

आयकर अपीलिय अधिकरण, हैदराबाद पीठ में  
IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "B", HYDERABAD

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

वि.आवे.सं / M.A. No. 41/Hyd/2023  
(Arising out of ITA No. 584/Hyd/2022)  
(निर्धारण वर्ष / Assessment Year: 2019-20)

Ramalinga Raju Gorinta,  
Hyderabad  
[PAN No. AEFPG4379F]  
आवेदक / Applicant

Vs

The Deputy Commissioner  
of Income Tax,  
Central Circle-1(3),  
Hyderabad  
प्रत्यर्थी / Respondent

आ.अपी.सं / ITA No. 584/Hyd/2022  
(निर्धारण वर्ष / Assessment Year: 2019-20)

Ramalinga Raju Gorinta,  
Hyderabad  
[PAN No. AEFPG4379F]  
अपीलार्थी / Appellant

Vs.

The Deputy Commissioner  
of Income Tax,  
Central Circle-1(3),  
Hyderabad  
प्रत्यर्थी / Respondent

Assessee by: Shri P. Vinod, AR  
Revenue by: Ms. Sheetal Sarin, DR

Date of hearing: 04/08/2023  
Pronouncement on: 04/08/2023

आदेश / ORDER

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

By way of this Miscellaneous Application, assessee requested to recall the Tribunal's order dated 15/12/2022 for the assessment year 2019-20.

2. At the outset, learned AR submitted that the assessee has not been residing in the address mentioned in the learned CIT(A)'s order, but for quite some time he has been residing in the address reflected in PAN data base as well as in the income tax portal. According to him, since the proceedings before the learned CIT(A) were on-line, there was no problem, but the notices issued by the Tribunal were sent to the address mentioned in learned CIT(A)'s order, and, therefore, the assessee could not enter appearance, resulted in *ex parte* disposal of the appeal.

3. Though the learned DR submitted that there is no due diligence on the part of the assessee, the fact remains that the order dated 15/12/2022 in the appeal is an *ex parte* one. In view of the proviso to Rule 24 of the Tribunal Rules, in case of *ex parte* order when the assessee approaches the Tribunal and expresses willingness to participate in the appellate proceedings, it is desirable to give an opportunity to the assessee. In these circumstances, we allow this Miscellaneous Application filed by the assessee.

ITA No. 584/Hyd/2022:

4. Learned AR submitted that the impugned order in the appeal is also an *ex parte* order and the assessee could not enter appearance before the commissioner, due to ill-health. He, therefore, prayed that given an opportunity, assessee will appear before the learned CIT(A) and prosecute the case very diligently.

5. Learned DR vehemently opposed the proposal of the assessee for giving an opportunity to him and submitted that the impugned order clearly speaks that the assessee was afforded many opportunities, but he failed to avail the same.

6. We have gone through the record in the light of the submissions made on either side. No doubt the learned CIT(A) adverted to the facts of the case, but in spite of the same, the impugned order is an *ex parte* order. Since the assessee expresses his willingness to appear before the learned

CIT(A) and get the matter disposed-of on merits, having regard to the facts and circumstances of the case, we deem it just and proper to afford final opportunity to the assessee to appear before the learned CIT(A) and put forth his case. Needless to say that it is the final opportunity to the assessee and after affording such opportunity, learned CIT(A) will dispose-of the appeal on merits.

7. In the result, Miscellaneous Application filed by the assessee is allowed and appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on this the 4<sup>th</sup> day of August, 2023.

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

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

Hyderabad,  
Dated: 04/08/2023

TNMM

Copy forwarded to:

1. Ramalinga Raju Gorinta, 319/3RT, D.No. 7-1-621/420, D-50, S.R.Nagar, Hyderabad.
2. The Deputy Commissioner of Income Tax, Central Circle-1(3), Hyderabad.
3. Pr. CIT (Central), Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ITAT, HYDERABAD