

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

BEFORE

**SHRI LALIET KUMAR, JUDICIAL MEMBER
AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER**

ITA No.781/Hyd/2024		
Assessment Year: 2022-23		
Peddi Lalitha, Hyderabad. PAN : AGXPP7966M.	Vs.	The Income Tax Officer, Ward-15(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri T. Chaithanya Kumar, Advocate.	
Revenue by:	Dr. Sachin Kumar, Sr.DR.	
Date of hearing:	06.01.2025	
Date of pronouncement:	07.01.2025	

ORDER

PER LALIET KUMAR, J.M:

This appeal is filed by the assessee feeling aggrieved by the order passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 15.07.2024 for the AY 2022-23.

2. The grounds raised by the assessee read as under :

“1. The order of the NFAC/CIT(Appeals) is erroneous both on facts and in law.

2. The NFAC/CIT(Appeals) erred in estimating the income at 4% of the cost of sales effected by the appellant. The learned NFAC/CIT(Appeals) ought to have considered that the percentage adopted is excessively high and unreasonable given the nature of the appellant's business.

3. The NFAC/CIT(Appeals) erred in applying the provisions TDS Provisions an amount of Rs. 4,86,445/- without providing any valid reasons for such additions.

4. The NFAC/CIT(Appeals) erred in confirming the action of the Assessing Officer in determining the total income at Rs. 76,86,442/-, contrary to the income of Rs. 49,54,420/- declared by the appellant.

5. The NFAC/CIT(Appeals) erred in confirming the action of the Assessing Officer in rejecting the books of accounts and estimating the income at the rate of 4% on turnover. This action is illegal, arbitrary, and violates the principles of natural justice.

6. The NFAC/CIT(Appeals) erred in confirming the action of the Assessing Officer in determining the total income at Rs. 76,86,442/- as against the declared income of Rs. 49,54,420/-. The order passed by the NFAC/CIT(Appeals) is without assigning any valid reasons, is perverse, highhanded, and contrary to the provisions of law. Therefore, the order dated 15-07-2024, DIN & Order No: ITBA/NFAC/S/250/2024-25/1066702140(1) is illegal ex-facie and violative of the principles of natural justice.

7. The NFAC/CIT(Appeals) erred in confirming the action of the Assessing Officer in charging interest u/s 234B of Rs. 2,48,664/- and u/s 234D of Rs. 2,920/.”

3. The brief facts of the case are that the assessee is an individual deriving income from the business of liquor sales. During the financial year 2022-23, the assessee achieved a turnover of ₹17,88,90,913/- and declared a total income of ₹49,54,420/-. The assessee filed the return of income on

14.10.2022, and the case was selected for scrutiny under CASS on the ground of low income from TCS receipts in the liquor business. The return was initially processed under Section 143(1) on 17.12.2022. Subsequently, the Assessing Officer issued notices under Sections 143(2) and 142(1) of the Income Tax Act, to which the assessee responded by submitting the required information. The Assessing Officer, however, concluded that the profit declared was low and that the books of account were not properly maintained. Consequently, the Assessing Officer estimated the income at 4% of the turnover of ₹17,88,90,913/- and arrived at a profit of ₹71,55,636/-. Additionally, an amount of ₹22,45,577/- was added as other income and thereafter, determined the total income of the assessee at ₹76,86,445/- and accordingly, passed assessment order passed under Section 143(3) read with Section 144B of the Income Tax Act, dated 13.03.2024.

4. Aggrieved by this order, the assessee has filed the appeal, before the LD.CIT(A) challenging both the estimation of income at an excessive rate of 4% and the unwarranted addition of ₹22,45,577/- as other income, however, the LD.CIT(A) granted part relief to the assessee by holding as under :

“5. Appellate Findings :

Appeal notices were sent to the appellant on 09.05.2024, 10.06.2024 and 04.07.2024 fixing the case for 24.05.2024, 25.06.2024 and 11.07.2024 respectively. The appellant has replied in form of written submissions on 01.07.2024.

During the appellate proceedings, the appellant has submitted copy of ITR acknowledgement of the ITR filed by him on 14.10.2022, Data related to TCS, Trading and Profit and Loss Account for F.Y 21-22, Capital Account, Depreciation account, Tax Audit Report for the year under consideration, copy of responses of notices sent by A.O, revised grounds of appeal and statements of facts etc.

The appellant before me is an individual engaged in the business of retail trading of wholesale of food and beverages and tobacco. The method of accounting was Mercantile system, the appellant (PAN AGXP7966M) is a resident of State of Telangana and Sales of liquor were under Malkajgiri District.

The appellant in the impugned FY had sales turnover of Rs. 17,88,90,913/- on which he had declared net income of Rs. 49,54,423/- through the ITR filed by her and Paid taxes due thereon. The case was selected for detailed scrutiny by NFAC for the following reason:

*Low income from TCS receipts -
Liquor*

The assessing officer vide different notices Called for information from the appellant on various dates. The A.O got partial compliance from the appellant as the required documents as demanded by A.O were not furnished properly by the appellant. The appellant in the present case is aggrieved when the A.O passed the assessment order ex-parte due to non-compliance on the part of the appellant and this made the appellant to present the appeal before me.

