

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

Before Shri Laliet Kumar, Judicial Member
And
Shri Manjunatha, G. Accountant Member

आ.अपी.सं / **ITA No. 480/Hyd/2023**
(निर्धारण वर्ष / Assessment Year: 2016-17)

Shri Gurdeep Singh Wasu Hyderabad PAN:AAEPW6899B (Appellant)	Vs.	Asstt. C. I. T. Circle 4(1) Hyderabad (Respondent)
निर्धारिती द्वारा / Assessee by:		Advocate Shashank Dundu
राजस्व द्वारा / Revenue by:		Shri AVES Madhukar, CIT(DR)
सुनवाई की तारीख / Date of hearing:	08/05/2024	
घोषणा की तारीख / Pronouncement:	09/05/2024	

आदेश/ORDER

Per Manjunatha, G. A.M

This appeal filed by the assessee is directed against the order dated 10.08.2023 of the learned CIT (A)-NFAC Delhi, relating to A.Y.2016-17.

2. The grounds raised by the assessee reads as under:

1. On the facts and in the circumstances of the case the order passed by the National Faceless Appeals Centre (hereinafter referred to as NFAC) is erroneous both on facts and in law.

2. The NFAC ought to have noticed that the AO estimated the profit @ 3% on the cost of goods sold without rejecting the audited books or pointing out any defects and hence the estimation of profit is arbitrary, unreasonable and perverse more particularly when he sought to make a further addition of Rs.57,26,837/- .

3. The NFAC erred in confirming the addition of 57,26,837/- referable to incentives received by the Appellant ignoring the fact that such amount was already credited to the Profit and Loss account (by way of reducing the cost of the goods) and hence no addition of such amount could have been made since income is already estimated by AO on turnover.

4. The NFAC ought to have appreciated that trade incentives are an integral part of business income and they form part and parcel of the net results of business and that they are not income from an additional source and therefore no separate addition ought to have been made by the lower authorities.

5. Without prejudice to the aforementioned grounds, the appellant prays that the addition of incentives of Rs.57,26,837/- to the estimated profits of Rs.19,62,595/- be deleted.

6. For these and other grounds that may be urged at the time of hearing, appellant prays that the Hon'ble Tribunal may be pleased to delete the arbitrary addition made and upheld by the lower authorities."

3. Facts of the case, in brief, are that the assessee is an individual and engaged in the business of liquor trading. The assessee filed his return of income for the A.Y 2016-17 on 20.10.2016 admitting total income of Rs.46,78,560/-. The case has been selected for scrutiny and during the course of assessment proceedings, the Assessing Officer noticed that the net profit declared from his business is low when compared to the nature of business and thus rejected the books of account of the assessee and estimated the net profit from business by adopting 3% profit on total turnover. In addition to estimation of 3% profit

on the total turnover, the Assessing Officer has made addition of Rs.57,26,837/- towards incentives received by the assessee. The assessee carried the matter in appeal before the first appellate authority but could not succeed. The learned CIT (A) NFAC for the reasons stated in the appellate order dated 10/08/2023 rejected the argument of the assessee and upheld the addition towards the estimation of profit on total turnover excluding the incentives received and addition of incentive received separately to the income of the assessee.

4. Aggrieved with such order of the learned CIT (A) the assessee is in appeal before the Tribunal.

5. The learned Counsel for the assessee Shri Shashank Dundu, submitted that the learned CIT (A) NFAC is erred in sustaining the addition made by the Assessing Officer towards estimation of profit in addition to making separate addition towards incentive received by the assessee without appreciating the fact that the incentives received by the assessee from the manufacturers is part and parcel of the business receipt of the assessee. The learned Counsel for the assessee further submitted that when the assessee has received incentives from the manufacturers, the same is passed on to the customers to promote their brand and to achieve higher turnover. Therefore, when the assessee is considering the incentive received as part of his business receipts and also has offered the same for taxation,

the Assessing Officer is erred in making incentive as non-business receipt for the purpose of taxation and making separate addition. Therefore, he submitted that the net profit declared by the assessee which is at 4.8% on total turnover including the incentive received should be accepted.

6. The learned DR, Shri AVES Madhukar, on the other hand, supported the orders of the Assessing Officer and learned CIT (A) NFAC and submitted that the incentive is not part of sales turnover of the assessee. The assessee received incentive from manufacturers when he make bulk purchase of products. Further, there is no evidence to say that the incentive received from manufacturers has been passed on to the consumers. Therefore, he submitted that if at all the assessee claims that the incentive received is passed on to the consumers, then the matter may be set aside to the file of the Assessing Officer for verification.

7. We have heard both the parties, perused the material available on record and gone through the orders of the authorities below. The assessee is in the business of retail trading in liquor has admitted 4.8% net profit on total turnover. The assessee has included incentive received from manufacturers of products in the sales turnover. The Assessing Officer has excluded incentive from the sales turnover while determining the income from business. The Assessing Officer has adopted 3% net profit on total turnover excluding incentive and made separate addition towards

incentive received by the assessee. We find that the incentive is normally given by the manufacturers of products to promote their produce in a competitive market. The incentive is for bulk purchase of a particular brand. The dealer has to achieve the sales target to get incentive. Therefore, in order to get incentives, the dealers will offer discount to the customers. In the present case, it was the claim of the assessee that he had passed on incentives received from manufacturers to the customers. Therefore, we are of the considered opinion that the Assessing Officer is erred in excluding incentives from turnover for the purpose of determining the income of the assessee. At the same time, although the assessee has claimed it has passed on incentive received from the manufacturers to the customers, but could not substantiate its claim with necessary evidences. Under these circumstances, the only option left with us is to estimate the income from the business by adopting reasonable net profit considering the nature of the business of the assessee. The assessee has already declared 4.8% net profit from his business. If we consider the total income determined by the Assessing Officer from the business, it works out 9.3% which is in our opinion is on the higher side. Therefore, considering the nature of business of the assessee, we deem it proper to adopt 5.5% net profit on the total turnover of the assessee including the incentive received for the year. Thus, we direct the Assessing Officer to determine the income from business by adopting 5.5% net profit on the total turnover including incentive received by the assessee.

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

Order pronounced in the Open Court on 9th May, 2024.

Sd/-

Sd/-

(LALIET KUMAR) JUDICIAL MEMBER	(MANJUNATHA, G.) ACCOUNTANT MEMBER
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Hyderabad, dated 9th May, 2024

Vinodan/sps

Copy to:

S.No	Addresses
1	Shri Gurdeep Singh Wasu, 1-2-593/52/COZY Home, Domalguda, Hyderabad 500029
2	ACIT, Circle 4(1) IT Towers, AC Guards, Masab Tank, Hyderabad 500004
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order