

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'SMC' Bench, Hyderabad

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No.660/Hyd/2025**
(निर्धारण वर्ष / Assessment Year: 2010-11)

Shri Sadnakari Hazarathaiah, Hyderabad. PAN: ADFPH7103R	Vs.	Income Tax Officer, Ward-1, Proddatur.
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Shri C. Maheshwar Reddy, C.A.	
राजस्व द्वारा / Revenue by:	Shri Kumar Aditya, DR	
सुनवाई की तारीख / Date of hearing:	08/10/2025	
घोषणा की तारीख / Pronouncement:	10/10/2025	

आदेश/ORDER

PER INTURI RAMA RAO :

This appeal filed by the assessee is directed against the order of the National Faceless Appeal Centre, Delhi [CIT(A)] dated 29.11.2023 for Assessment Year (AY) 2010-11.

2. Brief facts of the case are that the assessee is an individual dealing with liquor business. The Return of Income for A.Y. 2010-11 on 08.07.2010 declaring income of Rs.2,30,910/- filed by the assessee. Against the said Return of Income, the assessment was completed by the Assessing Officer vide order dated 30.06.2017 by

rejecting the books of account u/s.145 of the Income Tax Act, 1961 ("the Act") and estimated the income from the business of liquor at 3% on the turnover. Accordingly, the Assessing Officer assessed the income at Rs.19,31,450/-. Subsequently, based on the information that came into light during the course of appellate proceedings of one Mr. S.K. Ramthulla, the Assessing Officer formed an opinion that the assessee made unexplained investment of Rs.32,60,000/-. Accordingly, the Assessing Officer formed opinion that income had escaped tax. Therefore, notice u/s.147 of the Act was issued to the assessee and in response to the notice u/s.147, the assessment was completed by the Assessing Officer *exparte* vide order dated 30.06.2017 determined assessed income of the assessee at Rs.36,63,063/-. While doing so, the Assessing Officer made addition of Rs.32,60,000/- by holding that the assessee had given cash of Rs.32,60,000/- to Mr. S.K. Ramthulla outside the books of account.

3. Being aggrieved by the said assessment order, the assessee filed an appeal before the Ld. CIT(A), who vide impugned order dismissed the appeal of the assessee.

4. Being aggrieved by the order of Ld. CIT(A), the assessee is in appeal before this Tribunal. It is contended by the learned counsel for the assessee before us that the Assessing Officer in the original assessment, rejected the books of account u/s. 145 of the Act and estimated the income. He submitted that no further addition can be made by the Assessing Officer relying on the judgment of Hon'ble jurisdictional High Court in the case of Indwell Constructions Vs. CIT 232 ITR 776 (AP) and also the following judgements :

i) Malpani House of Stone Vs. CIT 3395 ITR 386 (Raj)

ii) CIT Vs. Gian Chand Lakshmi Contractors 316 ITR 127 (P&H)

iii) CIT Vs. Aggarwal Engg Co. 302 ITR 246 (P&H)

iv) CIR Vs. Banwarilal Banshidhar 229 ITR 229 (All)

v) CIT Vs. GK Contractor 19 DTR 305 (Raj) and

vi) ACIT Vs. S. Moorthy in ITA No.3091/Chny/2019 (ITAT, Chennai).

5. The Ld. DR, on the other hand, vehemently opposed the contention of learned counsel for the assessee. He further submitted that the Assessing Officer can still make addition to the

estimated income and supported the orders of authorities below.

6. I have heard the rival submissions of both the parties. At the outset, I find that there is a delay of 440 days in filing the appeal before the Tribunal. The assessee filed condonation petition seeking condonation of delay on the ground that he was not aware of the order passed u/s. 250 of the Income Tax Act, 1961 ("the Act") by NFAC since the tax consultant, who was looking after the appeal before the Ld. CIT(A) had failed to intimate the service of the notice. The averments made in the condonation petition remain uncontroverted by the Ld. DR. Therefore, keeping in view of the well settled position of law for the purpose of computing limitation period, I am of the considered opinion that there is reasonable cause to condone the delay of 440 days in filing of the appeal. Accordingly, the appeal is admitted for adjudication on merits.

6.1 The only issue that arises for my consideration is that, as the Assessing Officer rejected the books of accounts, whether the Assessing Officer is entitled to make other additions or not u/s. 68 of the Act. In the impugned assessment order, the Assessing

Officer rejected the book results. In original assessment no other addition was made. In the reopening of assessment, the Assessing Officer made addition on account of unexplained investment, etc. it is now settled law that the Assessing Officer having rejected the book results cannot make any other additions.

6.2 Following the precedence of judgements indicated above, I am of the considered opinion that there is no warrant for making any other additions u/s. 68 of the Act. Accordingly, I direct the Assessing Officer to delete the additions made.

7. In the result the appeal of the assessee is allowed.

Order pronounced in the open Court on 10th Oct., 2025.

Sd/-

**(INTURI RAMA RAO)
ACCOUNTANT MEMBER**

Hyderabad.

Dated: 10.10.2025.

* *Reddy gp*

Copy of the Order forwarded to :

1.	Shri Saadnakari Hazarathaiah, C/o B Narsing Rao & Co. LLP, Plot No.554, Road No.92, MLA Colony, Jubilee Hills, Hyderabad-500096
2.	The ITO, Ward-1, Proddatur.
3.	Pr.CIT, Kurnool.
4.	DR, ITAT, Hyderabad.
5.	Guard file.

BY ORDER,