

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES “B” BENCH: HYDERABAD

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER
AND
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER

ITA. No.1627/Hyd/2017 (Assessment Year: 2013-14)

Danam Dharmender, Hyderabad. PAN: ACZPD 9126 H (Appellant)	vs.	Income Tax Officer, Ward-14(3), Hyderabad. (Respondent)
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For Assessee:	Sri Sunil Kumar Jain & Sanjay Kumar Sharda
For Revenue :	Smt. V. Rajitha, DR

Date of Hearing :	08.03.2019
Date of Pronouncement :	15.03.2019

ORDER

PER V. DURGA RAO, JM.

This appeal filed by the assessee is directed against the order of the CIT(A)-6, Hyderabad dated 15/06/2017 for the assessment year 2013-14. In this appeal, the assessee has raised the following grounds of appeal:-

“1. In computing the total income for A.Y. 2013-14,

The CIT(A) has erred in upholding the wrongly estimated net profit of 2.5% of sales as made by the Assessing Officer.”

2. At the outset, Learned Counsel for the Assessee mentioned that there is a delay of 2 days in filing the appeal before the Tribunal with the prescribed time limit. He submitted that the delay caused is neither intentional nor deliberate but due to the circumstances beyond the

assessee's control, the delay occurred and therefore, the same may considered and condoned. After hearing the Learned Counsel for the Assessee and also considering the smallness of the delay, we deem it is a fit case to condone the delay and accordingly the delay is condoned and we proceed to adjudicate the appeal on merits.

2. Brief facts of the case are that the assessee, an individual, is engaged in the business of sale of liquor, filed return of income admitting total income of Rs. 14,23,140/-. During the assessment proceedings u/s 143(3) of the Act, the A.O. observed that the assessee is not maintaining proper book of account and therefore, failed to produce before him when called for. Therefore, after considering the assessee's submissions with regard to the changes brought in by the Government in the Excise Policy, A.O. proceeded to estimate the income @ 2.5% of the stock put to sale of Rs. 10,10,53,685/- which comes to Rs. 25,26,342/- and the assessed income was determined at Rs. 24,26,340/-.

4. Aggrieved, assessee carried the matter in appeal before the CIT(A), who confirmed the decision of the A.O. by observing as under:

"...In the recent decisions of the ITAT, Hyderabad in the case of M/s. Sai Venkateswara Wines in (ITA No.1198/Hyd/2015) and M/s. Sri Venkateswara Wines (ITA No.725/Hyd/2015) it has been held that estimation of net profit @ 3% of cost of goods to be reasonable. If that were done the profit @ 3% on the cost of goods sold would come to Rs. 25.77 lakhs (3% of Rs. 8,59,03,927/-). The Assessing Officer has estimated the income at Rs. 25,26,342/- (though as a percentage of sale) which is less than the estimate of income at 3% of cost of goods sold as the various decision of ITAT, Hyderabad. Thus, there is no occasion to

reduce the profits of the assessee. Further, that being so, I see no reason to interfere with the decision of the Assessing Officer and the estimate of income at Rs. 25,26,342/- stands confirmed.”

4.1. Aggrieved, assessee is in further appeal before the Tribunal by raising the above mentioned grounds of appeal.

5. The Learned Counsel for the Assessee reiterated the submissions made before the lower authorities and submitted that estimating the net profit @ 2.5% of sales is not correct.

6. Learned Departmental Representative, strongly supported the orders of the authorities below.

7. Having regard to the rival contentions and the material on record, we find that the assessee is involved in retail business of liquor and therefore, could not furnish the relevant books of account properly. Therefore, A.O. has estimated the income @ 2.5% of the cost of goods put to sale and the CIT(A) has confirmed the same. In similar circumstances, this Tribunal, in the case of Sri Venkateswara Wines, Secunderabad in ITA No.1206/Hyd/2015 and various similar cases has held that when the assessee is unable to explain the sales and in the absence of any supporting documentary evidence, in the interest of substantial justice, the Tribunal gave direction to the A.O. to estimate the income @ 3% of the cost of the goods put to sale. In the instant case, the AO, on verification of the books of account, bills and vouchers, came to a conclusion that they are self

made and assessee could not furnish the nature of expenses incurred by the assessee and therefore, A.O. resorted to estimation of profits of the business @ 2.5% of the sales. While resorting to estimation of income @ 2.5% of the cost of goods put to sale, the A.O. has genuinely taken into consideration all the expenses incurred by the assessee and correctly estimated the income, which is a reasonable decision. On appeal, the CIT(A), discussed the issue at length and confirmed the decision of the A.O. and dismissed the appeal filed by the assessee. Therefore, in view of the facts and circumstances of the case, we are of the considered opinion that the decision of the CIT(A) does not call for any interference. Thus, the grounds of appeal filed by the assessee is dismissed.

8. In the result, appeal filed by the assessee is dismissed.

Order pronounced in the open court on 15th March, 2019.

Sd/-

(S. RIFAUH RAHMAN)
ACCOUNTANT MEMBER

Sd/-

(V. DURGA RAO)
JUDICIAL MEMBER

Hyderabad, Dated: 15th March, 2019.

OKK, Sr.PS

Copy to

1.	Danam Dharmender, 406, 4 th Floor, Minerva Complex, SD Road, Secunderabad.
2.	Income Tax Officer, Ward-14(3), Hyderabad.
3.	CIT (A)-6, Hyderabad.
4.	Pr. CIT-6, Hyderabad.
5.	DR, ITAT, Hyderabad.
6.	Guard File