work, the auditor of the assesseees called up the assesseees to discuss about the appeals. Since the auditor was otherwise busy on account of his absence from work because of medical treatment of his mother, he suggested the assesseees to approach the present counsel to prepare and file the appeals before the Tribunal.

4. Learned AR submitted that the non-appearance before the learned CIT(A) is neither wilful nor intentional, but only due to medical emergency of the auditor, who was looking after the tax matters of the assesseees. He, therefore, submits that given an opportunity, the assesseees are prepared to appear before the learned CIT(A) to prosecute their case diligently.

5. Learned DR vehemently contends that sufficient opportunities were granted by the assessee by the learned CIT(A), but the assessee failed to appear before the learned CIT(A) and, therefore, the delay cannot be condoned. He submitted in the alternative that if for any reason, it is felt that assessee must be given an opportunity, they must be clamped with a condition to co-operate with the authorities for disposal of the matter(s) on merits.

6. We have gone through the record in the light of the submissions made on either side. As per record, it is observed that learned CIT(A) dismissed the appeal by giving the reason that the assessee did not co-operate with the Department and failed to furnish any bonafide explanation in support of their case.

7. Having regard to the facts and circumstances stated above, and also taking into consideration the plea, we are of the considered opinion that ends of justice would be met by remitting the issue back to the file of learned CIT(A) for fresh consideration, by taking all the relevant documents. In these circumstances, we are of the considered opinion that giving an opportunity to the assessee to produce all the relevant documents before the learned CIT(A) for fact verification would meet the ends of justice. At the same time, however, we want to indicate our mind to the assessee that this sort of non co-operation will not be without any consequences and for that purpose, we direct the assessee to pay costs of Rs. 6,000/-, namely, @ Rs. 2,000/- in each of the appeal to the credit of the Prime Minister's Relief Fund, on or before 31/08/2023. Learned CIT(A) will entertain the appeals of the assessee, producing the proof of remitting costs.

8. With this view of the matter, we condone the delay in filing the appeals, quash the impugned orders and restore the issue to the file of the learned CIT(A) to decide it, after hearing the assessee. It is made clear that

it is the last opportunity to the assesseees and no further lenience will be taken. Grounds are accordingly treated as allowed for statistical purposes.

9. In the result, all these appeals of the assesseees are treated as allowed for statistical purposes.

Order pronounced in the open court on this the 7<sup>th</sup> day of July, 2023.

Sd/-  
**(RAMA KANTA PANDA)**  
**VICE PRESIDENT**

Sd/-  
**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Hyderabad,  
Dated: 07/07/2023

TNMM

Copy forwarded to:

1. Sri Sanjay Agarwal, C/o. Shri A.V.Raghu Ram, Advocate, Flat No. 610, 6<sup>th</sup> Floor, Babukhan Estate, Basheerbagh, Hyderabad.
2. Sri Basant Kumar Agarwal, C/o. Shri A.V.Raghu Ram, Advocate, Flat No. 610, 6<sup>th</sup> Floor, Babukhan Estate, Basheerbagh, Hyderabad.
3. Smt. Tripti Agarwal, C/o. Shri A.V.Raghu Ram, Advocate, Flat No. 610, 6<sup>th</sup> Floor, Babukhan Estate, Basheerbagh, Hyderabad.
4. Asst. Commissioner of Income Tax, Central Circle-3(2), Hyderabad.
5. Pr.CIT(Central)-Hyderabad.
6. DR, ITAT, Hyderabad.
7. GUARD FILE.

TRUE COPY

ASSISTANT REGISTRAR  
ITAT, HYDERABAD