

आयकर अपीलीय अधिकरण, 'सी' (एस एम सी) न्यायपीठ,चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' (SMC) BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

आयकर अपील सं./ITA No.: 453/CHNY/2023
निर्धारण वर्ष/Assessment Year: 2017-18

Shri Rathinam Senthilkumar,
1R, Puliampatty,
Vettuvankadu Kalyani Post,
Puduchatram,
Namakkal – 637 418.

The Income Tax Officer,
Vs. Ward 2,
Namakkal.

PAN: DQDPS 3422Q
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri Tarun, Advocate &
Shri S. Sridhar, Advocate

प्रत्यर्थी की ओर से/Respondent by

: Shri G. Johnson, Addl.CIT

सुनवाई की तारीख/Date of Hearing

: 14.06.2023

घोषणा की तारीख/Date of Pronouncement

: 16.06.2023

आदेश /ORDER

This appeal by the assessee is arising out of the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 07.03.2023. The assessment was framed by the Income Tax Officer, Ward-2, Namakkal for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 16.12.2019.

2. The only issue in this appeal of assessee is as regards to the order of CIT(A) (NFAC, Delhi) i.e., CIT(A), Salem confirming the action of the AO in applying profit rate @ 8% as against declared by the assessee i.e., average percentage of profit at 3.11% for assessment year 2019-20 to 2020-21. For this, assessee has raised various grounds which are argumentative and hence, need not be reproduced.

3. The brief facts are that the assessee is engaged in the business of poultry farming during the relevant financial year 2016-17 relevant to this assessment year 2017-18. The assessee filed his return of income for assessment year 2017-18 on 19.09.2017 and accordingly, assessee's case was selected for scrutiny assessment for the reason, "cash deposit during the year". The AO during the course of assessment proceedings noticed that there are cash deposits and other credits appearing in assessee's bank account maintained with Canara Bank, Pillanallur, Namakkal i.e., total cash credit of Rs.2,31,04,621/-. The AO noted that the assessee has admitted income of Rs.4.2 lakhs from poultry business but has not maintained any books of accounts or has not got the accounts audited u/s.44AB of the Act as the assessee's turnover exceeds Rs.2,31,04,621/-. Accordingly, the AO estimated the profit rate at 8% of the total credit of the total credit of Rs.2,31,04,621/- and assessed the business income at Rs.18,48,370/-, after allowing set off of income already declared of Rs.4,20,000/- the

AO added the estimated income at Rs.14,28,370/-. Aggrieved, assessee preferred appeal before CIT(A). The CIT(A) also confirmed the action of the AO. Aggrieved, assessee came in appeal before Tribunal.

4. I have heard rival contentions and gone through facts and circumstances of the case. I noted that the assessee has engaged in the business of poultry farming and he has total credits or gross receipts of Rs.2,31,04,621/- during the financial year 2016-17 relevant to this assessment year 2017-18. The AO estimated profit rate at 8% based on the provisions of section 44AD of the Act. Admittedly, the provisions of section 44AD of the Act do not apply to the case of the assessee and some estimation has to be done but reasonable estimation has to be done. I have gone through the decision of Hon'ble Gujarat High Court in the case of PCIT vs. Kandla Steel (P) Ltd., [2023] 149 taxmann.com 224, wherein Hon'ble Gujarat High Court upheld the Tribunal's order of upholding the estimation of net profit at 0.5% by observing in para 10 as under:-

“10. We find that both the CIT (Appeals) and the Tribunal have concurrently held estimating the net profit at 0.05 % of the assessee company. While so doing, it had also confirmed the act of rejection of books under Section 145 of the IT Act. At the same time, there has been equitable balance struck by the authorities when it found that the Assessing Officer had not given any internal or external comparative figures of sector of the assessee's business while arriving at the GP/NP ratio of 7%. The business is of trading of steel items. The manufacturing activities had almost stopped. The NP ratio of 7% being impractical and completely unacceptable and as most of the trading concerns have been operating C/TAXAP/675/2022 ORDER DATED: 03/01/2023 at the GP ratio of 0.5%

to 1%, when both the authorities have deemed it appropriate to apply 0.5% ratio, no indulgence is necessary. These are all essentially and predominantly the factual aspects analysed based on the material adduced before these authorities and that also by giving cogent and sound reasons, in absence of any question of law, much less any substantial questions of law for the court to admit this matter, this appeal is dismissed.”

4.1 I have gone through the case records and noted that the assessee's profit rate in future years is at average percentage of 3.11%. The assessee has tabulated the profit rate as under:-

S.No.	Particulars	A.Y 2019-20	A.Y 2020-21	A.Y 2021-22
1	Turnover / Gross receipts	2,98,97,791	3,20,30,247	3,51,27,472
2	Profit offered for tax	9,57,432	10,25,866	10,33,553
3	Percentage profit offered to tax	3.20%	3.20%	2.94%
4	Average percentage of profit	3.11%		

In view of the above facts, as the profit rate in the line of business is around 3 to 4% and hence, I estimate a reasonable profit rate of 4%. I direct the AO accordingly. The appeal of the assessee is partly-allowed.

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

Order pronounced in the open court on 16th June, 2023 at Chennai.

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 16th June, 2023

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

2. प्रत्यर्थी/Respondent

3. आयकर आयुक्त /CIT

4. विभागीय प्रतिनिधि/DR

5. गार्ड फाईल/GF.