

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री अमिताभ शुक्ला, लेखा सदस्य के समक्ष

BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1757/Chny/2024
निर्धारण वर्ष/Assessment Year: 2017-18

Jayasakthi Knit Wear, 3/95, Thanneerpandal Colony, Cheyur Road, Karukkampalayam B.O. Avinashi, Tirupur-641 654.	v.	The ITO, Ward-1(4), Tirupur.
[PAN: AAFFJ 4343 J]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.S. Sridhar, Advocate (Erode)
प्रत्यर्थी की ओर से /Respondent by	:	Ms. Gouthami Manivasagam, JCIT
सुनवाईकीतारीख/Date of Hearing	:	26.09.2024
घोषणाकीतारीख /Date of Pronouncement	:	13.11.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals), (hereinafter in short 'the Ld.CIT(A)'), NFAC, Delhi, dated 19.04.2024 for the Assessment Year (hereinafter in short 'AY') 2017-18.



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2. The main grievance of the assessee is against the action of the Ld.CIT(A) confirming the action of the AO estimating income @8% of the gross business receipts of Rs.4,95,21,331/- i.e. Rs.39,61,706/- and an amount of Rs.26,268/- u/s.194A of the Act as income from other sources.

3. Brief facts are that the assessee is a partnership firm and didn't file return of income (RoI). The AO noted that assessee had made exports worth of Rs.4,88,00,649/- and imports worth of Rs.5,90,588/- and also derived interest income of Rs.26,268/-. The AO re-opened the assessment of the assessee and noted that the assessee didn't file RoI in response to notice u/s.148 of the Act and therefore, the AO issued several notices and also notice u/s.144 of the Act and thereafter, finding no response from the assessee, completed the assessment u/s.144 (best judgment assessment) by estimating the income @8% of the gross business receipts of Rs.4,95,21,331/- i.e. Rs.39,61,706/- and added Rs.26,268/- as income from other sources. On appeal, the Ld.CIT(A), confirmed the action of the AO.

4. Aggrieved, the assessee is before us.

5. We have heard both the parties and perused the material available on record. We note that the assessee is a partnership firm and didn't file return of income (RoI). The AO noted that assessee had made exports worth of Rs.4,88,00,649/- and imports worth of Rs.5,90,588/- and also



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derived interest income of Rs.26,268/-. According to the Ld.AR, the assessee was regularly filing RoI from AYs 2012-13 to 2015-16 and also from AYs 2018-19 to 2019-20 except for AYs 2016-17 & 2017-18 and that the RoI filed earlier has been duly accepted by the department. The only plea of the assessee is that a reasonable estimation of income may be made by considering the earlier year book results of the assessee and drew our attention to the summary of the chart which shows the past and future book results, which are noted as under:

A.Y.	Gross Receipts	Gross Profit	GP Rate	Net Profit	NP Rate	Date of 44AB
2012-13	1,17,46,303	-	-	1,51,422	1.29%	-
2013-14	89,63,632	22,98,717	25.64%	1,35,018	1.51%	-
2014-15	3,42,26,413	14,47,811	4.23%	8,80,900	2.57%	30/11/2014
2015-16	5,66,07,667	54,20,674	9.58%	1,91,664	0.34%	29/10/2015
2018-19	4,01,07,232	57,21,761	14.27%	69,512	0.17%	31/10/2018
2019-20	4,79,07,168	35,39,241	7.39%	80,156	0.17%	31/10/2019
Average Net Profit Rate					1.008%	

6. The Hon'ble Courts have held that the estimation has to be based on relevant material and it should not be whimsical or arbitrary; and that while estimating the income of an assessee, the earlier and subsequent book results of the assessee is good indicator to reasonably estimate the income of the assessee. We note that the AO/the Ld.CIT(A) has estimated the income of the assessee @8% whereas the assessee has been filing returns from AYs 2012-13 to 2015-16 (four years) wherein the assessee has been showing a net profit maximum of 2.57% for AY 2014-15, and in other years average net profit (even considering subsequent AYs 2018-19 to 2019-20) is 1.008%. Therefore, considering the aforesaid Chart, [i.e. earlier and subsequent book results of the



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assessee], which is an indicator of assessee's income from its business, we are of the considered view that 3% would be a reasonable estimate in place of 8%. Therefore, we direct the AO to compute the income @3% of the gross business receipts of Rs.4,95,21,331/- and compute the total income of the assessee.

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

Order pronounced on the 13th day of November, 2024, in Chennai.

Sd/-
(अमिताभ शुक्ला)
(AMITABH SHUKLA)

लेखा सदस्य/ACCOUNTANT MEMBER

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)

न्यायिक सदस्य/JUDICIAL MEMBER

चेन्नई/Chennai,

दिनांक/Dated: 13th November, 2024.

TLN, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF