

आयकर अपीलीय अधिकरण, विशाखापटणम पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Visakhapatnam “Division” Bench, Visakhapatnam

Before Shri Vijay Pal Rao, Vice-President
A N D
Shri S. Balakrishnan, Accountant Member

आ.अपी.सं / **ITA No.344/Viz/2025**
(निर्धारण वर्ष/Assessment Year: 218-19)

Surya Global Hospitals (P) Ltd, KAKINADA PAN:AAPCS7094C	Vs.	Income Tax Officer(TDS) Ward 1 Rajahmundry
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri G.V.N. Hari, Advocate	
राजस्व द्वारा/Revenue by:	Dr. Aparna Villuri, Sr. AR	
सुनवाई की तारीख/Date of hearing:	17/07/2025	
घोषणा की तारीख/Pronouncement:	25/07/2025	

आदेश/ORDER

Per Vijay Pal Rao, Vice President

This appeal filed by the assessee is directed against the order dated 25/03/2025 of the learned CIT (A)/Addl./JCIT(A) Panaji arising from the order passed u/s 201(1) of the Act for the A.Y.2018-19.

2. The assessee has raised the following grounds of appeal:

“1. The order of the learned Counsel for the assessee is contrary to the facts and also the law applicable to the facts of the case,

2. The learned CIT (A) is not justified in deciding the appeal ex-parte without granting sufficient opportunity to the appellant.

3. The learned CIT (A) is not justified in sustaining the demand of Rs.17,47,293 raised u/s 20(1) of the Act and demand of Rs.8,19,298 raised u/s 201(A) of the Act by the Assessing Officer towards short deduction of tax at source.

4. Any other grounds may be urged at the time of hearing”.

3. At the time of hearing, the learned Counsel for the assessee has submitted that the learned CIT (A) has dismissed the appeal of the assessee while passing the impugned order ex-parte. He has pointed out that the learned CIT (A) has issued 3 notices as stated in the impugned order out of which the assessee has responded to the 2nd notice issued by the learned CIT (A), dated 3/12/2024 vide reply dated 9/12/2024 whereby the assessee sought the adjournment of the hearing. However, the learned CIT (A) has issued a 3rd notice on 16/12/2024 without giving a reasonable time to the assessee and therefore, the assessee could not respond to the 3rd notice and consequently, the appeal of the assessee was dismissed while passing the impugned order ex-parte. Thus, he has pleaded that the assessee may be given one more opportunity to explain its case and produce the relevant record to show that the assessee cannot be held as “assessee in default” u/s 201(1) of the Act. He has pointed out that it is a case of short deduction of TDS and payment made to the parties who have considered the same in their return of income and therefore,

as per proviso to section 201(1) of the Act, the assessee cannot be deemed to be an “assessee in default”.

4. On the other hand, the learned DR has submitted that despite the 3 opportunities given by the learned CIT (A), the assessee failed to furnish any details or submissions to show how the assessee cannot be held to be an “assessee in default”. He has relied upon the impugned order of the learned CIT (A).

5. We have considered the rival contentions as well as the relevant material available on record. The assessee filed the appeal before the learned CIT (A) on 2/9/2021. However, the notices were issued by the learned CIT (A) in the month of November and December, 2024, the details of which are given in para 4 of the impugned order as under:

Date of hearing notice	Date of compliance of notice	Date of response	Mail ID to which the notices issued have been delivered as per Income Tax Portal
18/11/2024	22/11/2024	No response	suryaglobalaccounts@yahoo.in
03/12/2024	09/12/2024	09/12/24	suryaglobalaccounts@yahoo.in
16/12/2024	20/12/2024	No response	suryaglobalaccounts@yahoo.in

5.1 Thus, the learned CIT (A) has given all 3 notices in a span of less than one month and then passed the impugned order. The assessee responded to the 2nd notice issued by the assessee and sought the adjournment, but immediately thereafter the learned CIT (A) has issued the 3rd notice and then passed the impugned order, therefore, we find that an effective opportunity of

hearing was not afforded to the assessee before passing the impugned order. Even otherwise, in the facts and circumstances of the case and in the interest of justice, we grant one more opportunity to the assessee to present its case as well as the relevant details and record before the learned CIT (A). Accordingly, the impugned order of the learned CIT (A) is set aside, and the matter is remanded to the record of the learned CIT (A) for fresh adjudication after giving an appropriate opportunity of hearing to the assessee. We order accordingly.

6. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 25th July, 2025.

Sd/-

Sd/-

(S. BALAKRISHNAN) ACCOUNTANT MEMBER	(VIJAY PAL RAO) VICE-PRESIDENT
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Hyderabad, dated 25th July, 2025

Vinodan/sps

Copy to:

S.No	Addresses
1	Surya Global Hospitals (P) Ltd D.No.10-5-27/1 Nageswara Rao Street, Ramaraopeta, Kakinada, A.P
2	Income Tax Officer Ward 1 Aayakar Bhavan, Rajahmundry, A.P
3	Pr. CIT - Rajahmundry
4	DR, ITAT Visakhapatnam Bench
5	Guard File

By Order

