

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No.4028/Del/2025
(Assessment Year: 2018-19)

Chandra Shekhar Azad, D-2/59, Near Sati Mandir, Sangam Vihar, Delhi- 110062	Vs.	Assessing Officer, Delhi
PAN:AHJPA9610Q		

Assessee by :	Shri Govind Kumar, CA
Revenue by:	Shri Manoj Kumar, Sr. DR
Date of Hearing	11/08/2025
Date of pronouncement	20/08/2025

ORDER

1. The appeal in ITA No.4028Del/2025 for AY 2018-19 arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. ITBA/NFAC/S/250/2025-26/1075823856(1) dated 25.04.2025 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 dated 12.04.2021 (hereinafter referred to as 'the Act') by NEAC, New Delhi (hereinafter referred to as 'Id. AO').
2. Though the Assessee has raised several grounds of appeal, the main issue to be decided is as to whether the Learned NFAC was justified in confirming the addition made on account of estimated profit of the Assessee in the facts and circumstances of the instant case .
3. I have heard the rival submissions and perused the materials available on record. The Assessee had filed the return of income for the assessment year 18-19 showing income from business on presumptive basis in the sum of Rs. 3,30,650/-. The Assessee is running a Mother Dairy booth and deals with dairy products such as milk, curd, buttermilk etc. The Assessee purchases the above

products from Mother Dairy fruits and vegetables private limited and sells the same to end users with a fixed margin involved therein. The Learned AO sought to verify the purchases made by the Assessee from Mother Dairy fruits and vegetables private limited and accordingly issued notice under section 133(6) of the Act to the said party. The supplier responded to the same by furnishing the quantum of purchase details of the Assessee. The copy of agreement entered into with the Assessee was also furnished. The Learned AO noticed that Assessee has mentioned the total turnover for the preceding previous year at Rs. 4,39,21,296/- but the income was offered under section 44AD of the Act in the sum of Rs.3,30,650/-. The gross margin of the Assessee is only 1.75%. The Learned AO observed that since the gross receipts of the Assessee was Rs. 4,39,21,296/-, he would not be entitled to avail the benefit of presumptive taxation provided under section 44AD of the Act. In order to reveal profit at lesser percentage than prescribed under section 44AD of the Act, the Assessee was supposed to get his accounts audited under section 44AB of the Act which was not done in the instant case. Accordingly, the Learned AO proceeded to ignore the book results of the Assessee and resorted to estimate the gross profit of the Assessee in the business of this retail trade at the rate of 5% and proceeded to determine the taxable income at Rs. 17,58,093/- after giving deduction for administrative expenses.

4. It was submitted that the Assessee operates at a fixed margin in the form of commission and that commission income had not crossed the limit prescribed under section 44AB of the Act and accordingly the claim of section 44AD of the Act in the return is in order. However, I find that the facts and modus operandi adopted by the Assessee had not been properly appreciated by the revenue in the instant case and hence in the interest of justice and fair play, I deem it fit and appropriate, to restore this appeal to the file of the Learned AO for denovo adjudication in accordance with law. The Learned AO is directed to examine the agreement entered into by the Assessee with Mother Dairy fruits and vegetables

private limited to ascertain the exact margin of the Assessee and accordingly determine the business income. Accordingly, the grounds raised by the Assessee are allowed for statistical purposes.

5. In the result, the appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open court on 20/08/2025.

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 20/08/2025
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi