**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY**

**AND**

**THE HON'BLE SRI JUSTICE M.S.K.JAISWAL**

**<u>I.T.T.A. No.795 of 2017</u>**

**<u>20.12.2017</u>**

Between:

Satililli Srinivasa Rao

..Appellant

And

The Income Tax Officer, Ward – 2, Srikakulam

..Respondent

Counsel for the appellant: Mr.P.Rama Sharana Sharma

Counsel for the respondent: Mr.K.Raji Reddy,
standing counsel for the Income Tax Department

The Court made the following:

**JUDGMENT: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)**

In this assessee's appeal against order, dated 26.07.2017, in I.T.A.No.41/Vizag/2015, on the file of the Income Tax Appellate Tribunal, Visakhapatnam Bench, Visakhapatnam, the following substantial questions of law have been raised.

> "a) Whether the Tribunal is justified in fixing the profit percentage randomly without any scientific methodology, that too basing on the media reports, when it makes the difference of lakhs of rupees to the assessee?
>
> b) Whether the authorities can rely on the books of accounts when the same has been rejected by the same authorities and cost the assessee on the basis of the accounts only?
>
> c) Whether the Tribunal is justified in showing the unsecured loans as income from other sources?
>
> d) Whether the ITO is justified in selecting the account of the appellant for enquiry without any justification, and in applying the reports of media to the case of the appellant and taxing him accordingly?"

2. We have heard Mr.P.Rama Sharana Sharma, learned counsel for the appellant-assessee, and perused the record.

3. After rejecting the books maintained by the assessee, an I.M.F.L. (Indian Made Foreign Liquor) dealer, the Assessing Officer (A.O.) estimated the profit at 20% on purchase of stock put for sale during the assessment year 2011-12. On appeal by the assessee, the Commissioner (Appeals) reduced the profit to 10%. On a further appeal filed by the

assessee, the Tribunal has further reduced the profit to 5%. In paragraph 4.2 of the order of the first appellate authority, it is stated as under.

> "4.2 During the appeal hearing the assessee reiterated the submission made before the assessing officer and also relied on the decision of Honourable ITAT, Visakhapatnam Bench in the case of T.Appalaswamy wherein it was held that the estimate of profit at 5% of the purchases net of other deductions would be justified. The assessee also relied on the decision of the Honourable ITAT B Bench, Hyderabad in the case of Amaravathi Wine Shop wherein it was held that the estimation of profit at 5% of the purchase or stock put for sale during the year would be reasonable. Relying on these decisions, the authorized representative contended that the assessing officer may be directed to estimate income at 5% of the stock put up for sale."

4. In tune with the request of the assessee, the Tribunal has reduced the profit from 10% as assessed by the first appellate authority to 5%. Further, in arriving at this estimate, the Tribunal has relied upon its order, dated 02.06.2016, in I.T.A.No.96/Vizag/2016, wherein it was held that estimation of profit at 5% on purchase is reasonable. On considering the orders of both the appellate *fora*, we are of the opinion that the assessee cannot have any grievance regarding the estimation of profit at 5% as he himself made such a request before the first appellate authority.

5. As regards the purported unsecured loans treated as the income from other sources, admittedly, the assessee failed to produce any material, such as the statements of the creditors, in the absence of which, both the appellate *fora* are justified in treating the said money as income from other sources. The above findings answer substantial questions of law framed in (a) to (c) against the assessee and substantial question of law framed in (d) becomes irrelevant.

6. For the aforementioned reasons, the appeal is dismissed.

7. As a sequel to dismissal of the appeal, I.T.T.A.M.P.No.793 of 2017 filed by the appellant for interim relief shall stand dismissed as infructuous.

**C.V.NAGARJUNA REDDY, J**

**M.S.K.JAISWAL, J**

**20th December, 2017**
GHN