



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK BENCH, CUTTACK**

**BEFORE S/SHRI N.S SAINI, ACCOUNTANT MEMBER  
AND PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No. 219/CTK/2016**  
Assessment Year : 2011-2012

Income Tax Officer, Keonjhar Ward, Keonjhar.	Vs.	Sushanta Kumar Rath, At: Jurudi, PO: Jajang, Via: Joda, Dist: Keonjhar.
PAN/GIR No.AGAPR 5059 C		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : None  
Revenue by : Shri D.K.Pradhan, DR

**Date of Hearing : 12/10/ 2017**  
**Date of Pronouncement : 12 /10/ 2017**

**ORDER**

**Per N.S.Saini, AM**

This is an appeal filed by the revenue against the order of the CIT(A)- Cuttack, dated 25.3.2016 for the assessment year 2011-2012 on the following grounds of appeal:

"01.Whether in the facts and circumstances of the case the CIT(A) is justified in deleting the addition made for Rs.57,73,089 as unexplained sundry creditors on the ground that once the books of account of the assessee is rejected, further disallowances are not to be made - where the disallowance made relates to the credit entries as per Balance sheet where the assessee had failed to substantiate the same during the assessment proceedings.

02. Whether in the facts and circumstances of the case the Ld, First Appellate Authority is justified to hold that where assessee failed to establish his books results as correct and reliable - When the A.O has determined the Net Profit on an



estimated basis can not make specific analysis of various claims of expenses reflected in the P&L account and specifically in the balance sheet.”

2. The brief facts of the case are that the Assessing Officer observed that in absence of proper books of account and bills and vouchers, the net profit from transport contract business and loading contract business is not acceptable as true and genuine. Therefore, he rejected the books of account by invoking the provisions of section 145(3) of the Act and proceeded to estimate the net profit from contract business. Thereafter, the Assessing Officer made addition of Rs.57,53,689/- on account of sundry creditors shown by the assessee in the balance sheet by treating them not genuine in absence of confirmation from the creditors.

3. On appeal, the CIT(A) deleted the addition by observing as under:

“10. The AO had made addition of Rs.57,73,089/- which was claimed by the appellant as sundry creditors in his balance sheet with a finding that the assessee did not furnish complete postal address along with account confirmation of the creditors. The appellant submitted that the closing balance of sundry creditors of the above amount disclosed in the balance sheet comprises of unpaid trading liabilities towards different expenses and are not loan liabilities. The AO had already rejected the books of accounts\* disallowed the expenses claimed by the assessee and had estimated the net profit of the assessee from the gross receipts. Further addition of sundry creditors amounts to disallow once of such expenses once again and the future expenses which the appellant has committed to pay. The addition of sundry creditors will inflate the net profit of the assessee to an amount which will be beyond the gross receipts received by him during the year, which is impossible to achieve in the line of business. The appellant further submitted that it has been held by different local authorities that once the books of account of the assessee are rejected, the AO cannot disallow any other



expenses or amount from the same account,. The appellant submitted the decision of the Hon'ble ITAT, Cuttack in the case of Girish Chandra Nayak Vs. ITO,Ward~2(4), Cuttack (2012) 28 [Taxman.Com](http://Taxman.Com), 118, in which the Hon'ble ITAT, Cuttack confirmed the order of the CIT(A) in deleting the disallowance of sundry creditors and directing to estimate the net income from gross contract receipts of the assessee. In view of the order of the Hon'ble IT AT, Cuttack, which is binding on me, the AO is directed to delete the addition."r

4. Ld D.R. relied on the order of the Assessing Officer whereas none appeared on behalf of the assessee when the case was called for hearing in spite of notice of hearing sent to the assessee by Speed Post on 15.9.2017.

5. We have heard LD D.R., perused the orders of lower authorities and materials available on record. We find that no specific error in the order of the CIT(A) could be pointed out by Id D.R. The CIT(A) has deleted the addition made on account of sundry creditors by following the order of this Bench of the Tribunal in the case of Girish Chandra Nayak (supra), wherein, it was held that once the books of account of the assessee are rejected, the Assessing Officer cannot disallow any other expenses or amount from the same account. No good reason could be shown by Id D.R. as to how the CIT(A) was wrong in following the decision of this Bench of the Tribunal. Therefore, we do not find any good reason to interfere with the order of the CIT(A), which is hereby confirmed and grounds of appeal of the revenue are rejected.



6. In the result, appeal filed by the revenue is dismissed.

Order pronounced in the open court on 12 /10/2017.

Sd/-

sd/-

**(Pavan Kumar Gadale)**  
**JUDICIALMEMBER**

**(N.S Saini)**  
**ACCOUNTANT MEMBER**

Cuttack; Dated 12 /10/2017

B.K.Parida, SPS

**Copy of the Order forwarded to :**

1. The Appellant : Income Tax Officer, Keonjhar  
Ward, Keonjhar
2. The Respondent. Sushanta Kumar Rath, At:  
Jurudi, PO: Jajang, Via: Joda, Dist:  
Keonjhar
3. The CIT(A)- Cuttack
4. Pr.CIT- Cuttack
5. DR, ITAT, Cuttack
6. Guard file.  
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY  
**ITAT, Cuttack**