

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' SMC Bench, Hyderabad**

Before Smt. P. Madhavi Devi, Judicial Member

ITA No.375/Hyd/2019		
Assessment Year: 2014-15		
Smt. Sujatha Madduri Siddipet PAN:BGBPM4729C (Appellant)	Vs.	Income Tax Officer Ward 1 Siddipet (Respondent)
Assessee by:	Sri Pawan Kumar Gorti	
Revenue by:	Sri Mookambikeyan S. DR	
Date of hearing:	04/11/2019	
Date of pronouncement:	11/11/2019	

ORDER

This is assessee's appeal for the A.Y 2014-15 against the order of the CIT (A)-7, Hyderabad, dated 18.6.2018.

2. Brief facts of the case are that the assessee, an individual, deriving income from retail wine shop, filed her return of income for the A.Y 2014-15 on 27.9.2014 admitting total income of Rs.8,91,000/-. During the assessment proceedings u/s 143(3) of the Act, the assessee submitted that she is not able to maintain proper books of account as it is impossible to maintain books in such business. AO found that majority of the expenses are not supported by proper vouchers and most of the expenses are supported by self-made vouchers. He therefore, estimated the income of the assessee at 5% of the cost of goods put to sale. Aggrieved, the assessee preferred an appeal before the CIT (A), who confirmed the order of the AO and the assessee is in second appeal before us.

3. At the outset, it is found that the appeal is time barred by 199 days. The assessee has filed an application for condonation of delay. In the application, the assessee has stated that though the CIT (A)'s order was duly served on the assessee, her part-time accountant missed to report it to her and the order of the CIT (A) was lying with other papers/documents and immediately on locating the papers, she filed the appeal before the Tribunal. She has filed an affidavit in support of the contention and prayed for condonation of delay.

4. The learned DR however, opposed the condonation stating that the assessee has not been vigilant in pursuing the appeal before the CIT (A). In support of his contention, he placed reliance upon the decision of the Bombay High Court in the case of Vama Apparels (India) (P) Ltd vs. ACIT, reported in (2019) 102 Taxmann.com 398 (Bombay).

5. Having regard to the rival contentions and the material on record, I observed that the assessee is an individual and the explanation offered by her for the delay is probable and reasonable. The decision relied upon by the learned DR is distinguishable on facts, as in the said case, the delay was 507 days and it is the case of a company, whereas in the case before us, it is a case of an individual who may not have been well versed with the income-tax laws and the delay is only of 199 days. I find that in the case of retail wine shops, this Tribunal has been estimating the income at 3% of the cost of the goods put to sale. Since the issue on merits is in favour of the assessee, I deem it fit and proper to condone the delay of 199 days and direct the AO 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 11th November, 2019.

Sd/-

(P. MADHAVI DEVI)
JUDICIAL MEMBER

Hyderabad, dated 11th November, 2019.

Vinodan/sps

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- 3 CIT (A)-7 Hyderabad
- 4 Pr. CIT – 7 Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order