The principal issue in grounds of appeal is the higher profit ratio added by the A.O to the net profit to the extent of 4% of the appellant. The reason as given by A.O to increase the profit ratio was that in previous year the sales were in agreement to the net profit but in the current impugned assessment year, the net profit was deliberately decreased for the sake of increasing profit by claiming various bogus expenses such as higher amount of excise cess, license fee etc. The appellant rebuts the reasoning of A.O contending that the expenses are genuine as the Excise cess of Rs. 2,07,85,560/- is genuine (ledger copy and challans attached), Shop turnover tax paid, license fees (ledger copy attached) and liquor sold at discounted price due to expiry of license for the impugned assessment year. The appellant further contended that all the sales are from known sources and maintaining the stock register was not possible as retail method is used. The appellant in assessment proceedings had not furnished the Bank Statement, Copy of license fee- Challan and its ledger copies, Copy of Excise Cess Paid verified by Excise department, Ledger copy of salaries paid, No due Certificate from the excise department. Thus the claims of the appellant are not holding weight. The onus to

substantiate the claims of humongous expenditure lie on the appellant. In the present case the appellant has not furnished required invoices, challans, and ledger copies of these expenses incurred. Thus it is impossible for the A.O as well as for the appellate authority to ascertain what amount of expenses are actually incurred or not.

Thus in absence of material evidences, I uphold the decision of A.O to add the 4% of the sales turnover i.e 18,00,00,000/- as net profit of the appellant and also add the TDS receipts in the income of appellant to the tune of Rs. 4,86,445/-.

In view of above discussion, the appeal of the appellant is dismissed.”

5. Aggrieved with the order of LD.CIT(A), the assessee is now in appeal before us.

6. Before us, ld.AR has submitted that the LD.CIT(A) has erred in upholding the estimation of net profit at 4% of the turnover without considering the genuine nature of the expenses incurred by the assessee. The ld.AR submitted that the appellant operates in the business of retail trading of liquor, where significant expenses such as excise cess, license fees, and shop turnover tax are genuine and verifiable and that they have submitted copies of ledger accounts, challans, and other supporting documents were during appellate proceedings to substantiate these claims.

6.1. The ld.AR also contended that the lower profit ratio in the assessment year under consideration was due to specific factors, including discounted sales of liquor nearing the expiry of the appellant's license. The AR contended that the rejection of books of accounts under Section 145(3) was not justified, as the appellant maintained proper records to the extent possible under

the retail business model. He further submitted that the addition of TDS receipts amounting to ₹4,86,445/- is erroneous and contrary to law, as these receipts were accounted for, and due taxes were paid. The ld.AR finally contended that the additions made by the Assessing Officer and confirmed by the LD.CIT(A) be deleted as they were arbitrary, excessive, and violative of the principles of natural justice.

6. On the other hand, Ld.DR supported the orders of lower authorities contending that the assessee failed to furnish requisite details and supporting documents despite multiple opportunities given during assessment and appellate proceedings. The Ld.DR further submitted that the estimation of net profit at 4% was reasonable given the nature of the business and the inadequacies in the appellant's compliance. Further, the DR argued that the TDS receipts totaling ₹4,86,445/- were rightly added to the income, as they were not disclosed in the income tax return filed by the appellant and that the order of LD.CIT(A) is well-reasoned and does not call for any interference by the Tribunal.

7. We have heard the rival submissions and perused the material on record. In the present case, the primary issues for our consideration are the estimation of net profit at 4% of the turnover and the addition of TDS receipts amounting to ₹4,86,445/-. Before us, the appellant has argued that the profit ratios for the assessment year under consideration declined due to specific

business circumstances, including the sale of liquor at discounted rates and genuine expenses incurred on excise cess, license fees, and shop turnover taxes. It was contended that sufficient evidence, such as ledger accounts and challans, was furnished during appellate proceedings to substantiate these claims. However, the appellant admitted that certain documents, such as bank statements, quantitative stock details, and other supporting materials, could not be submitted earlier. The Ld.DR on the other hand, has justified the rejection of books under Section 145(3) and the estimation of net profit at 4% based on the non-compliance of the appellant in furnishing critical details during the assessment and appellate stages. The Ld.DR also contended that the addition of TDS receipts was made due to their non-disclosure in the income tax return. After considering the submissions of both parties and examining the material on record, we are of the view that the issue requires further verification and examination by the Assessing Officer.

8. We are of the view that the appellant's claim that significant business expenses are genuine and verifiable must be substantiated by submission of requisite documents, including, bank statements, verified challans for excise cess and license fees, ledger copies of salaries and other significant expenses and quantitative details or explanations regarding the stock maintained. In light of the above, we remand back the appeal of the assessee to the file of Assessing Officer for passing fresh order after affording due opportunity of hearing to the assessee in

accordance with law. Further, the assessee is directed to appear before the Assessing Officer on the date of hearing fixed by the Assessing Officer and shall file all the documents / evidence in support of her case as called for by the Assessing Officer. In case, the assessee failed to file any documents in support of her case, Assessing Officer shall decide the matter in accordance with the law. Accordingly, the appeal of assessee is allowed for statistical purposes.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 7th January, 2025.

Sd/- (MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER	Sd/- (LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 07.01.2025.

TYNN/sps

Copy to:

S.No	Addresses
1	Peddi Lalitha, Hyderabad, R/o.E-101, Aditya Empress Towers, Shaikpet Nala, Tolichowki, Golconda Post, Hyderabad – 500008, Telangana.
2	The Income Tax Officer, Ward 15(1), Hyderabad.
3	Pr.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order