

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

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER  
AND  
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER

ITA. No.2095/Hyd/2017 (Assessment Year: 2014-15)

Naresh Reddy Singireddy, Hyderabad. PAN: BYVPS 9983 E (Appellant)	vs.	Income Tax Officer, Ward-15(4), Hyderabad. (Respondent)
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For Assessee:	Shri S. Rama Rao
For Revenue :	Sri P.V. Subba Raju, DR

Date of Hearing :	12.03.2019
Date of Pronouncement :	.03.2019

**ORDER**

**PER V. DURGA RAO, JM.**

This appeal filed by the assessee is directed against the order of the CIT(A), Hyderabad dated 02/08/2017 for the assessment year 2014-15. In this appeal, the assessee has raised the following grounds of appeal:-

- “1. The order of the Ld. CIT(A) is erroneous to the extent it is prejudicial to the assessee.
2. The Ld. CIT(A) erred in confirming the order of the Assessing Officer in rejecting the books of account and resorting to estimation of income.
3. The Ld. CIT(A) erred in confirming the estimation of income at 4% of the cost of goods sold without considering the explanations submitted before him.
4. The Ld. CIT(A) erred in confirming levy of interest u/s 234A, 234B and 234D of the Act.”

2. Brief facts of the case are that the assessee, an individual, carrying on retail trading of wines, filed return of income admitting total income

of Rs. 15,99,530/-. 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, A.O. proceeded to estimate the income at 5% of the stock put to sale and business income was estimated at Rs. 35,77,673/- and the assessed income was determined at Rs. 51,77,200/-.

3. Aggrieved, assessee carried the matter in appeal before the CIT(A), who restricted the estimation of net profit to 4% and partly allowed the appeal. Aggrieved, assessee is in further appeal before the Tribunal by raising the above mentioned grounds of appeal.

4. The Learned Counsel for the Assessee submitted that similar issue had come up for consideration before this Tribunal in a number of cases, wherein the Tribunal has estimated the profit from sale of liquor @ 3% of the stock put to sale. He therefore prayed that similar direction may be given to the A.O.

5. Learned Departmental Representative, however, supported the orders of the authorities below.

6. 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 @

5% of the cost of goods put to sale and the CIT(A) has restricted the same to 4% and directed the A.O. to estimate the net income from at 4% of cost of goods sold. In similar circumstances, this Tribunal, in the case of Sri Venkateswara Wines, Secunderabad in ITA No.1206/Hyd/2015 has held as under:

*“5. Having regard to the rival contentions and the material on record, we find that the assessee has not maintained any books of account and therefore, the estimation of income is justified. It is only the rate at which the income is to be estimated is before us. A.O. has estimated the income at 5% of the cost of goods sold, while the assessee is seeking the estimation at 3% of the cost of goods sold. We find that in the case of Venkateswara Wines, Nizamabad (supra), the Coordinate Bench of this Tribunal has taken note of the decision of Hon'ble High Court of Telangana and Andhra Pradesh in the case of CIT vs. Kamlekar Shankar Lal (supra) to hold as under :*

*"6. Having regard to the rival contentions and the material on record, we find that the AO has called for books of account of the assessee but the assessee had failed to produce the same. Therefore, AO had estimated the income of the' assessee at 2.5% of the turnover. The CIT wants the same to be estimated at 5% of the total turnover because the Tribunal in the case of an assessee carrying on the same business of sale of IMFL has estimated the income at 5% of the turnover. This, in our view, is not justified as held by the Coordinate Bench of this Tribunal. The ITA.No.1206/Hyd/2015 Sai Venkateswara Wines, Secunderabad uniform net profit cannot be adopted in each and every case of similar business. Estimation of net profit must be on the basis of facts involved in each and every case. Therefore, in our view, there is no error committed by the AU in estimating the profit at 2.5% of the total turnover. Thus grounds of appeal No.2 & 3 are allowed."*

*5.1. In the case before us, the assessee is agreeable to the estimation of income at 3% of the cost of goods sold. As the facts before us are similar to the facts before the Tribunal in the case of Venkateswara Wines, Nizamabad (supra) and the uniform rate of profit cannot be adopted in the case of every assessee in similar business, we allow ground No.2 of the assessee”.*

7. Respectfully following the decision of the Coordinate Bench, the AO is directed to estimate the net profit at 3% of the cost of goods put to sale. Accordingly, Grounds raised by the assessee are allowed.

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

Order pronounced in the open court on 15<sup>th</sup> March, 2019.

**Sd/-**

**(D.S. SUNDER SINGH)  
ACCOUNTANT MEMBER**

**Sd/-**

**(V. DURGA RAO)  
JUDICIAL MEMBER**

Hyderabad, Dated: 15<sup>th</sup> March, 2019.

OKK, Sr.PS

Copy to

1.	Naresh Reddy Singireddy, H.No.8-06, Babaguda Village, Bommarasipet Post, Shameerpet Mandal, RR District.
2.	Income Tax Officer, Ward-15(4), Income Tax Towers, AC Guards, Hyderabad.
3.	CIT (A)-7, Hyderabad.
4.	Pr. CIT-7, Hyderabad.
5.	DR, ITAT, Hyderabad.
6.	Guard File