

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
'A' BENCH, CHENNAI**

श्री महावीर सिंह, उपाध्यक्ष एवं श्री एस.आर. रघुनाथा, लेखा सदस्य के समक्ष  
**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI S.R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.:1310/CHNY/2024

निर्धारण वर्ष/Assessment Year: 2016-17

**M/s. Vennila Traders,**  
42C Shanmuga Complex,  
Santhakada Bazzar,  
North Bazzar,  
Udangudi – 628 203.

**The Income Tax Officer,**  
Vs. Ward 5,  
Tuticorin.

**PAN: AAMFV 8965B**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri K. Swaminathan, CA  
(Through Virtual)

प्रत्यर्थी की ओर से/Respondent by

: Smt. M.S. Deeptha, JCIT

सुनवाई की तारीख/Date of Hearing

: 07.08.2024

घोषणा की तारीख/Date of Pronouncement

: 07.08.2024

**आदेश / O R D E R**

**PER MAHAVIR SINGH, VICE PRESIDENT:**

This appeal by the assessee is arising out of the order of the Additional / JCIT (A)-12, Mumbai, in ITBA/APL/S/250/2023-24/1062022630(1) dated 05.03.2024. The assessment was framed by the Income Tax Officer, Ward 5, Tuticorin for the assessment year

2016-17 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 22.12.2018.

2. The only issue in this appeal of assessee is as regards to the order of CIT(A) treating the excess turnover of Rs.60,34,679/- and applying profit rate of 8%. For this, assessee has raised various grounds which are exhaustive and hence, need not be reproduced.

3. Brief facts are that the assessee is engaged in the business of sale of sugar and filed its return of income for the relevant assessment year 2016-17 on 17.10.2016 admitting total income of Rs.53,142/-. The assessee's case was selected for scrutiny assessment and assessee filed cash book, purchase book, sales ledger, cash flow statement and ledger. The AO noticed from the statement of bank account for the financial year 2015-16 relevant to assessment year 2016-17 obtained from Tamilnad Mercantile Bank, Udangudi through notice issued u/s.133(6) of the Act and noticed that the total credit in the bank account including cash deposit is to the tune of Rs.1,28,50,070/-. The AO noted that the assessee further disclosed gross receipts on sale of goods at Rs.63,15,391/-. The AO also noted from the receipts that advance made prior to commencement of business and received back from sundry debtors

on different dates are to the tune of Rs.42,79,200/-. The assessee offered that the balance amount of Rs.22,55,479/- be treated as additional turnover and profit should be estimated at the rate of 4% as normally declared by assessee. But the AO reconciled the statement and after reducing the partners capital account from the total deposits made in the bank account and turnover of Rs.63,15,391/- treated the balance amount of Rs.60,34,679/- as additional turnover and estimated profit rate at 8% of this additional turnover and estimated additional income of Rs.4,82,774/- which was added to the returned income of the assessee. Aggrieved, assessee preferred appeal before CIT(A).

4. The CIT(A) simpliciter confirmed the action of the AO by observing in para 3.10 & 3.11 as under:-

*“3.10 From the above, it transpires that the appellant is now looking for excuses to retract from the agreed addition of 8% of additional turnover 60,34,679/- which he had stated before the AO. He is also not willing to give any cogent proof backed by documents like bank statement, tally account, bill books and vouchers to strengthen his stand stating that they have been destroyed by white ants and/or floods.*

*3.11 In such a scenario it is very difficult to disagree with the decision taken by the AO at the time of assessment proceedings while having the consent of the appellant for the said addition.”*

Aggrieved, assessee preferred appeal before the Tribunal.

5. We have heard rival contentions and gone through facts and circumstances of the case. Admittedly, the assessee admitted additional turnover of Rs.60,34,679/- but he only requested that the assessee's declared net profit is at the rate of 4% and historically also profit rate is 4% in the assessee's case or even lower. The Id.counsel for the assessee before us filed a letter dated 06.08.2024 in which, it requested as under:-

*“On account of heavy loss in the subsequent years the firm had to close down its operations in 2019. The profit margin was also not much as compared to Pre-GST period and hence it is our earnest appeal to the learned authorities to accept lower rate of NP @4% in place of 8% levied by the AO in his order dated 22/12/2018. Based on the accepted level a revised computation is worked out as under which may please be accepted.”*

When this was confronted to Id. Senior DR, she only requested that profit rate applied by the AO at the rate of 8% is in term of provision of section 44AD of the Act and that should not be disturbed.

5.1 We noted that historically the assessee's profit margin is 4% and hence, we feel it appropriate that profit rate at the rate of 4% should be computed on the additional turnover of Rs.60,34,679/-.

We direct the AO accordingly and appeal of the assessee is partly-allowed.

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

Order pronounced in the open court at the time of hearing on 7<sup>th</sup> August, 2024 at Chennai.

Sd/-

(एस.आर. रघुनाथा)

**(S.R. RAGHUNATHA)**

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 7<sup>th</sup> August, 2024

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त /CIT, Madurai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF.