

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'SMC' BENCH, BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

ITA No. 298/Bang/2025
Assessment Year: 2018-19

Yermal Vasu Shetty Satish Shetty, #2, Riffa Complex, New Sayyaji Rao Road, Bamboo Bazaar, Mysore – 570 021.  <b>PAN – AJGPS 8427 A</b>	Vs.	The Dy. Commissioner of Income Tax, Circle – 1(1), Mysore.  .
APPELLANT		RESPONDENT

ITA No. 2358/Bang/2024
Assessment Year: 2018-19

The Dy. Commissioner of Income Tax, Circle – 1(1), Mysore.	Vs.	Yermal Vasu Shetty Satish Shetty, #2, Riffa Complex, New Sayyaji Rao Road, Bamboo Bazaar, Mysore – 570 021.  <b>PAN – AJGPS 8427 A</b>
APPELLANT		RESPONDENT

Assessee by	:	Shri Suresh Rao & Shri Narayana Murthy, CA
Revenue by	:	Shri Murali Mohan, CIT (DR)

Date of hearing	:	16.06.2025
Date of Pronouncement	:	30.06.2025

**ORDER**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

These are cross-appeals filed by the assessee and the Revenue against the order passed by the National Faceless Appeal Centre (NFAC), Delhi, dated 20.09.2024, for the assessment year 2018–19.

2. The necessary facts are that the assessee in the present case is an individual and engaged in two activities:

- Trading in surgical items under the name "Shastra Surgicals", and
- Acting as a Clearing, Forwarding, and Collection (CFC) Agent for Karnataka Antibiotics and Pharmaceuticals Ltd., Bengaluru under the name "Shivam Logistics".

2.1 The assessee declared a gross turnover of ₹8,90,59,884 and declared net income of ₹1,31,40,630 (approx. 8%) in the return of income. However, the assessee did not maintain regular books of accounts or get them audited under section 44AB of the Income Tax Act. In other words, the assessee claimed expenses of ₹7,52,04,253 against the turnover declared.

2.2 The Assessing Officer (AO) disallowed the entire expense claimed due to lack of evidence and added the full amount to the assessee's total income.

3. On appeal, the learned CIT(A) partially allowed relief. He accepted purchases in the surgical segment and estimated 20% income from the CFC segment, instead of disallowing all expenses.

4. Being aggrieved by the order of the Id. CIT(A) both the assessee and the Revenue are in appeal before us. The assessee is in appeal before us against the income estimated at 20% of the gross receipts whereas the revenue is in appeal in ITA No. 2358/Bang/2024 against the deletion of the addition made by the AO for 80% of the gross receipts.

5. The Id. AR before us filed a paper book running from pages 1 to 51 and supplementary paper book from pages 1 to 63 and submitted that the assessee has been declaring income being net profit @ 4.93% to 10.8% in the earlier asst. years, which was accepted as reasonable. It was contended by the Id. AR that the assessee has declared profit @ 8% of the gross turnover, which is sufficient enough to cover any leakage and protect the interest of revenue. According to the Id. AR, in the absence of books, income estimation must be reasonable and should consider the past trend. Therefore, there should not be made any further addition.

6. On the other hand, the learned Departmental Representative (DR) accepted that the only issue is the estimation of profit. Since the assessee failed to furnish evidence for expenses, the Id. DR supported a higher estimation of profit. As such the Id. AR and DR supported the order of the authorities below as favourable to them.

7. We have heard both sides and examined the records. It is undisputed that the assessee carried on genuine business activities. Turnover figures were accepted by the authorities. The assessee did

not maintain books of accounts or get them audited. The assessee has been consistently declaring net profit ranging from 4.93% to 10.8% in earlier and later years.

7.1 We find force in the argument of the learned AR for the assessee that the profit declared by the assessee over the period and accepted by the revenue should be taken for estimating the profit for the year under consideration. As such, in our considered view, the estimation made by the lower authorities was not based in scientific manner. The learned CIT(A) while estimating the profit has not considered the comparable cases and furthermore, ignored the profit declared and accepted by the Revenue in the own case of the assessee in earlier and later years. In our considered the view, the average profit declared by the assessee in the earlier and later years can be adopted as the parameter for determining the income of the assessee in the absence of books of accounts. In holding so, we draw support and guidance from the judgment of Hon'ble Gujarat High Court in case of CIT versus Kiran Industries Private Ltd in tax appeal No. 449 of 2011.

*Having perused the documents on record with the assistance of the learned counsel for the revenue, we notice that the Tribunal had though confirmed the view of the revenue authorities with respect to the rejection of the books of accounts of the assessee did not accept the re-computation of higher rate of gross profit on the premise that the average gross profit rate of last three years immediately preceding the year under consideration came to 14.79%. On such basis, the Tribunal found that the claim of gross profit rate @ 15.27% cannot be stated to be low. On such basis, the assessee's appeal was allowed.*

*We are of the opinion that the findings of the Tribunal are based on evidence on record and are purely factual in nature. The Tribunal after taking into account relevant materials, came to the conclusion that a certain rate of gross profit presented by the assessee was acceptable.*

7.2 The details of the average profit of the assessee in the earlier and later years is available on page 8 of the paper book. Considering the rate of profit declared by the assessee in the earlier and later years, the profit shown by the assessee in the year under consideration at 8.04% of the gross turnover is reasonable and sufficient to cover any revenue leakage. Therefore, there cannot be any further addition made by the authorities below. On perusal of the order of the authorities below, nothing was found out whether there was any change in the facts and circumstances of the year under consideration viz a viz in the earlier and later years. There was no change in the business activity of the assessee. As such, for the relevant assessment year, the assessee declared income at 8.04%, which falls within the accepted range of profit declared by the assessee over the different assessment years. The Id. CIT(A) rightly noted that disallowing all expenses and taxing gross receipts would be contrary to the intent of the Income Tax Act. However, the estimation at 20% is excessive considering results and the nature of business. No material evidence has been brought by the Revenue to justify higher profit estimation than 8.04% of the turnover. The 8.04% rate declared by the assessee reasonably covers any possible leakage due to lack of books and serves the interest of justice. Therefore, we hold that income should be estimated at 8% of the gross turnover. The action of the Id. CIT(A) estimating profit at 20% is unjustified and liable to be reversed. Hence, the grounds of appeal of the assessee are allowed whereas the grounds of appeal of the Revenue are dismissed.

**8. In the result, the appeal of the assessee is allowed and the appeal of the Revenue is dismissed.**

Order pronounced in court on 30<sup>th</sup> day of June, 2025

Sd/-  
**(KESHAV DUBEY)**  
Judicial Member

Sd/-  
**(WASEEM AHMED)**  
Accountant Member

Bangalore  
Dated, 30<sup>th</sup> June, 2025

/ vms /

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore