

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

**श्री विजय पाल राव, उपाध्यक्ष एवं**  
**श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।**  
**BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT AND**  
**SHRI MANJUNATHA G, ACCOUNTANT MEMBER**

आ.अपी.सं / **ITA No.703/Hyd/2025**  
(निर्धारण वर्ष / Assessment Year: 2018-19)

Shri Penchalaiah Dasari, Nellore. PAN: AMNPD3130D (Appellant)	<b>Vs.</b>	Income Tax Officer, Ward-1, Nellore. (Respondent)
निर्धारिती द्वारा / Assessee by:	Shri M V Prasad, C.A.	
राजस्व द्वारा / Revenue by:	Smt. Kritika Jaiswal, SR-AR	
सुनवाई की तारीख / Date of hearing:	17/12/2025	
घोषणा की तारीख / Pronouncement:	24/12/2025	

**आदेश/ORDER**

**PER MANJUNATHA G, A.M. :**

This appeal is filed by Shri Penchalaiah Dasari ("the assessee"), feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), dated 11.02.2025 for the Assessment Year 2018-19.

2. The assessee has raised the following grounds of appeal :

1. The learned CIT (Appeals) is erred in facts as well as in law while passing the order.
2. The Learned CIT(Appeals) erred in holding that the grounds on additions made other than the estimation of the profit need not be adjudicated since the profit was estimated and further the grounds on other additions were withdrawn by appellant.
3. The Learned CIT(Appeals) is not justified in ignoring the plea of the appellant that the estimation made may be sustained and the additions made towards disallowance of certain items of expenditure basing on such rejected books may kindly be deleted.
4. The Learned CIT(A) erred in holding that the grounds on other additions i.e., other than the estimation of profit have been withdrawn even though the disallowance of certain expenses claimed in the P&L Account after the book results were rejected has been challenged in the additional ground.
5. The Learned CIT(A) would have appreciated that the grounds on which all the additions made were challenged were infact challenged in one additional ground raised.
6. The Learned CIT(A) is not justified in confirming the addition towards disallowed salaries of Rs. 53,71,350/- and disallowed commission paid of Rs. 15,00,623/-.
7. The appellant craves to add to, amend or modify the above grounds of appeal either before or at the time of hearing of the appeal, if it is considered necessary.

3. The brief facts of the case are that the assessee is an individual and engaged in the business of direct selling agent to finance institutions (commission agent) filed his Return of Income for the Asst. Year 2018-19 on 02.10.2018 declaring total income of Rs.15,90,076/-. The case was selected for scrutiny to verify low income compared to large commission expenses. During the assessment proceedings, the assessee was asked to upload the ledger of expenses, salary and wages paid in F.Y. 2017-

18 and also the details of commission expenses of Rs.15,00,623/-. In response to the notice, the assessee uploaded ledger accounts of salaries and wages and sales promotion expenses. The Assessing Officer after taking note of details, observed that although there is decrease in income for the year under consideration, but there is increase in salary expenses for which the assessee has not furnished relevant details in the format provided along with notice u/s. 142(1) of the Income Tax Act, 1961 (the Act). The Assessing Officer further noted that the assessee has also failed to furnish the relevant details of commission paid along with details of commission with reference to sales achieved by the agent, TDS deducted on the said commission, etc. Therefore, the Assessing Officer by taking note of relevant discrepancies in expenses incurred towards salaries and wages has made 20% adhoc disallowance of salary expenses and made addition of Rs.53,71,350/-. Similarly, the A.O. has made disallowance of entire commission expenditure of Rs.15,00,623/- on the ground that the commission paid by the assessee is not genuine. The A.O. further noted that the assessee has reported 4.67% net profit for the A.Y. 2018-19 whereas the net profit for A.Y. 2017-18 was at 8.11%. Since the assessee has not substantiated with evidence in respect of the net profit, the A.O. has made addition towards net profit of Rs.6,47,310/- to the returned income.

