

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "A" : HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND  
SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

**I.T.A. No. 1658/HYD/2018**

Assessment Year: 2015-16

Sneha Restaurant & Bar,  
Hanmkonda,  
WARANGAL  
[PAN: ACNFS1378J]

Income Tax Officer,  
Vs Ward-I,  
WARANGAL

**(Appellant)**

**(Respondent)**

For Assessee : Smt. S. Sandhya, AR  
For Revenue : Shri Kiran Katta, DR

Date of Hearing : 27-03-2019  
Date of Pronouncement : 03-04-2019

**ORDER**

**PER Smt. P. MADHAVI DEVI, J.M. :**

This is assessee's appeal for the AY. 2015-16, against the order of the Commissioner of Income Tax (Appeals)-3, Hyderabad, dated 12-06-2018.

2. Brief facts of the case are that the assessee-firm, in the business of running bar and restaurant, filed its return of income for the AY. 2015-16 on 16-08-2015, declaring total

income of Rs. 3,70,740/-. The case was selected for scrutiny under CASS and accordingly, various details were called for from the assessee. The assessee could not produce the vouchers and sale bills but submitted only the Profit & Loss A/c, Balance Sheet and 3CD report along with copy of the partnership deed. Since the assessee did not produce the relevant details, the book results were rejected u/s. 145 of the Income Tax Act [Act] and the Assessing Officer estimated the income from liquor business at 5% of the purchases and at 15% of sales of food items, as income from restaurant.

2.1. Aggrieved, the assessee preferred an appeal before the CIT(A), who confirmed the order of the Assessing Officer and assessee is in second appeal before us.

3. In this appeal, the assessee is only challenging the estimation of income from liquor business at 5%. Ld. Counsel for the assessee submitted that the estimation of income at 5% of purchases is very high. Considering the nature and extent of business, she prayed for estimation of income at 3% of purchases as is done by the Co-ordinate Benches of this Tribunal in various decisions. Copies of the decisions in similar facts and circumstances are also filed before us.

4. Ld.DR was also heard.

5. Having regard to the rival contentions and the material on record, we find that in similar cases, this Tribunal has been

holding that the estimation of income at 3% of the cost of goods put to sale, is reasonable and both of us are signatories to various decisions holding as above. For the sake of convenience and ready reference, relevant paras in the case of M/s. Sai Venkateswara Wines in ITA No. 1198/Hyd/2015, dt. 20-11-2015 are reproduced here:

*“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 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 AO 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”.*

5.1. Respectfully following the above, we direct the Assessing Officer to estimate the income from liquor business at 3% of the cost of goods put to sale.

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

*Order pronounced in the open court on 3<sup>rd</sup> April, 2019*

Sd/-

**(S. RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

Hyderabad, Dated 3<sup>rd</sup> April, 2019

TNMM

Sd/-

**(P. MADHAVI DEVI)**  
**JUDICIAL MEMBER**

*Copy to :*

- 1. Sneha Restaurant & Bar, 3-3-134, 135 & 119, Kumarpally, Hanmkonda, Warangal.*
- 2. Income Tax Officer, Ward-1, Warangal.*
- 3. CIT(Appeals)-3, Hyderabad.*
- 4. Pr.CIT-3, Hyderabad.*
- 5. D.R. ITAT, Hyderabad.*
- 6. Guard File.*