

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

**Before Smt. P. Madhavi Devi, Judicial Member
AND
Shri S.Rifaur Rahman, Accountant Member**

ITA No.231/Hyd/2018
(Assessment Year: 2013-14)

Smt. Rajini Kolla Vs Income Tax Officer
Hyderabad Ward 6(3)
PAN: APCPK5049N Hyderabad
(Appellant) (Respondent)

For Assessee : Shri Y.V. Bhanunarayan Rao
For Revenue : Smt.M. Narmada, DR

Date of Hearing: 23.10.2018
Date of Pronouncement: 31.10.2018

ORDER

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

This is assessee's appeal for the A.Y 2013-14 against the order of the CIT (A)-6, Hyderabad, dated 30.11.2017. The assessee has raised the following grounds of appeal:

" 1. The order of the learned Commissioner of Income Tax (Appeals) is erroneous.

2. The learned Commissioner of Income Tax (Appeals) erred in estimating profit @23.77%.

3. The learned Commissioner of Income Tax (Appeals) erred in not considering estimated profit @8% and which is generally allowed practice when books of accounts are not maintained by the assessee.

4. The learned Commissioner of Income Tax (Appeals) ought to have considered the estimated profit @8% of turnover instead of 23.77% when books of accounts are not maintained.

5. Your assessee has not maintained any books of accounts and has offered profit on estimated basis. In case of books of accounts are not maintained and the turnover is below the threshold limit of Rs. 1,00,00,000/- and when there was a difference between gross receipts as shown in the ITR and deposits into the bank and Commissioner of Income Tax (Appeals) ought to have considered the profit margin @8% of total turnover.

6. The learned Commissioner of Income Tax (Appeals) erred in calculating the profit margin as per proportionate turnover method instead of 8%.

7. Any other ground or grounds that may be urged at time of hearing”.

2. Brief facts of the case are that the assessee, an individual, engaged in the business of running a ladies hostel, has filed her return of income for the A.Y 2013-14 on 10.03.2015 admitting income of Rs.2,94,450/-. As per the information available with the AO, the assessee had made cash deposits of Rs.57,95,900 in her savings bank a/c whereas in the return of income filed, she admitted receipts to the extent of Rs.21,45,650 only and a net profit of Rs.5,10,000. Therefore, the AO was of the opinion that the assessee has short admitted receipts to the extent of Rs.36,50,250 and corresponding net profit at Rs.8,67,299 which the AO considered as a profit from the hostel business. Therefore, he reopened the assessment u/s 147 of the Act.

3. During the re-assessment proceedings, the assessee explained the sources for the cash deposits as gold loan, receipts from hostel business which includes advances received from the hostel inmates etc., But the assessee failed to produce the details such as when the gold loan was sanctioned, amount of loan

availed with supporting evidences etc., Therefore, the AO disbelieved the assessee's contention of gold loan. He considered the source to be the receipts from hostel business and completed the assessment ex-parte u/s 144 of the Act and made an addition of Rs.15,67,409 to the returned income of the assessee. Aggrieved, the assessee preferred an appeal before the CIT (A) who confirmed the order of the AO. The CIT (A) also considered the returned income of the assessee to hold that the assessee has offered income at 23.77% of the total turnover admitted by her. Applying the same ratio, he upheld the assessment order on the ground that the undisclosed turnover also has to be taxed on the same rate of profit admitted by the assessee i.e. @ 23.77%. Aggrieved, the assessee is in appeal before us.

4. The learned Counsel for the assessee reiterated the submissions made before the CIT (A) that the income from the unexplained cash deposits into her Bank A/c @ 8%, while the learned DR supported the orders of the authorities below.

5. Having regard to the rival contentions and the material on record, we find that the assessee has offered the total receipts from the ladies hostel, less expenses at Rs.5,10,000. According to the assessee, she has offered the income on estimate basis. Since the assessee has not maintained the books of account, the profit should be estimated at 8% of the unexplained deposits and not at 23.77% offered by the assessee on estimate basis. We find that both the assessment order as well as the CIT (A)'s orders are passed ex-parte the assessee. On going through the documents

filed by the assessee, we find that the total turnover of the assessee did not exceed Rs.1.00 crore, therefore, we are of the opinion that the CIT (A) ought to have adopted the profit from the unexplained cash deposits at 8% and ought not to have attributed the profit declared by the assessee to the entire receipts. We therefore, direct the AO to estimate the profit from the unexplained cash deposits only at 8%.

6. In the result, assessee's appeal is partly allowed.

Order pronounced in the Open Court on 31st October, 2018.

Sd/-
(S.Rifaur Rahman)
Accountant Member

Sd/-
(P. Madhavi Devi)
Judicial Member

Hyderabad, dated 31st October, 2018.

Vinodan/sps

Copy to:

- 1 Smt. Rajini Kolla, H.No.7-2-1765, Flat No.107, Aakruthi Nilayam, Czech Colony, Sanath Nagar, Hyderabad 500018
- 2 Income Tax Officer, Ward 6(3) Hyderabad
- 3 CIT (A)-6 Hyderabad
- 4 Pr. CIT – 6 Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order