4. Aggrieved by the Assessment Order, the assessee preferred appeal before the Ld. CIT(A). Before the Ld. CIT(A), the assessee has reiterated his arguments made before the A.O. and submitted that the expenditure incurred under the head salary and wages is supported by evidence and the same has been paid to employees through banking channels. The Ld. AR submitted that the commission is also genuine on which he has deducted TDS applicable as per law. Therefore, he submitted before the Ld. CIT(A) that merely for the reason that decrease in net profit, genuineness of the expenditure cannot be doubted and adhoc disallowance cannot be made. During the appellate proceedings, the assessee has filed additional grounds and argued that once the books of account of the assessee are rejected and profit has been estimated, there is no scope for further disallowance of expenditure including the expenditure incurred towards salaries and wages paid to employees and commission expenses.

5. The Ld. CIT(A) after taking note of provisions of section 145 of the Act and also deriving the decisions of Hon'ble Madras High Court in the case of PCIT Vs. Marg Ltd. (2017) 84 taxmann.com 52 (Mad), held that profits of an assessee cannot be estimated without rejection of books of account. Since the A.O. has not rejected the books of account and estimated profit by considering the average net profit declared by the assessee for the last two financial years, the estimation of profit in assessee's case is not in

accordance with the provisions of section 145 of the Act and directed the Assessing Officer to delete the addition made on account of net profit of Rs.6,47,310/-. Since the assessee has withdrawn the ground in respect of other additions u/s.37 of the Act on account of unsubstantiated salary and wages and commission expenses and no further submissions or evidences have been produced during the appellate proceedings, there is no reason to interfere with the findings of A.O. Thus, the Ld. CIT(A) partly allowed the appeal of the assessee.

6. Aggrieved with the order of Ld. CIT(A), the assessee is now in appeal before the Tribunal.

7. The learned counsel for the assessee Shri M. V. Prasad, CA submitted that the Ld. CIT(A) erred in holding that the additions made other than the estimation of net profit need not be adjudicated, since the profit was estimated and further the grounds and other additions were withdrawn by the assessee. The learned counsel further referring to the additional ground filed before the Ld. CIT(A) submitted that the assessee has challenged the additions made by the A.O. towards adhoc disallowance of salary and wages and disallowance of entire commission expenses. Further the assessee has also filed additional grounds before the Ld. CIT(A) and challenged that once the profit has been estimated after rejection of books of account then there is no scope of further disallowance of

expenditure. He further submitted that the Ld. CIT(A) simply adjudicated additional grounds filed by the assessee and has not adjudicated the other grounds. The learned counsel for the assessee further referring to certain judicial precedents including the decision of Hon'ble Gujarat High Court in the case of Prasant Oil Mill Vs. ITO (2016) 72 Taxmann.com 136 (Guj) and also the decision of Hon'ble Andhra Pradesh High Court in the case of Indwell Constructions Vs. CIT (1998) 232 ITR 772 (A.P.) submitted that, once books of account are rejected and profits have been estimated then the A.O. cannot make any addition towards disallowance of other expenses on the basis of very same books of account. Therefore, he submitted that the additions made by the A.O. should be deleted and the additions made towards estimation of profits should be sustained.

8. The learned Department Representative Smt. Kritika Jaiswal, SR-AR, on the other hand, supporting the order of Ld. CIT(A) submitted that the assessee had failed to submit relevant details of payments made towards salaries and wages which is evident from the fact that the assessee has not furnished the details in the proforma provided by the A.O. along with the notice given to the assessee and also not given the commission expenses with relevant details. Therefore, the A.O. has rightly made 20% adhoc disallowance of salary and wages and commission, because there is decrease in the net profit for the year, when

compared to earlier financial year. Further, the Assessing Officer disallowed commission expenses because the expenses are not genuine in nature. The Id. DR further submitted that the Ld. CIT(A) has rightly not adjudicated the grounds in respect of other additions u/s.37 of the Act on account of unsubstantiated salary and commission payments, because the same were withdrawn. The assessee has not submitted details of expenditure. Therefore, she submitted that there is no error in the order of Ld. CIT(A) to sustain the salaries and wages and commission expenditure and thus, order of Ld. CIT(A) should be upheld.

