

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 No.108/Hyd/2024		
Assessment Year: 2017-18		
Ramesh Chandra Kilaru, Vijayawada. PAN : EIBPK7384C (Appellant)	Vs.	The ADIT, (International Taxation) – 1, Hyderabad. (Respondent)
Assessee by:	Shri SNSR Chinmai, Advocate.	
Revenue by:	Ms. Sheetal Sarin	
Date of hearing:	18.03.2024	
Date of pronouncement:	19.03.2024	

ORDER

PER LALIET KUMAR, J.M.

This appeal is filed by the assessee, feeling aggrieved by the order passed by the Commissioner of Income Tax (Appeals) – 10, dated 11.01.2024 for the AY 2017-18 on the following grounds :

2. The grounds raised by the assessee reads as under :

“1. The Order of Ld. CIT(Appeals) is erroneous both on facts and law.

2. The Ld. CIT(Appeals) erred in disposing the appeal ex-parte without providing proper opportunity to the appellant.

3. The Ld CIT (Appeals) erred in confirming the action of A.O in initiating proceedings u/s 147 of the I.T Act. Without considering the facts that notice issued u/s 148 of the I.T Act was not valid and consequently the assessment is not valid.

4. The Ld CIT(Appeal) erred in confirming the action of Assessing Officer in ignoring the return of income filed in response to the notice u/s 148 of the I.T Act.

5. The Ld. CIT(Appeals) erred in confirming the order taxing the capital gain in the case of the assessee was Non-Resident Indian and ought to have held that the property was purchased and sold by the father of appellant.

6. The Ld CIT (Appeals) erred in confirming the adoption of the sale consideration at Rs.42,28,000/- as against the actual sale consideration of Rs.17,50,000/-

7. The Ld CIT(Appeals) erred in upholding the order of Assessing Officer on determination of SRO value at Rs.42,28,000/- and ought to have considered that the property is in court litigation.

8. The Ld CIT (Appeals) erred in confirming the determination of capital gain without considering the cost of acquisition of the property.”

3. Facts of the case, in brief, are that assessee is an individual and an NRI. The assessee had not filed the return of income for the year consideration. Assessing Officer has observed that the assessee had sold an immovable property vide doc no. 8162/2016 dt 07.10.2016 for a total consideration of Rs. 17,50,000/- against the SRO value of the said property of Rs.

42,28,000/-. Therefore, Assessing Officer had initiated the proceedings u/ s 147 and accordingly, a notice u/ s 148 was issued on 30.03.2021. In response to this notice, assessee has filed the return of income on 25.09.2021. Further, several notices u/ s 142(1) were issued during the assessment proceedings and in response, assessee stated that he has not sold any property and requested from the Assessing Officer to furnish the sale deed. Further, Assessing Officer has furnished the sale deed to the assessee. The Assessing Officer requested the assessee to offer his explanation but the assessee has neither furnished information nor explanation. Therefore, Assessing Officer had completed the assessment and passed the order u/ s 147 r.w.s 144 of the Act by making an addition of Rs.42,28,000/-on account of long term capital gains, thereby raised a demand of Rs.19,16,130/- and completed the assessment u/s 147 r.w.s. 144 of the Act and passed assessment order on 30.05.2022.

4. Feeling aggrieved by the order passed by the assessing officer, assessee filed appeal before the Ld. CIT(A), who dismissed the appeal of assessee on account of non-prosecution and on merits.

5. Feeling aggrieved with the order of ld.CIT(A), assessee is now in appeal before us.

6. Before us, ld.AR submitted that the assessee has failed to provide necessary information and appear before the lower authorities. Hence, the ld. AR requested the Bench to remand the matter back to the file of Assessing Officer. Ld.AR further submitted that as the assessee has sufficient cause from putting in appearance before the lower authorities, matter may kindly be remitted back to the authorities below for afresh adjudication.

7. Per contra, the ld.DR relied upon the orders of lower authorities.

8 We have heard the ld. DR and perused the material available on record and also the order passed by the lower authorities. On perusal of the impugned order passed by ld.CIT(A), we found that ld.CIT(A) passed an order confirming the action of the Assessing Officer. The merits of the assessee's appeal before the ld.CIT(A) have neither been discussed nor decided by the ld.CIT(A). From paragraphs 6.1 to 6.4 of the order of ld.CIT(A), it is clear that ld.CIT(A) was forced to decide the appeal on the basis of material available on record, as there was no representation on behalf of the assessee. In view of the above reasons, in our view, the ends of justice will be met if the matter is remanded back to the file of ld.CIT(A) with a direction to decide the issue after

considering the documents available on record and affording the opportunities of hearing to the assessee in accordance with law.

9. 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. Thus, the grounds of the assessee are allowed for statistical purposes.

10. In the result, the appeal of the assessee is treated as allowed for statistical purposes.

Order pronounced in the Open Court on 19th March, 2024.

Sd/- (R.K. PANDA) VICE PRESIDENT	Sd/- (LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 19th March, 2024.

TYNM/sps

Copy to:

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2	The ADIT, (International Taxation), - 1, Hyderabad.
3	CIT (IT & TP), Hyderabad
4	The Chief Commissioner of Income Tax (IT) (SZ), Bengaluru.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order