



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK 'SMC' BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER**

**ITA No.37/CTK/2023**

Assessment Year : 2013-14

Anadi Giri, At:1, Gopinathpur, PO: Digidia, Dist: Balasore	Vs.	ITO, Ward-2, Balasore
PAN/GIR No.AXKPG 3023 A		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri P.K.Mishra, AR  
Revenue by : Shri S.C.Mohanty, Sr DR

**Date of Hearing : 18 /04/2023**  
**Date of Pronouncement : 18 /04/2023**

**ORDER**

This is an appeal filed by the assessee against the order of the Id CIT(A),NFAC, Delhi dated 9.9.2022 in Appeal No.ITBA/NFAC/S/250/2022-23/1045341527(1) for the assessment year 2013-14.

2. Shri P.K.Mishra, Id AR appeared for the assessee and Shri S.C.Mohanty, Id Sr DR appeared for the revenue.

3. It was submitted by Id AR that the assessee had admittedly not filed his return of income. The assessee is a wholesale and retail trader of fish. It was the submissions that subsequently notice u/s.148 of the Act came to

be issued on 9.2.2018. It was the submission that assessment came to be completed on 20.12.2018 after rejecting the books of account of the assessee. It was the submission that the Assessing Officer had estimated the income of the assessee at 3.5% of the turnover of the assessee of Rs.2.30 crores. It was the submission that the assessee has itself declared the net profit at 2.09% for the relevant assessment year. It was the submission that in the comparative chart at page 3 of the assessment order, the Assessing Officer has himself found that the net profit disclosed by the comparative assessee's in similar nature adopted by the AO himself is ranging 2.50% and 1.01%. It was the submission that the estimation is on higher side. It was the prayer that the estimation at 3.5% may be reduced to the declared income accepted at 2.09%.

4. In reply, Id Sr DR submitted that the books of account of the assessee has been rejected. It was the submission that the assessee has been non-cooperative in the assessment proceedings. It was the submission that the estimation of income as made by the AO and confirmed by the Id CIT(A) is liable to be upheld.

5. I have considered the rival submissions. A perusal of the assessment order at page 3 sows that the Assessing Officer has taken comparative case. The highest comparative case is 2.5% and the lowest comparative case is 1.01%. Admittedly, the assessee itself has shown his net profit at 2.09% in the relevant assessment year. Considering the fact that the

assessee has not filed the return of income and has been non-cooperative, I am of the view that the income of the assessee should be estimated at 2.5% being the maximum net profit rate as adopted by the AO in the comparative assessee's case. This being so, the Assessing Officer is directed to assess the income of the assessee by estimating the income at 2.5% of the turnover.

6. In the result, appeal of the assessee stands partly allowed.

Order dictated and pronounced in the open court on 18/04/2023.

Sd/-  
**(George Mathan)**  
**JUDICIAL MEMBER**

Cuttack; Dated 18/04/2023  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : Anadi Giri, At:1,  
Gopinathpur, PO: Digidia, Dist: Balasore
2. The Respondent: ITO, Ward-2, Balasore
3. The CIT(A)-NFAC, Delhi
4. Pr.CIT-, Cuttack
5. DR, ITAT, Cuttack
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, Cuttack**