9. We have heard both the parties and carefully considered the material on record and gone through the orders of authorities below. We also carefully considered the relevant reasons given by the A.O. to disallow 20% expenses towards salaries & wages and entire commission expenditure incurred by the assessee. The A.O. has made 20% adhoc disallowance towards salaries and wages on the ground that the assessee has failed to substantiate the expenses with relevant details. Similarly, the A.O. has disallowed the entire expenditure of commission on the ground that it is non-genuine in nature. Further, the A.O. has also made estimation of net profit on sales by taking note of net profit rate of A.Y. 2017-18 and net profit rate of assessment year under consideration and has been added as income of the assessee. The assessee contended that once the

books of account has been rejected and profit is estimated, then no further disallowances can be made based on such rejected books of account. We find that the A.O. one hand disallowed 20% of salaries and wages and commission expenditure, and on the other hand, rejected the books of account and estimated income from business by considering average net profit of last two financial years. The A.O. cannot blow hot and cold together. Once the A.O. goes for rejection of books of account in terms of section 145 of the Act and resorted to estimation of net profit, then on the basis of very same books of account disallowances cannot be made for expenditure. Although in the present case, the A.O. has not referred to any specific provision of section 145 of the Act in the assessment order while estimating net profit on sale, but going by the reasons given by the Assessing Officer, it appears that Assessing Officer rejected books and estimated profits. Once the A.O. rejected the books of account, no further addition can be made in respect of any expenditure on the basis of said rejected books of account. This legal principle is supported by the decision of Hon'ble Gujarat High Court in the case of Prasant Oil Mill Vs. ITO (supra) and also the decision of Hon'ble Andhra Pradesh High Court in the case of Indwell Constructions Vs. CIT (supra). The Ld. CIT(A) without appreciating the relevant facts simply deleted the additions made by the A.O. towards estimation of profit and has not adjudicated other two issues towards disallowance of expenditure on salaries

and wages and commission expenses. Therefore in our considered opinion, the reasons given by the Ld. CIT(A) to sustain the addition made towards adhoc disallowance of salaries and wages and 100% disallowance of commission expenses cannot be upheld. Thus, we set aside the order of Ld. CIT(A) and direct the A.O. to delete the additions made towards 20% adhoc disallowance of salaries and wages of Rs.53,71,350/- and also direct the A.O. to delete the addition made towards disallowance of commission expenses of Rs.15,00,623/-. The A.O. is directed to determine the income of the assessee on the basis of estimation of net profit as carried out by the A.O. in the assessment order. In other words, the additions made by the A.O. towards estimation of profit of Rs.6,47,310/- is sustained and disallowance of expenditure incurred on account of payment of salaries and wages and commission expenditure has been deleted.

10. In the result, the appeal of the assessee is partly allowed.

**Order pronounced in the open Court on 24th Dec., 2025.**

**Sd/-**  
**(VIJAY PAL RAO)**  
**VICE PRESIDENT**

**Sd/-**  
**(MANJUNATHA G)**  
**ACCOUNTANT MEMBER**

Hyderabad.  
Dated: 24.12.2025.

*\* Reddy gp*

**Copy of the Order forwarded to :**

1.	Shri Penchalaiah Dasari, C/O CA M V Prasad, 1 <sup>st</sup> Floor, Opp. Prasad & Co Contractors, D. NO.6-3-871, Snehalata, Greenlands Road, Begumpet, Hyderabad-500 016
2.	The ITO, Ward-1, Nellore.
3.	Pr.CIT, Tirupati.
4.	DR, ITAT, Hyderabad.
5.	Guard file.

BY ORDER,