

आयकर अपीलीय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद /

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AHMEDABAD – BENCH 'A'**

**BEFORE SHRI PRAMOD KUMAR, ACCOUNTANT MEMBER  
AND  
SHRI RAJPAL YADAV, JUDICIAL MEMBER**

**आयकर अपील सं./ ITA No.1831/Ahd/2016**

**निर्धारण वर्ष/Asstt. Year: 2011-2012**

DCIT, Patan Circle Patan.	Vs.	M/s.Ranjit Buildcon Ltd. 110, Old Market Yard Unjha 384 170.  PAN : AADCR 4658 R.
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अपीलार्थी/ (Appellant)	प्रत्यर्थी/ (Respondent)
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Revenue by :	Shri Mudit Nagpal, Sr.DR
Assessee by :	Shri S.N. Soparkar,

सुनवाई की तारीख/Date of Hearing : 08/03/2018

घोषणा की तारीख/Date of Pronouncement: 15 /05/2018

**आदेश/ORDER**

**PER RAJPAL YADAV, JUDICIAL MEMBER:**

Revenue is in appeal before the Tribunal against order of Id.CIT(A), Gandhinagar, Ahmedabad dated 28.4.2016 passed for the Asstt.Year 2011-12.

2. Sole substantial grievance of the Revenue is that the Id.CIT(A) has erred in deleting addition of Rs.37,30,085/-.

3. Brief facts of the case are that the assessee has filed its return of income on 30.9.2011 declaring total income at Rs.17,19,43,640/-. Assessment order was passed on 31.1.2014. Dissatisfied with the assessment order, assessee carried the

matter before the Id.CIT(A) who has decided the appeal of the assessee vide order dated 17.5.2014. The Id.AO has passed the following order while giving effect to the CIT(A)'s order:

"Name of the Assessee	:	RANJIT BUILDCON LTD. Natwarlal Ishwarlal Building, 110, Old Market Yard, Unjha
Status	:	Company
PAN	:	AADCR4658R
Assessment Year	:	2011-12

ORDER GIVING EFFECT TO THE CIT(A)'S ORDER

In view of the CIT (A)'s order No. CIT (A)/GMR/502/2013-14 dated 17.05.2014, the revised total income of the assessee is as under:

Income as per assessment u/s 143(3)	Rs. 35,74,69,027/-
Dated 31.01.2014 (Totaling mistake in the Assessment order it was written as	Rs. 35,26,80,691
Less: relief allowed in appeal	
1. Deduction u/s. 80IA (4) (i)	Rs. 8,92,78,982/-
2. Addition for sub-let gross profit	Rs. 4,90,87,830/-
3. Addition made for income from Trading activities	Rs. 21,67,337/-
4. Addition for bank interest	Rs. 4,36,82,499/-
5. Income from other sources *	<u>Rs. 13,08,739/-</u>
	<u>Rs. 18,55,25,387/</u>
	Rs.17,19,43,640/-
ADD: Profit on own business admitted before Ld. CIT(A)	Rs. 19,92,88,246/-
Less: declared in computation of income	<u>Rs. 19,55,58,162/-</u>
<u>Addition in view of CIT(A)'order</u>	Rs. 37,30,085/-
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(Revised total Income)	<u>Rs. 17,56,73,725/-</u>

\*In view of appellate order income from bank interest which was treated as "business income" by the assessee, the same will be treated as "income from other sources" since it is already offered for taxation under the head "business income" therefore only the head of income needed to be change Accordingly, relief is also granted to extend it is treated as income from other sources)

Issue demand notice and challan and refund order as the case may be, Give credit for pre-paid taxes if any."

4. Dissatisfied with the addition of Rs.37,30,085/- the assessee filed an application under section 154 of the Income Tax Act for rectification. This application of the assessee has been rejected by the AO vide order dated 22.2.2016. Aggrieved with the order of

the AO the assessee filed an appeal, and the Id.CIT(A) has allowed the appeal of the assessee by way of impugned order.

5. With the assistance of the Id.representatives, we have gone through the record. The controversy is that the assessee has shown net profit before the tax for all activity at Rs.25,05,43,112/-. It has profit from three activities viz. From self executed work, sub-contractor and trading activity. According to the AO profit from self-executed work was of Rs.19,92,88,246/- whereas the assessee has shown at Rs.19,55,58,162/-. Thus, according to the AO the assessee has shown less profit as compared to the available profit in the accounts. The Id.CIT(A) has observed that figures which were given before tax and after tax are correct figure. There was no direction for enhancement or taking figure of Rs.19,92,88,246/-. According to the Id.CIT(A), AO has exceeded his jurisdiction while giving effect to the order of the Id.CIT(A). The Id.CIT(A) verified these details and deleted addition made by the AO. Finding recorded by the Id.CIT(A) reads as under:

*"4.3 I have considered the facts of the case, order passed by the AO and submission made by the appellant. Appellant has shown net profit after tax in audited annual accounts at Rs.19,55,58,165/- and filed returned income considering this figure. The appellant has shown net profit before tax for all activities at Rs.25,05,43,112/-. During the course of appellate proceedings against quantum assessment order dated 31/01/2014, filed breakup of net profit before taxes in three activities i.e. (i) profit from self-executed work at Rs.19,92,88,246/- (ii) Sub-Contract work - Rs.4,90,87,829/- and (iii) Trading activity at Rs.21,67,336/-. While giving effect to appellate order dated 17/05/2014, AO has compared net profit from self executed work (before tax) of Rs.19,92,88,246/- with net profit after tax (assuming it as net profit from self-executed work) of Rs.19,55,58,162/- and made addition of Rs.37,30,085/-. Application filed by the*

*appellant was rejected on the ground that enhancement is made on the basis of evidences available on record and furnished by appellant in appellate proceedings.*

*The facts discussed hereinabove clearly suggest that CIT(A) while passing appellate order has not made any enhancement or nor given any direction hence AO has no power to enhance income of the appellant in order giving effect to appellate order. Even AO has compared net profit before tax from self-executed work with net profit after tax of all three activities which itself shows that comparison made by the AO is factually incorrect and no addition of Rs.37,30,085/- is justified. The AO is hereby directed to reduce the taxable 'income by Rs.37,30,085. Relevant grounds of appeal are allowed.*

5. *In the result, appeal is allowed."*

6. After going through the above finding, we are of the view that the AO has erred in making addition of Rs.37,30,085/-. The Id.CIT(A) has nowhere given any such direction in its order dated 17.5.2014 and the AO has no power to enhance the income while giving effect to the order of the Id.CIT(A). Therefore, the Id.CIT(A) has rightly deleted the addition. We do not find any error in the order of the Id.CIT(A). This appeal of the Revenue is dismissed.

7. In the result, appeal of the Revenue is dismissed.

Order pronounced in the Court on 15<sup>th</sup> May, 2018.

Sd/-  
(PRAMOD KUMAR)  
ACCOUNTANT MEMBER

Sd/-  
(RAJPAL YADAV)  
JUDICIAL MEMBER

Ahmedabad; Dated 15/05/2018