

आयकर अपीलिय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "SMC" HYDERABAD**

**BEFORE
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER**

आ.अपी.सं / **ITA No. 626/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2016-17)

Sri Vidya Gangam, Income Tax Officer
NIRMAL Vs. Ward 1
[PAN : AUNPG7364C] NIRMAL

अपीलार्थी/Appellant प्रत्यर्थी/Respondent

निर्धारिती द्वारा/Assessee by: CA Pradeep Raj Kuna, AR
राजस्व द्वारा/Revenue by: Shri Aravindakshan, DR

सुनवाई की तारीख/Date of hearing: 09/07/2024
घोषणा की तारीख/Pronouncement on: 19/07/2024

आदेश / ORDER

Aggrieved by the order dated 30/02/2024 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Sri Vidya Gangam, ("the assessee") for the assessment year 2016-17, assessee preferred this appeal.

2. Brief facts of the case are that facts of the case are that the assessee is carrying on the business of retail trading in Indian made foreign liquor. She filed her return of income for the assessment year 2016-17 on 27/8/2016 declaring a total income of ₹ 6,69,290/-. During scrutiny

assessment, learned Assessing Officer found that the assessee was maintaining the sales bills and therefore it was difficult to determine the profit. Learned Assessing Officer, therefore, followed the decision of the Tribunal in the case of Kanakadurga Wines vs. ITO in ITA No. 462 /Hyd/ 2011 and other cases wherein the estimate of net profit was done at the rate of 3% to 5% of the purchases, and estimated the income of the assessee at 5% of the stock put for sale and added a sum of ₹ 15,85,133/- towards business income.

3. In appeal, Ld. CIT(A) held that since the assessee has not been maintaining the cash memos for cash sales, learned Assessing Officer rightly followed the decision of the jurisdictional ITAT and estimated the income at 5% of the turnover, and there are no grounds to interfere with such estimate. He accordingly confirmed the addition on account of business income.

4. Assessee, therefore, preferred this appeal contending that the rate of estimation of the net profit in liquor trade varies from case to case and there is no rule that 5% of the turnover shall invariably be fixed in liquor trade de hors the variation in facts. He submitted that there are also judgements of the Tribunal where the net profit was estimated at 3% of the turnover in the sale, and therefore keeping in view the levy of privileged fee from the year 2012, estimate of net profit at 3% would meet the ends of justice.

5. Per contra, Ld. DR submitted that had the assessee maintained the sales bills, which are vital to arrive at the turnover of a businessman, the estimate has become imperative, and therefore, the best judgement

exercised by the learned Assessing Officer by estimating the profit of the assessee at 5% of the turnover cannot be found fault with.

6. I have gone through the record in the light of the submissions made on either side. Insofar as the estimate is concerned learned Assessing Officer placed reliance on the decision of the Tribunal rendered in the case of M/s. Kanakadurga Wines (supra) and other cases. As observed by the Hon'ble High Court, the profit percentage to be adopted differs from case to case. Apart from that fact, subsequently the privilege fees is introduced and according to the learned AR it reduced the profit margin. Having regard to the facts and circumstances of the case and taking a holistic view, we are of the considered opinion that the estimate of net profit of the assessee at 3% of the turnover would meet the ends of justice. We accordingly direct the learned Assessing Officer to recompute the income of the assessee.

7. In the result, appeal of the assessee is allowed in part.

Order pronounced in the open court on this the 19th day of July, 2024.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 19 /07/2024

PVV/SPS

Copy forwarded to:

1. Sri Vidya Gangam, 6-3-16/2 Balajiwada, Market Post: Nirmal TGown, Nirmal 504106,
2. The Income Tax Officer Ward No.1 1st Floor, Lalithamba Office complex, Old Bus Stand Nirmal 504106
3. The Pr.CIT, s
4. DR, ITAT, Hyderabad.
5. GUARD FILE.

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ASSISTANT REGISTRAR
ITAT, HYDERABAD