

आयकर अपीलीय 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.857/Hyd/2024  
(निर्धारण वर्ष / Assessment Year: 2016-17)

Kanukuntla Lakshminarayana Vs. Income Tax Officer  
Kothagudem Ward-1  
[PAN :CPEPK6208M] Kothagudem

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri M.Chandramouleswara Rao, AR  
राजस्व द्वारा/Revenue by: Shri AVES Madhukar, DR

सुनवाई की तारीख/Date of Hearing: 07/10/2024  
घोषणा की तारीख/Pronouncement on: 07/10/2024

आदेश / ORDER

**PER K. NARASIMHA CHARY, J.M:**

Aggrieved by the order dated 05/07/2024 passed by the Commissioner of Income Tax(Appeals), National Faceless Appeal Centre (NFAC), Delhi ("learned CIT(A)") in the case of Kanukuntla Lakshminarayana ("the assessee") for the assessment year 2016-17, assessee preferred this appeal.

2. Brief facts of the case are that the assessee did not file his return of income for the assessment year 2016-17. Assessee declared his total income of Rs.1,50,000/- against notice under section 148 of the Income tax Act, 1961 ("the Act"). Learned Assessing Officer observed that the assessee had deposited cash of Rs.93,90,000/- in his account held with SBI, Kothagudem, bearing account No.62294769308 for the financial year 2015-

16. Assessee explained that the deposits made in the said bank account belong to his owner and proprietor, Shri Bhukya Sai Durga Uday Kiran, who requested the assessee to use his account for certain months as the owner's bank account has become inoperative and all the cash deposits were used for purchase of liquor. But the learned Assessing Officer did not accept the contention of the assessee as the assessee failed to furnish confirmation letter from his owner. Learned Assessing Officer treated the entire cash deposit of Rs.93,00,000/- as business receipt of the assessee and made addition of Rs.7,51,200/- on account of estimation of business income @8% of the total business turnover of Rs.93,90,900/-.

3. In appeal, the learned CIT(A) upheld the addition made by the learned Assessing Officer and dismissed the appeal of the assessee, holding that there is no evidence to prove that the deposits in the account of the assessee are not in fact his business receipts, but those are the business receipts of the owner.

4. Aggrieved, the assessee preferred this appeal contending firstly that the assessee did not do any business, but it was the owner who deposited the amounts into his account and offered the same to tax in his return and secondly, that the rate of estimation of the net profit in liquor trade varies from case to case and there is no rule that 8% of the turnover shall invariably be fixed in liquor trade de hors the variation in facts.

5. Learned AR 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, estimation of net profit at 3% would meet the ends of justice. Learned AR further submitted that the assessee is a helper, earning a monthly salary of Rs.12,500/- per month, deposited cash of Rs.93,90,000/- in respect of business transactions of purchase and sale of liquor in his bank account maintained with State Bank of Hyderabad at the request of his owner for time being as his owner's account has become inoperative.

6. Per contra, the learned DR submitted that the learned CIT(A) is justified in upholding the addition made by the learned Assessing Officer,

estimating the business income @8% of the total business turnover of Rs.93,90,900/- as the assessee failed to produce any confirmation letter or documentary evidence to rebut the findings of the learned Assessing Officer.

7. I have gone through the record in the light of the submissions made on either side. Insofar as the estimation is concerned learned Assessing Officer estimated the income at 8% of the total business turnover. 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 fee is introduced and according to the learned AR it reduced the profit margin. Coordinate Bench of the Tribunal in the case of Venkateshwar Nemuri in I.T.A.No.363/Hyd/2024 after considering the facts and circumstances held that the estimate of net profit of the assessee at 3% of the turnover would meet the ends of justice. Respectfully following the view taken by the coordinate Bench of the Tribunal, I direct the learned Assessing Officer to recompute the income of the assessee at 3% of the turnover.

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

Order pronounced in the open court on this the 7<sup>th</sup> day of October, 2024.

Sd/-

**(K. NARASIMHA CHARY)**  
**JUDICIAL MEMBER**

Hyderabad, Dated: 07/10/2024

*L.Rama, SPS*

Copy forwarded to:

1. Sri Kanukuntla Lakshminarayana, 5-7-40, Cooli Line, Kothagudem, Telangana
- 2 The Income Tax Officer, Ward-1, Kothagudem
- 3.The PCIT, Hyderabad
- 4.The DR, ITAT, Hyderabad
- 5.Guard File

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