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**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad ‘ B ‘ Bench, Hyderabad**

**BEFORE SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER AND**  
**SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

आ.अपी.सं / **ITA No.178/Hyd/2024**  
(निर्धारण वर्ष / Assessment Year: 2016-17)

M/s. Progressive Hotels Private Limited, Hyderabad. PAN : AABCP7409G (Appellant)	<b>Vs.</b>	Income Tax Officer, Ward-16(2), Hyderabad. (Respondent)
निर्धारिती द्वारा / Assessee by:		Shri S. Phanindra, Advocate.
राजस्व द्वारा / Revenue by::		Shri Ranjan Agarwala, Sr.DR
सुनवाई की तारीख / Date of hearing:		19.09.2024
घोषणा की तारीख / Pronouncement:		20.09.2024

**आदेश/ORDER**

**PER MADHUSUDAN SAWDIA, A.M:**

This appeal filed by M/s. Progressive Hotels Private Limited (“the assessee”) feeling aggrieved by the order dated 29.10.2019 of the Learned Commissioner of Income Tax (Appeals)-4, Hyderabad (“Ld. CIT(A)”) relating to A.Y. 2016-17.

2. At the outset, Ld.AR submitted that the assessee had filed appeal before the Ld. CIT(A) against the order of Learned Assessing Officer (“Ld. AO”) passed u/s. 143(3) of the Income Tax Act, 1961 (“the Act”) dated 17.12.2018. He further submitted that the assessee could not made compliances to the notices issued by Ld. CIT(A) due to the reason that the assessee could not get such notices. The

assessee only came to know about the impugned order on 25.01.2014 when the Ld. AO initiated recovery proceedings by attaching their bank account. He also submitted that the non-compliance on the part of the assessee before Ld. CIT(A) was not intentional and was out of control of the assessee. However, the Ld. CIT(A) dismissed the appeal of the assessee on account of such non-prosecution.

3. Feeling aggrieved with the order of Ld. CIT(A), the assessee is now in appeal before us. The Ld. AR submitted that the assessee does not stand to gain by allowing the appeal to be disposed of without any documentary evidence being produced and it is only due to the reasons beyond the control of the assessee, the assessee could not produce the necessary documents/evidences to prosecute his case. By consolidating all the grounds, he further submitted that given an opportunity, the assessee is now ready to produce all such details and conduct the proceedings diligently and get the matter disposed of on merits.

4. Per contra, Ld. DR placed heavy reliance on the orders of the authorities below, and submitted that sufficient opportunity has already been given by the authorities, but the assessee failed to avail the same. He opposed the grant of further opportunity to the assessee.

5. We have heard the rival contentions and also gone through the record in the light of the submissions made on either side. It could be seen from the orders of the Ld.CIT(A) that the assessee failed to substantiate his case by providing necessary documentary evidence, which resulted in passing the orders without consideration thereof. However as submitted by the Ld. AR, non prosecution on the part of

the assessee was only due to the reasons beyond the control of the assessee. Further, it is a fact that the assessee does not stand to gain by not producing such documents. Be that as it may, now the assessee is ready to produce all such documentary evidence in support of their contentions and get the matter disposed of on merits. The highest that would happen by allowing an opportunity to the assessee is that a cause would be decided on merits. With this view of the matter, we are of the view that fresh opportunity should be given to the assessee and, accordingly, we set aside the impugned order and restore the issue to the file of the Ld. CIT(A) for passing a fresh order on merits after affording the opportunity of hearing to the assessee. Grounds of appeal are answered accordingly.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

**Order pronounced in the open Court on 20th September, 2024.**

Sd/-

(K. NARAIMHA CHARY)  
JUDICIAL MEMBER

Sd/-

(MADHUSUDAN SAWDIA)  
ACCOUNTANT MEMBER

Hyderabad.

Dated: 20.09.2024.

\* *Reddy gp*

**Copy of the Order forwarded to :**

1. M/s. Progressive Hotels Pvt. Ltd., No.6-1-70,  
Ashoka Hotel, Lakdikapul, Hyderabad-500004
2. ITO, Ward 16(2), Hyderabad.
3. Pr. CIT, Hyderabad.
  
4. DR, ITAT, Hyderabad.
5. Guard file.

BY ORDER