

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'C' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, HON'BLE VICE PRESIDENT AND  
SHRI MANJUNATHA. G, HON'BLE ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 12/Chny/2023

निर्धारण वर्ष / Assessment Year: 2014-15

Bakthavachalam Balaji,  
D 360, UkkirakaliammAnkoil  
Street,  
Thennur 620 017,  
Trichy.

Income Tax Officer,  
v. Circle 3(1),  
Chennai.

**[PAN: ADUPB-2206-Q]**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri. S. Girish Kumar, Advocate for  
Shri. S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri. P. Sajit Kumar, JCIT

सुनवाई की तारीख/Date of Hearing

: 27.03.2023

घोषणा की तारीख/Date of Pronouncement

: 31.03.2023

**आदेश /ORDER**

**PER MANJUNATHA. G, ACCOUNTANT MEMBER:**

This appeal filed by the assessee is directed against the order passed by the Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi, dated 22.12.2022 and pertains to assessment year 2014-15.

2. The assessee has raised the following grounds of appeal:

"1. The order of the NFAC dated 22.12.2022 vide DIN & Order No. ITBA/NFAC/S/250/2022-23/1048181410(1) for the above assessment year is contrary to law, facts, and in the circumstances of the case.

2. The NFAC erred in sustaining the estimation of business receipts at 20% of the total turnover and consequentially taxing the gross profit of the business as part of computation of total taxable income without assigning proper reasons and justification.

3. The NFAC failed to appreciate that taxing of the receipts at 20% without considering the nature and business of the appellant, the findings in para 3 of the impugned order was wrong erroneous, incorrect, invalid, unjustified and not sustainable both on facts and in law.

4. The NFAC failed to appreciate that having not independently examined the nature of the receipts of the business, the cryptic findings in para 3 of the impugned order was wrong erroneous, incorrect, invalid, unjustified and not sustainable both on facts and in law.

5. The NFAC failed to appreciate that having explained the source for the business, the sustenance of the addition without independent verification of the explanation offered should be reckoned as nullity in law.

6. The NFAC failed to appreciate that the scope of the limited scrutiny assessment was widened while passing assessment order, thereby negating the sustenance of the said addition in the impugned order.

7. The NFAC failed to appreciate that various grounds raised by the appellant were not considered in proper preceptive as reflected in the findings rendered in para 3 of the impugned order, thereby grossly violating the principles of natural justice.

8. The NFAC failed to appreciate that there was no proper opportunity before completing the assessment as well as before passing the impugned order and ought to have appreciated that any order passed in violation of NJP would be nullity in law.

*9. The Appellant craves leave to file additional grounds/arguments at the time of hearing."*

3. The brief facts of the case are that, the assessee is an individual and proprietor of B.G. Naidu Sweets, filed his return of income for the assessment year 2014-15 on 30.11.2014, admitting total income of Rs. 20,25,640/-, which consists of income from house property and loss from profit and gains from business and profession and income from other sources. The case was selected for scrutiny and during the course of assessment proceedings, the AO noticed that the assessee has declared a loss from profits and gains of business and profession and therefore, rejected books of accounts and estimated 20% profit on total turnover declared by the assessee and made additions of Rs. 32,60,300/-, under the head income from profit and gains of business or profession. The assessee carried the matter in appeal before the first appellant authority, but could not succeed. The Ld. CIT(A), NFAC, Delhi for the reasons stated in their appellant order dated 22.12.2022, uphold estimation of profit from business and dismissed appeal filed by the assessee. Aggrieved by the Ld. CIT(A) order, the assessee is in appeal before us.

4. We have heard both the parties, perused materials available on record and gone through orders of the authorities below. The AO has estimated 20% profit on total turnover declared by the assessee from sale of sweets and savouries. Although, the AO has adopted 20% on total turnover, but he has not given any reason how 20% profit is reasonable when compare to similar kind of business, either by considering any evidences or bringing on record any comparable cases of similar nature. At the same time, the assessee is also unable to file necessary evidences to justify loss declared from business. Under these facts and circumstances, the only option left with us is estimation of reasonable profit from the business. The assessee is into the business of sale of sweets and savouries. In our considered view the percentage of profit adopted by the AO on this line of business appears to be higher side. Therefore, considering facts and circumstances of this case and also keeping in view the fact that both the parties have not able to justify their case with necessary evidences, we are of the considered view that 10% profit on total turnover declared by the assessee is reasonable to meet the ends of justice. Therefore, we direct the AO to estimate

10% net profit on total turnover declared by the assessee from the business of trading in sweets and savouries.

5. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the court on 31<sup>st</sup> March, 2023 at Chennai.

**Sd/-**  
**(महावीर सिंह )**  
**(MAHAVIR SINGH)**  
उपाध्यक्ष /**Vice President**

**Sd/-**  
**(मंजुनाथ. जी)**  
**(MANJUNATHA. G)**  
लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 31<sup>st</sup> March, 2023

**JPV**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

- |                        |                          |                              |
|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT     | 5. विभागीय प्रतिनिधि/DR  | 6. गार्ड फाईल/GF             |