

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर  
IN THE INCOME TAX APPELLATE TRIBUNAL  
INDORE SMC BENCH, INDORE

**BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER**

ITA No.247/Ind/2024  
(Assessment Year: 2016-17)

Shri Rahul Choukse, H.No.44, Ward No.14, Sirpur, Khaknar, Burhanpur	Vs.	Income Tax Officer, Burhanpur
(Appellant / Assessee)		(Respondent/ Revenue)
<b>PAN: BCTPC2083F</b>		
Assessee by	Ms. Nisha Lahoti, AR	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	05.08.2024	
Date of Pronouncement	06.08.2024	

**ORDER**

This appeal by the assessee is directed against the order dated 24.01.2024 of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi for A.Y.2016-17 which is arising from the assessment order u/s 144 r.w.s. 147 of the Act dated 05.12.2019 framed by Income Tax Officer, Burhanpur.

2. Assessee has raised following grounds of appeal:

*"1. On the facts and circumstances of the case and applicable law. NA Ld. CIT(A) erred in sustaining the assessment order passed by Ld. AO which*

*is contrary to the material on records and provisions of the Act, unjust and bad in law.*

*2. On the facts and circumstances of the case and applicable law, NA Ld. CIT(A) and Ld. AO erred in not providing the copy of the approval obtained for issuing notice u/s 148*

*3. On the facts and circumstances of the case and applicable law, NA Ld. CIT(A) and Ld. AO erred in not providing the copy of the reasons recorded for issuing notice u/s 148*

*4. On the facts and circumstances of the case and applicable law. NA Ld. CIT(A) and Ld. AO erred in treating the return of income filed in response to notice u/s 148 as non-est*

*5 Ld. CIT(A) erred in sustaining the assessment made by Ld. AO by applying the provisions of section 144 more particularly when the submissions were made before the Ld. AO*

*6. On the facts and circumstances of the case and applicable law, Ld. CIT(A) erred in sustaining the addition of Rs. 6,00,000 by estimating the profit earned by the assessee more particularly when the return of income was filed under the presumptive taxation as per section 44AD*

*7.The appellant craves leave to add, amend, alter otherwise raise any other ground of appeal."*

3. At the outset Ld. Counsel for the assessee requested for not pressing Ground No.1 to 5 of the appeal. Accordingly Ground No. 1 to 5 are dismissed as not pressed.

4. Effective issue raised in Ground No.6 is regarding addition of Rs. 6,00,000/- made by Ld. A.O estimating net profit from business carried on by the assessee. Ld. Counsel for the assessee submitted that the alleged income of Rs.6,00,000/- has been estimated by the

Ld.A.O on a very higher side on the gross turnover of Rs.24,30,100/- and submitted that under presumptive taxation scheme the income is estimated @8% and therefore income should be restricted to 8%.

5. On the other hand Ld. Departmental Representative vehemently argued supporting the orders of lower authorities.

6. I have heard rival submissions and perused the record placed before me. I note that the assessee is an individual and did not file regular return of income. Subsequently based on the information received from ITBA about the cash deposit of Rs.24,34,100/- in assessee's various bank accounts. Assessee's case reopened by issuance of notice u/s 148 of the Act and in reply assessee filed return declaring income of Rs.2,52,840/- but it became invalid for want of e-verification. Ld. A.O noticed that in the Income Tax Return, income is shown from dairy business and turnover declared in the profit and loss account is Rs.21,98,643/-. Assessee claimed certain expenses incidental to the dairy business towards grass khalli, salary, vehicle expenses, tractor rent, petrol and diesel

etc. and computed net profit of Rs.2,52,843/-. However when Ld. A.O noticed that the alleged cash deposits in the bank account are more than the turnover declared by the assessee he proceeded to estimate the net profit at Rs.6,00,000/- as against Rs.2,52,843/- declared by the assessee for lack of necessary details and adopted gross turnover at Rs.24,30,100/-. Apart from the addition of estimating total income of Rs.6,00,000/- , Ld. A.O also made addition of Rs.12,00,000/- for unexplained credit entries in the bank account. However in the appeal to Ld. CIT(A), addition of Rs.12,00,000/- was deleted but so far as estimated business income of Rs.6,00,000/- Ld. CIT(A) made no interference.

7. Further on going through the records I notice that the revenue authorities has accepted that the assessee is carrying on the dairy business regularly. Once it is established that the assessee is carrying out the dairy business then it has to be accepted that the alleged deposit in the bank account are from gross receipts of dairy business. Normally under the presumptive taxation scheme u/s 44AD of the Act if the turnover is below the prescribed limit then the net profit is computed @8% of the turnover. Ld. A.O has

estimated net profit @24.7% of gross receipts of Rs.24,30,100/- which in my considered view is on a very higher side. Under the presumptive taxation scheme u/s 44AD of the Act, profits are to be estimated at 8% or the higher amount of net profit declared by the assessee. In the instant case I notice that the assessee has suo moto declared net profit in the Income Tax Return at Rs.2,52,840/- which is approximately 10% of the gross receipts. Considering the fact that the net income offered by the assessee is already higher than 8% of alleged gross receipt, therefore I estimate the income of the assessee from dairy business on the alleged gross receipts of Rs.24,30,100/- at Rs.2,52,843/- only. Thus Ground No.6 of the assessee is partly allowed.

8. Ground No.7 is general in nature which needs no adjudication.

9. In the result appeal of the assessee is partly allowed. yt

Order pronounced in the open court on 06.08.2024.

**Sd/-**

**(MANISH BORAD)**  
Accountant Member

Indore, \_ 06.08.2024  
Dev/Sr. PS

*Copies to:* (1) *The appellant*  
(2) *The respondent*  
(3) *CIT*  
(4) *CIT(A)*  
(5) *Departmental Representative*  
(6) *Guard File*

*By order*

*Sr. Private Secretary*  
*Income Tax Appellate Tribunal*  
*Indore Bench, Indore*