

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “B” , HYDERABAD**

BEFORE

**SHRI R.K. PANDA, VICE PRESIDENT
AND
SHRI LALIET KUMAR, JUDICIAL MEMBER**

ITA Nos.315 and 316/Hyd/2023		
Assessment Years: 2011-12 and 2012-13		
Late Sri Ongole Venkata Krishna Manikyala Rao (HUF), Rep. by Sri Ongole Venkata Subba Rao, Ongole – 523002. PAN : AAAHO7998D.	Vs.	Asst. Commissioner of Income Tax, Ward – 2, Ongole – 523 001.
(Appellant)		(Respondent)
Assessee by:	Sri Kiran Manohar	
Revenue by:	Sri Jeevan Lal Lavidiya, CIT-DR Sri Kumar Adithya, Sr.AR.	
Date of hearing:	12/07/2023	
Date of pronouncement:	17/07/2023	

ORDER

PER BENCH :

These appeals of the assessee for A.Ys. 2011-12 and 2012-13 arises from the separate orders of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.11.05.2023 invoking proceedings under section 147 r.w. section 144 of the Income Tax Act, 1961 (in short, “the Act”).

2. The grounds raised by the assessee in ITA No.315/Hyd/2023 read as under :

“1) *The order of the learned CIT (A) is erroneous both on facts and in law;*

2) *The learned CIT (A) erred in deciding the appeal without providing proper opportunity to the appellant.*

3) *The learned CIT (A) erred in holding that there was no response on the date of hearing whereas a petition was filed requesting for time for making submissions.*

4) *The learned CIT (A) ought to have seen that the appellant sought for time till 25.05.2023 and the appeal was finalised on 11.05.2023 itself without rejecting the adjournment sought for;*

5) *The learned CIT (A) erred in not deciding the appeal on merits;*

6) *The learned CIT (A) ought to have considered all the grounds of appeal filed before him; without dismissing the appeal for non appearance*

7) *The learned CIT (A) ought to have seen that the initiation of proceedings u/s 148 are not valid;*

8) *The learned CIT (A) ought to have seen that the notice u/s 148 issued to Sri Ongole Venkata Krishna Maikyala Rao and the assessment order passed on the said person is not valid as the said person passed away;*

9) *The learned CIT (A) ought to have seen that the deposits made into the bank account of Rs.6,50,00,000/- are properly explained and, therefore, ought to have directed the Assessing Officer to delete the said amount; The learned CIT (A) ought to have seen that the amount was deposited during the period of sale of property and no other source of income is derived by the HUF.*

10) *The learned CIT (A) ought to have seen that the deposit was made on the date of registration or on the immediately succeeding day which represent the sale price;*

11) *The learned CIT (A) ought to have held that the capital gain of Rs.50,82,000/- is not liable for tax as asset transferred is not a capital asset within the meaning of Sec.2(11) of the Act.*

12) *The learned CIT (A) ought to have seen that the appellant has no source of income except agricultural income and the learned CIT (A) out to have held the deposits made into the bank account of Rs.6,50,00,000/- is not liable for taxation u/s 69A of the I.T.Act.*

13) *The learned CIT (A) ought to have held that the property transferred is an agricultural land and is beyond the area specified by the Central Government. The Assessing Officer is not justified in making an addition of Rs.16,60,500/- towards cash deposits u/s 69A of the Income Tax Act, 1961.”*

3. Similar grounds were raised by the assessee in other appeal also i.e., ITA 316/Hyd/2023 for A.Y. 2012-13 except the amounts involved.

4. Before us, both the parties submitted that the issues raised in both the appeals are identical. In view of the aforesaid submission, we, for the sake of convenience proceed to dispose of both the appeals by a consolidated order but however refer to the facts in ITA No.315/Hyd/2023.

5. Facts of the case, in brief, are that the assessee-HUF is a landlord and is the son of late Ongole Venkata Krishna Manikyala Rao, who passed away on 18.07.2011. As per the information obtained from Intelligence and Criminal Investigation Wing of the Department, assessee was in receipt of interest income from fixed deposits, sold immovable property and made huge cash deposits in bank accounts, however, he did not file return of income. After causing prima facie enquiries, information was forwarded to the Assessing Officer. After examining the same and after causing

required enquiries, he had recorded his satisfaction regarding escapement of chargeable to tax from assessment, issued notice to the assessee u/s 148 of the Act being the legal representative of the assessee HUF. As there was no response from the assessee, Assessing Officer had completed the assessment u/s 144 of the Act interalia after making certain additions.

6. Feeling aggrieved with the order of Assessing Officer, assessee filed an appeal which was subsequently migrated to the CIT(A), NFAC, Delhi, who dismissed the appeal of assessee.

7. Feeling aggrieved with the order of Id.CIT(A), NFAC, Delhi, assessee is now in appeal before me.

8. Before us, ld.AR submitted that the learned lower authorities have decided the issue without considering the explanation offered by the assessee and that assessee failed to appear due to unavoidable circumstances. 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.

9. On the other hand, the ld.DR has raised objection for remanding the matter back to the file of lower authorities.

10. 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 Id.CIT(A), we found that Id.CIT(A) passed an exparte order confirming the action of the Assessing Officer, as the assessee failed to appear despite granting of sufficient opportunities. In paras 6.1 and 6.2 of the Id.CIT(A)'s order, clearly mentioned the details of various opportunities granted to the assessee. On perusal of the order of Id.CIT(A) on merits, we found that the Id.CIT(A) has failed to consider the explanation given by the assessee that his father had sold the agricultural lands and the sale proceeds were deposited in the bank and also stated that except the sale proceeds of agricultural lands, there were no credits in the bank account. As the explanation of the assessee has not been considered by the Id.CIT(A) and the order of Assessing Officer had been confirmed without appreciating the record, we deem it appropriate to remand back the matter to the file of Id.CIT(A) with a direction to consider the explanation offered by the assessee and the documents placed on record before us after affording sufficient opportunities of hearing to the assessee in accordance with the law.

11. The assessee shall be at liberty to file documents, if any, as required for proving his case and the Id.CIT(A) shall consider the evidences, if any, filed by the assessee. Needless to say the Id.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. The assessee is directed to appear before the Id.CIT(A) and cooperate in early hearing of the appeal. Thus, the grounds of the assessee are allowed for statistical purposes.

12. In the result, the appeal of the assessee in ITA No.15/Hyd/2023 is allowed for statistical purposes.

13. As far as the other appeal i.e., ITA No.316/Hyd/2023 is concerned, in view of the submission of both the parties that the issues raised in both the appeals are identical, except the amounts involved, we for the reasons stated hereinabove while deciding the appeal in ITA No.315/Hyd/2017 and for similar reasons, allow the other appeal for statistical purposes.

14. In the result, the appeal of assessee in ITA No.316/Hyd/2023 is allowed for statistical purposes.

15. To sum up, both the appeals of assessee are allowed for statistical purposes. A copy of the same may be placed in respective case files.

Order pronounced in the Open Court on 17th July, 2023.

Sd/- (R.K. PANDA) VICE PRESIDENT	Sd/- (LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 17th July, 2023.
TYNM/SPS

Copy to:

S.No	Addresses
1	Late Sri Ongole Venkata Krishna Manikyala Rao (HUF), Rep. by Sri Ongole Venkata Subba Rao, 23-1-387, Court Street, Ongole - 523002, Prakasam District, Andhra Pradesh.
2	The Asst. Commissioner of Income Tax, Ward - 2, Ongole.
3	DR, ITAT Hyderabad Benches
4	Guard File

By Order