

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

(Through Video Conference)

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER
AND
SHRI L.P. SAHU, ACCOUNTANT MEMBER**

**I.T.A. No. 347/Hyd./2018
Assessment Year : 2013-14**

Smt Jaya Sree Julakanti.
Hyderabad

vs. ITO , Ward 15(1)
Hyderabad

[PAN: AFOPJ2429K]

(Appellant)

(Respondent)

For Assessee: Shri S.Rama Rao, Adv
For Revenue: Shri Sunil Kumar Pandey, D.R.

Date of Hearing : 24/02/2021
Date of Pronouncement : 20/05/2021

ORDER

PER S.S. GODARA, J.M.

This assessee's appeal for AY 2013-14 arises from CIT(A)-7 Hyderabad's order dated 15.12.2017 passed in case no. 257/2015-

16 involving proceedings u/s 143(3) of the Income Tax Act, 1961 for short 'the Act'.

Heard both the parties. Case file perused.

2. Coming to the assessee's first and foremost substantive grievance that both the lower authorities have erred in law and on facts in estimating 5% of the cost of goods sold as income in retail liquor business, Mr. Rama Rao invited our attention to the CIT(A)'s detailed discussion in para 5.2 that this tribunal's coordinate bench decision(s) have already adopted 2 to 3% as the income element thereof. We find no merit in assessee's instant stand per se since neither such estimation can be taken as a precedent as per (1993) 202 ITR 222 (AP) CIT vs B.R. Constructions (FB) nor he has filed on record all the corresponding details in support of such a meager profit rate. The fact also remains that the department has not drawn any comparative chart of the profit element in retail liquor sales business in and around assessee's locality. Faced with this situation we deem it proper to restrict the impugned 5% profit element to 4.5% only with the rider that the same shall not be treated as a precedent in any other case. This first substantive ground is treated as partly allowed in foregoing terms.

3. Learned counsel is fair enough in not pressing the assessee's second substantial grievance challenging correctness of both lower authorities action in making unexplained investments addition in

car of Rs.14,02,742/- provided she is granted telescoping benefit qua the foregoing issue against this latter issue. The Revenue is equally fair in not denying the fact that no such telescoping has been considered in both the lower authorities' orders. We therefore uphold the impugned unexplained investment addition of Rs.14,02,742/- in principle and direct the Assessing Officer to grant telescoping of net income addition pertaining to the foregoing first issue against the same as per law. This second substantive grievance treated as partly allowed for statistical purposes.

4. The assessee's third substantive grievance avers that both the lower authorities have erred in law and on facts in treating a sum of Rs.12 lakhs as unexplained in the course of assessment as upheld in the CIT(A)'s order. The CIT(A)'s detailed discussion qua instant third issue reads as follows:

"7.1. During the appellate proceedings, the assessee submitted as under:-

"The AO is of the view that the opening balance of Rs12 lakhs cannot be accepted as the assessee did not provide any information. The appellant is submitting copies of the returns of income showing the agricultural income from house proper and income from interest It can be seen from the returns of income filed that she had substantial sources and the opening capital of Rs12 lakhs invested in the business were from out of such sources. Therefore, AO is not justified in treating the entire opening balance of Rs12 lakhs as income of the assessee."

7.2. *I have considered the submissions of the appellant carefully. The appellant did not furnish any documentary evidence before the Assessing Officer about the details of past savings. Even before the undersigned the appellant did not furnish any details about agricultural activities carried out in the past, the evidences in support of claim. Hence the addition is confirmed.*”

4.1. learned counsel reiterated assessee’s stand that the impugned sum of Rs. 12 lakhs represents assessee’s past savings and cash withdrawals etc. No details much less her cash flow statement to this effect form part of the case record before us. And also that she had further faced similar unexplained investment addition in car (supra) as well. We thus find no reason to interfere in the impugned addition, in view of all these facts and circumstances. The same is directed to be confirmed.

4.2. Mr. Rama Rao did not press for assessee’s last substantive ground challenging interest income addition of Rs.5,334/- keeping in mind smallness of the amount involved. This ground is rejected accordingly.

This assessee’s appeal is partly allowed in above terms.

Pronounced in Open Court on 20th May, 2021.

Sd/-

**(L.P. SAHU)
ACCOUNTANT MEMBER**

Sd/-

**(S.S. GODARA)
JUDICIAL MEMBER**

Dated: the 20th May, 2021.

* gmv

Copy of the Order forwarded to:

1. Smt Jaya Sree Julakanti, C/o Sri S.Rama Rao, Advocate, Flat no.102, Shriya's Elegance, 3-6-643, Street no.9, Himayatnagar, Hyderabad 500 029.
2. ITO, Ward 15(1), Hyderabad.
3. ACIT, Range 15, Hyderabad-
4. CIT(A)-7, Hyderabad.
5. Pr.CIT-7, Hyderabad
- 6.DR, ITAT, Hyderabad.
7. Guard File.