

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "B" (SMC), HYDERABAD**

**BEFORE SHRI B. RAMAKOTIAH, ACCOUNTANT MEMBER**

**I.T.A. No. 2266/HYD/2017**

Assessment Year: 2014-15

Smt. Venkannagiri Malini,  
Gajwel (M)  
Siddipet Dist.,  
**[PAN: AKGPV7990J]**

The Income Tax Officer,  
Vs Ward-1,  
Siddipet

**(Appellant)**

**(Respondent)**

For Assessee : Shri T. Chaitanya Kumar, AR  
For Revenue : Smt. N. Swapna, DR

Date of Hearing : 03-07-2018  
Date of Pronouncement : 27-07-2018

**ORDER**

This is an appeal by assessee against the order of the Commissioner of Income Tax (Appeals)-7, Hyderabad, dated 01-08-2017, confirming the action of the Assessing Officer (AO) in rejecting the books of account, but estimated the net profit at 4% of the cost of the goods sold as against 5% assessed by AO.

2. Brief facts of the case are that, assessee is an individual, in the business of liquor, filed her return of income for the assessment year under consideration, admitting total income of Rs. 10,16,580/-. In the scrutiny assessment proceedings, after verification of various details, AO was of the opinion that

the books of account cannot be relied upon and resorted to estimation of net profit at 5% of the purchase or stock put to sale at Rs. 5,90,56,521/-. He therefore estimated income at 5% which works out to Rs. 29,52,826/-. Aggrieved, assessee preferred an appeal before the Ld.CIT(A), who after considering assessee's submissions and following various decisions of Co-ordinate Benches, reduced the estimation from 5% to 4%. Further aggrieved, assessee is in appeal before us.

3. Even though assessee was challenging the rejection of books of account, Ld. Counsel restricted the arguments to the grounds raised at Nos. 3 & 4 i.e., estimation of income at 4% is on higher side and various Co-ordinate Benches have determined the profit at 3% of the stock put to sale. Ld. Counsel fairly admitted that assessee would be agreeable, if estimation was done at 3%. Ld. Counsel filed the decision of Co-ordinate Bench in the case of Secunderabad Wines Vs. ITO in ITA No. 181/Hyd/2016, dt. 20-07-2016.

4. Ld.DR, however, submitted that Ld.CIT(A) has fairly considered 4% as against 5% estimated by the AO and relied on various Co-ordinate Bench decisions as mentioned by CIT(A) in the impugned order.

5. I have considered the rival contentions and perused the orders placed on record. At the time of hearing, Ld. Counsel for assessee submitted that this issue is covered in favour of assessee by the decision of Co-ordinate Bench in the case of

Secunderabad Wines Vs. ITO in ITA No. 181/Hyd/2016, dt. 20-07-2016, wherein that Bench has followed the decision of 'A' Bench of this Tribunal in the case of Sri Venkateswara Wines in ITA No. 1206/Hyd/2015, dt. 27-11-2015, wherein after taking into consideration similar circumstances, the Tribunal has upheld the estimation of income at 3% of the cost of the goods sold.

5.1. In the case of Suraj Harjani Vs. ITO in ITA No. 1745/Hyd/2017, dt. 11-04-2018, the Co-ordinate Bench has held as under:

*"5. We have considered the rival contentions and perused the material on record. There is no dispute with reference to the fact that books of account are to be rejected and the income is to be estimated. AO estimated the income @ 5% relying on various Co-ordinate Bench decisions, which was confirmed by the CIT(A). However, perusing the various orders indicate that a uniform net profit cannot be adopted in each and every case of similar business. The estimation of net profit may be on the basis of the facts involved in each and every case. In all the orders relied upon before us, estimation of income is varying from 2.5% to 5%. The latest order by the SMC Bench in the group case of Badri Srinivas Vs. ITO (supra) is @ 3%. In the said case, the Bench has considered the issue as under:*

*"11. I have carefully considered the rival submissions and perused the record. A.O. as well as Ld. CIT (A) have relied upon the decisions of the ITAT rendered in 2011 / 2012 whereas the Assessing Officer, under similar circumstances, made scrutiny assessments wherein the stringent change in policy as well as impact of the High Court directions were taken into consideration for the purpose of estimating the net income @ 3% and in fact in the later decisions of the Tribunal, the net income was estimated @ 3% of the cost of goods sold. Under these circumstances, consistent with the view taken by the Tribunal, cited (supra), I direct the A.O. to adopt 3% of the cost of the goods sold as the income of the assesseees".*

5.1. Keeping in view the latest order of the SMC Bench and the reasons given therein, we are of the opinion that estimation of income

*@ 3% would be reasonable on the facts of the case. However, AO is directed to keep in mind that the estimated income does not fall less than the profit declared by assessee, in which case the profit declared by assessee should be accepted. Subject to above direction, AO is directed to estimate the profit @ 3% of the cost of stock put to sale and re-determine the total income, accordingly”.*

5.2. Respectfully following the same, I direct the AO to adopt 3% of the cost of the goods sold as income of assessee, subject to not being less than the returned income. Since assessee did not press for the grounds about rejection of books of account, the grounds pertaining to that extent are rejected.

6. In the result, the appeal of assessee is partly allowed.

*Order pronounced in the open court on 27<sup>th</sup> July, 2018*

Sd/-  
**(B. RAMAKOTIAH)**  
**ACCOUNTANT MEMBER**

Hyderabad, Dated 27<sup>th</sup> July, 2018

TNMM

*Copy to :*

- 1. Smt. Venkannagiri Malini, # 1-108, Dilapur (V), Gajwel (M), Siddipet Dist.,*
- 2. The Income Tax Officer, Ward-1, Siddipet.*
- 3. CIT (Appeals)-7, Hyderabad.*
- 4. Pr.CIT-7, Hyderabad.*
- 5. D.R. ITAT, Hyderabad.*
- 6. Guard File.*