

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

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

ITA Nos.516 to 518/Hyd/2023		
Assessment Years : 2014-15, 2016-17 & 2017-18		
M/s. Venkhata Srinivasa Infracon Pvt. Ltd, Siripuram, Visakhapatnam PAN:AADCV7883L (Appellant)	Vs.	Dy. C. I. T. Central Circle 2(4) Hyderabad (Respondent)
Assessee by:	N O N E	
Revenue by:	Smt. Sheetal Sarin, DR	
Date of hearing:	19/12/2023	
Date of pronouncement:	19/12/2023	

**ORDER**

**Per Bench:**

The above 3 appeals filed by the assessee are directed against the separate orders dated 28.08.2023 of the learned CIT (A)-12, Hyderabad, relating to A.Ys 2014-15, 2016-17 & 2017-18 respectively. Since identical issues are involved in all the above 3 appeals, therefore, for the sake of convenience, these appeals were heard together and are being disposed of by this common order.

2. Despite service of notice, none appeared on behalf of the assessee. It was further seen that the assessment order as well as the CIT(A)'s order were passed ex-parte due to non-appearance of the assessee. Under these circumstances, we deem it proper to dispose off these appeals on the basis of material

available on record and after hearing the learned DR and the material available on record.

**ITA No.516/Hyd/2023 (A.Y 2014-15)**

3. Facts of the case, in brief, are that the assessee is a private limited company, engaged in civil construction business. It filed its return of income declaring total income at Rs.70,28,000/- The case was selected for scrutiny through CASS and subsequently order was passed u/s 143(3) on 27.07.2016 assessing the total income at Rs.98,73,100/-.

4. A survey operation u/s 133A was conducted in the business premises of the assessee M/s. Venkata Srinivasa Infracon Pvt Ltd on 25.10.2018 during which certain incriminating material was impounded. During the course of survey, the assessee admitted undisclosed income under the income declaration scheme of 2016. Although the assessee admitted Rs.54.00 lakhs as undisclosed business income for the impugned A.Y, however, it did not pay any tax on the same. In view of the above, the Assessing Officer reopened the assessment u/s 147 of the I.T. Act and issued notice u/s 148 which was duly served on the assessee. However, the assessee did not file any return in response to the said notice. Further, the assessee also did not respond to the notice issued u/s 142(1) wherein the Assessing Officer has called for certain information. In view of the above, the Assessing Officer completed the assessment u/s 144 wherein he made addition of Rs.54,00,000/- to the total income of the assessee and determined the income at Rs.1,52,73,100/-.

5. Since the assessee did not appear before the learned CIT (A) despite number of opportunities granted, the learned CIT (A) in the ex-parte order passed by him dismissed the appeal by relying on the decision of the Hon'ble MP High Court in the case of Estate of Late Tukojirao Holkar V. CIT (223 ITR 480 (MP) and in the case of CIT vs. Multiplan (India) Pvt. Ltd (38 ITD 320 (Del.)). He also dismissed the appeal on merit by upholding the addition made by the Assessing Officer in absence of any material or evidence to rebut the action of the Assessing Officer.

6. Aggrieved with such order of the learned CIT (A) the assessee is in appeal before the Tribunal by raising the following grounds:

*"1. The order of the Learned Commissioner of Income Tax Appeals ("Ld CIT(A)") is erroneous as per law and on facts of the case.*

*2. The survey operation as conducted under Section 133A of the Income Tax Act, 1961 (the Act) is erroneous as per law and on facts of the case.*

*3. The Ld CIT(A) has erred in law and on facts of the case by not taking cognizance of Income Declaration Scheme, 2016 as filed by the Appellant.*

*4. The Ld. CIT(A) has erred in law and on facts of the case by upholding an order which did not comply with the procedure provided in Section 148 of the Act, thereby vitiating the provisions of "income escaping assessment" and consequently making the order null and void ab initio.*

*5. The Ld CIT(A) has erred in law and on facts of the case by upholding the levy of interest under Section 234A, Section 234B and Section 234D of the Income Tax Act, 1961.*

*6. The Ld. CIT(A) has erred in law and on facts of the case by upholding the initiation of penalty proceedings under Section 271(1)(C) of the Act.*

*7. Any other ground that may be urged at the time of hearing with the approval of Hon'ble Income Tax Appellate Tribunal.*

7. We have heard the learned DR and perused the record. It is an admitted fact that due to non-compliance of the assessee to the statutory notices issued u/s 148 as well as the notice issued u/s 142(1), the Assessing Officer was constrained to pass the assessment order u/s 144 r.w.s. 147 determining the total income of the assessee at Rs. 1,52,73,100/- wherein he made addition of Rs.54.00 lakhs on the basis of the admission of undisclosed income by the assessee during the course of survey. We find due to persistent non-compliance of the assessee before the CIT (A) despite number of opportunities granted, the learned CIT (A) upheld the action of the Assessing Officer by sustaining the addition. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the Assessing Officer with a direction to grant one last opportunity to the assessee to substantiate its case by filing the requisite details and decide the issue as per fact and law. The assessee is also hereby directed to appear before the Assessing Officer without seeking any adjournment under any pretext failing which the Assessing Officer is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

### **ITA Nos.517 & 518/Hyd/2023**

8. After hearing the learned DR and on perusal of the record, we find the grounds raised by the assessee in the above two appeals are identical to the grounds raised by the assessee in ITA No.516/Hyd/2023. We have already decided the issue and the matter has been restored to the file of the Assessing Officer for fresh adjudication. Following similar reasonings, the above two appeals are also restored to the file of the Assessing Officer for fresh adjudication.

9. In the result, all the 3 appeals filed by the assessee are allowed for statistical purposes.

Order pronounced in the Open Court itself i.e. on 19<sup>th</sup> December, 2023.

<b>Sd/-</b> <b>(LALIET KUMAR)</b> <b>JUDICIAL MEMBER</b>	<b>Sd/-</b> <b>(R.K. PANDA)</b> <b>VICE-PRESIDENT</b>
--	---

Hyderabad, dated 19<sup>th</sup> December, 2023.

***Vinodan/sps***

Copy to:

S.No	Addresses
1	M/s. Venkhata Srinivasa Infracon (P) Ltd, B.No.10-50-12/1, Sai Dakshita Complex, Opp: Waltair Club, Siripuram Main Road Waltair Uplands, Visakhapatnam 530003
2	Dy.CIT, Central Circle 2(4) 6 <sup>th</sup> Floor, Aayakar Bhavan, Basheerbagh, Hyderabad 500004
3	Pr. CIT – Central, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*