

आयकर अपीलिय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri Manjunatha G., Accountant Member
and
Shri K. Narasimha Chary, Judicial Member

आ.अपी.सं / **ITA No.463 & 464/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2014-15 and 2015-16)

Keshava Reddy Nagireddy Hyderabad [PAN :ADCPN1614N]	Vs.	Dy.Commissioner of Income Tax Circle (1) Kurnool
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	M.Chandramouleswara Rao, AR	
राजस्व द्वारा / Revenue by:	Shri B.Bala Krishna, CIT-DR	
सुनवाई की तारीख / Date of hearing:	28/11/2024	
घोषणा की तारीख / Date of Pronouncement:	28/11/2024	

आदेश / ORDER

PER. MANJUNATHA G., A.M:

These two appeals filed by the assessee are directed against the separate, but identical orders of the learned Commissioner of Income Tax (Appeals) [Learned CIT(A), National Faceless Appeal Centre (NFAC), Delhi, both dated 05/03/2024, pertaining to A.Y.2014-15 and 2015-16. Since the facts are identical and issues are common, for the sake of convenience, these appeals were heard together and are being disposed off by this consolidated order.

ITA No.463/Hyd/2024, A.Y.2014-15

4. The brief facts of the case are that the assessee did not file his return of income for the A.Y.2014-15. The assessment has been reopened u/s 147 of the Income tax Act, 1961 (“the Act”) and notice u/s 148 was issued on 30.03.2021. The assessee did not comply with the notice issued u/s 148 by furnishing return of income. Various notices u/s 142(1) were issued and served on the registered e-mail address of the assessee. As the assessee did not comply with the notices served on e-mail address, physical service of notices was made through postal department on 07.02.2022. The Assessing Officer observed that sufficient opportunities were given to the assessee, but the assessee had not availed the opportunities and no communication was received from the assessee. Hence, the Assessing Officer was left with no other option but to complete the assessment ex-parte to the best of his judgement u/s 144 of the Act by making addition of (i) Rs.13,83,65,127/- as unexplained money u/s 69A r.w.s. 115BBE of the Act as the assessee failed to explain the nature and source of cash deposited in his bank account maintained with Canara bank and offer the said income to tax (ii) Rs.2,47,443/- as undisclosed income with regard to income earned from interest (iii) Rs.14,37,703/- as unexplained expenditure u/s 69C of the Act as the assessee failed to explain the source for purchase of movable property. Penalty proceedings were initiated separately.

5. The assessee carried the matter in appeal before the first appellate authority. But, even before the Ld.CIT(A) the assessee could not substantiate the source of the cash deposited into bank account, source of the cash for purchase of movable property and not filed return of income to claim credit for taxes paid including TDS. Therefore, the Ld.CIT(A) passed ex-parte appellate order and upheld the additions made by the Assessing Officer.

6. Aggrieved by the Ld.CIT(A) order, the assessee is in appeal before the Tribunal.

7. The learned Counsel for the assessee submitted that the assessment proceedings before the Assessing Officer are ex-parte and the appellate proceedings before the first appellate authorities are also ex-parte. The assessee could not submit relevant details before the authorities due to the circumstances beyond his control. Therefore, he submitted to give one more opportunity of hearing to the assessee, the matter may be remanded back to the file of the Assessing Officer.

8. The learned DR on the other hand, supporting the order of the Ld.CIT(A), submitted that the assessee is negligent throughout the proceedings, which is evident from ex-parte assessment order and ex-parte appellate order passed by the lower authorities. Therefore, there is no reason to give another opportunity to the assessee and thus, the order of the Ld.CIT(A) should be upheld.

9. We have heard both the parties, perused the material on record and gone through the orders of the authorities below.

Admittedly, the proceedings before the Assessing Officer are ex-parte. The assessee neither appeared nor furnished any details. Therefore, the Assessing Officer passed best judgement assessment u/s 144 of the Act and made various additions including additions towards cash deposited into bank account etc. Although, the assessee has filed appeal before the CIT(A), but neither appeared nor filed any details, which is evident from the appellate order passed by the Ld.CIT(A), where the Ld.CIT(A) had given number of opportunities to the assessee, but there was no response. However, although the Ld.CIT(A) dismissed the appeal filed by the assessee for non-prosecution, but the issues challenged by the assessee have been not been adjudicated on merits. It is a well-established principle of law by the decisions of various courts that even in a case of ex-parte proceedings, the appeals should be decided on merits, based on the material available on record. Since the Ld.CIT(A) dismissed the appeal filed by the assessee ex-parte, without deciding the issues on merits, in our considered view, the matter needs to go back to the file of the lower authorities. Therefore, we set aside the order of the learned CIT(A) for both the assessment years and restore the issue back to the file of the Assessing Officer for denovo consideration for both the assessment years. The Assessing Officer is directed to reconsider the assessment denovo after providing reasonable opportunity of hearing to the assessee. Needless to say, the assessee shall appear and file necessary details before the Assessing Officer to complete the assessment expeditiously. Further, we are of the opinion that since the assessee is negligent and non-cooperative at both the proceedings, the assessee is required to pay a nominal cost of Rs.5,000/- each for both the

assessment years and deposit the cost to the State Legal Aid Authority, Hon'ble High Court of Telangana and furnish relevant evidences to the Registry.

10. In the result, appeal filed by the assessee in ITA No.463/Hyd/2024 is allowed for statistical purpose.

ITA No.464/Hyd/2024, A.Y.2015-16

11. The facts of the present case and issues involved are identical to the facts and issues which we had considered for A.Y. 2014-15. The reasons given by us in preceding paragraph nos.9 and 10 shall mutatis and mutandis apply to these appeals, as well.

12. In the result, appeal filed by the assessee is allowed for statistical purpose.

13. To sum up, both the appeals filed by the assessee for the assessment years 2014-15 and 2015-16 are allowed for statistical purpose.

Order pronounced in the Open Court on 28th November, 2024.

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-

(MANJUNATHA, G.)
ACCOUNTANT MEMBER

Hyderabad, dated 28th November, 2024

L.Rama, SPS

Copy to:

S.No	Addresses
1	Shri Keshava Reddy Nagireddy, Villa No.87, Aparna County, Miyapur, Hyderabad
2	The Deputy Commissioner of Income Tax, Circle(1), Kurnool
3	Pr. CIT – Kurnool
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order