

**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.1134/Hyd/2018
(Assessment Year: 2014-15)

M/s. Sri Balaji Wines Hyderabad PAN: ACJFS9987P (Appellant)	Vs	Income Tax Officer Ward 14(1) Hyderabad (Respondent)
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For Assessee :	Shri A.V. Raghuram
For Revenue :	Shri Phani Raju, DR

Date of Hearing:	25.04.2019
Date of Pronouncement:	25.04.2019

ORDER

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

This is assessee's appeal for the A.Y 2014-15 against the order of the CIT (A)-6, Hyderabad, dated 08.01.2018.

2. In this appeal, the assessee is aggrieved by the estimation of income from liquor trading at 5% of the cost of goods put to sale. The learned Counsel for the assessee submitted that in similar cases, the Tribunal has been holding 3% of the cost of goods put to sale as reasonable estimation of income. He prayed for similar relief in the assessee's case as well.

3. The learned DR was also heard.

4. We find that in similar circumstances, the Coordinate Bench of the Tribunal in the case of Sri Venkateswara Wines, Secunderabad 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".

5. The facts and circumstances in the case before us being similar, we do not see any reason to take a contrary view. Therefore, the appeal of the assessee is allowed and the AO is directed to estimate the income of the assessee at 3% of the cost of goods put to sale.

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

Order pronounced in the Open Court on 25th April, 2019.

Sd/-
(S.Rifaur Rahman)
Accountant Member

Sd/-
(P. Madhavi Devi)
Judicial Member

Hyderabad, dated 25th April, 2019.

Vinodan/sps

Copy to:

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- 3 CIT (A)-6 Hyderabad
- 4 Pr. CIT – 6 Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order