

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad**

**Before Smt. P. Madhavi Devi, Judicial Member
AND
Shri B. Ramakotaiah, Accountant Member**

ITA No.977/Hyd/2017
(Assessment Year: 2013-14)

Shri Sadanand Boddu Hyderabad PAN: AAPPB 0988 H (Appellant)	Vs	Income Tax Officer Ward 6(2) Hyderabad (Respondent)
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For Assessee :	Shri L.K. Pissay
For Revenue :	Smt. Suman Malik, DR

Date of Hearing:	10.01.2018
Date of Pronouncement:	12.01.2018

ORDER

Per Smt. P. Madhavi Devi, J.M.

This is assessee's appeal for the A.Y 2013-14. In this appeal, the assessee is aggrieved by the order of the learned CIT (A)-6, Hyderabad, dated 7.4.2017. The assessee has raised the following grounds of appeal:

"1. Your appellant is an individual carrying on the business of running a wine shop for purchase and sale of IMFL supplies solely by APBCL a State Govt. Agency.

2. The learned assessing officer completed the assessment after applying 5% as net profit to the cost of Goods sold during the year and making an addition of Rs.43,03,811/- to the Income returned.

3. *The first Appellate Authority has erred in confirming the additions made by the assessing officer*

4. *Your appellant submits that he has been maintaining proper books of accounts which have been subject to audit U/s 44 AB of the Income Tax Act which were duly examined by the assessing officer to his satisfaction.*

5. *The learned assessing officer has not considered the facts of the case laws that the Hon'ble Income Tax Appellant Tribunal held in*

i) Appeal No. ITA/Hyd/517, Bench, Hyderabad in the case of Sai Cine Wines, Hyderabad Vs ITO Ward 6(3) dated 18-12-2015.

ii) Appeal No. 1198/Hyd/2015 in the case of M/s Sai Venkateshwara Wines, Secunderabad and in

iii) Appeal No. 725/Hyd/2015 in the case of Venkateshwara Wines, Nizamabad that adoption of 5% as net profit is incorrect and adopted 3% and 2.5% respectively.

6. *Your appellant submits that the addition to the Income returned is incorrect, arbitrary and application of section 145 of the Income Tax Act. is bad in law hence the addition may be deleted.*

7. *Your appellant craves leave to add, amend and alter any of the Grounds at the time of hearing”.*

2. Brief facts are that the assessee, an individual, in the business of running a wine shop and is in receipt of interest income, filed his return of income on 30.09.2013 admitting taxable income of Rs.12,93,920. During the assessment

proceedings u/s 143(3) of the Act, the assessee was directed to file the required details. The assessee could not furnish the details. Therefore, the AO estimated the net profit at 5% of the goods put to sale. Aggrieved, the assessee preferred an appeal before the CIT (A), who confirmed the order of the AO and the assessee is in second appeal before us.

3. Having regard to the rival contentions and the material on record, we find that the CIT (A) has clearly brought out that for the relevant A.Y, the gross profit margin of the traders such as the assessee (as per the information accessed from the public domain) is 20% and taking the same into consideration and also after allowing the expenses debited to the P&L A/c, the assessee's net profit would be at Rs.69.00 lakhs as against the assessed net profit by the AO at Rs.47.56 lakhs. Since the CIT (A) has brought cogent material to justify the estimation of income at 5%, we see no reason to interfere with the order of the CIT (A).

4. In the case of Sri Kuna Anji Babu Goud in ITA No.976/Hyd/2017, even dated, we have held as under:

“5. Having regard to the rival contentions and the material on record, we find that the only issue before us is the estimation of profit from the business of trading in liquor. The CIT (A) has considered the issue at length and as per the information accessed from the public domain has held that the trade margin in such cases is 20% and that the gross profit shown by the assessee at 13.5% is very less compared to the above. She has also held that if trade margin is taken at 20%, the gross profit of the business should be estimated at 2.35 crores and if all the expenses debited to the P&L A/c by the assessee amounting to Rs.1.05

crores were to be allowed, the net profit would work out to Rs.85.00 lakhs which is higher than the net profit assessed at Rs.49.88 lakhs by the AO. Thus, we find that the CIT (A) has given cogent reasons for upholding the estimation of book profit at 5%. In the case law relied upon by the learned Counsel for the assessee, the Tribunal has considered that uniformity in the profit cannot be adopted in each and every case of similar business and that the estimation of net profit must be on the basis of facts involved in each and every case. Since in the case before us, the AO and the CIT (A) have brought out as to how the assessee's profit as per its own books of account is much more than the net profit assessed by the AO, we see no reason to interfere with the same".

Respectfully following the same, assessee's appeal is dismissed.

5. In the result, assessee's appeal is dismissed.

Order pronounced in the Open Court on 12th January, 2018.

Sd/-
(B.Ramakotaiah)
Accountant Member

Sd/-
(P. Madhavi Devi)
Judicial Member

Hyderabad, dated 12th January 2018.

Vinodan/sps

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- 4 Pr. CIT – 6 Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order