

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad**

**Before Smt. P. Madhavi Devi, Judicial Member
AND
Shri S.Rifaur Rahman, Accountant Member**

ITA No.1725/Hyd/2016
(Assessment Year: 2012-13)

Datin Infrastructure Private Vs Limited Hyderabad PAN: AADCD2795B (Appellant)	Vs	Income Tax Officer Ward 17(1) Hyderabad (Respondent)
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For Assessee :	Shri S. Rama Rao
For Revenue :	Shri D. Prasad Rao, DR

Date of Hearing:	31.05.2018
Date of Pronouncement:	08.06.2018

ORDER

Per Smt. P. Madhavi Devi, J.M.

This is assessee's appeal for the A.Y 2012-13 against the order of the CIT (A)-5, Hyderabad, dated 30.09.2016. The assessee has raised the following grounds of appeal:

"1) The order of the learned CIT (A) is erroneous to the extent it is prejudicial to the appellant.

2) The learned CIT (A) erred in confirming the action of the Assessing Officer in rejecting the books of account and in application of the provisions of Sec.145 of the I.T. Act.

3) The learned CIT (A) erred in directing the Assessing Officer to estimate the net income at 8% without considering the fact that the appellant is in the business of construction involving erection and laying of transmission lines on sub contract basis. The learned CIT (A) ought to have considered the fact that the

activity carried on by the appellant is sub contract works and that the profit rate of 8% is not reasonable.

4) The learned CIT (A) erred in confirming the addition u/s 68 of the I.T. Act of Rs.40,00,000/- being the amount borrowed on short term basis”.

2. Brief facts of the case are that the assessee company, engaged in the business of undertaking civil contracts, had filed its return of income for the A.Y 2012-13 on 30.09.2012 declaring an income of Rs.4,02,910. During the assessment proceedings u/s 143(3) of the Act, the AO observed that the assessee company has shown gross receipts at Rs.5,72,67,014 as against which, the net profit of Rs.45,87,089 has been shown. However, he noticed that in Form No.26AS, the gross receipts are shown as Rs.5,82,63,409. The assessee was therefore, asked to explain this discrepancy. Since the assessee could not explain the discrepancy, the AO rejected the books of account and treated the sum of Rs.5,82,63,409 as assessee's gross receipts and estimated the profit at 12.5% of the gross receipts and also made an addition of Rs.75,92,353 towards unexplained credits. Against the additions, the assessee preferred an appeal before the CIT (A), who granted partial relief by reducing the gross profit to 8% of the gross receipts and confirmed the addition made u/s 68. Aggrieved, the assessee is in appeal before us.

3. At the time of hearing, the learned Counsel for the assessee submitted that the assessee is maintaining proper books of account and therefore, the books of account ought not to have been rejected. Without prejudice to the above, he also submitted that the assessee itself has reported little more than 8% of the

gross receipts as its income. As regards the addition of unexplained cash credits u/s 68 of the Act, he relied upon the contentions made by the assessee before the authorities below.

4. The learned DR, however, supported the orders of the authorities below.

5. Having regard to the rival contentions and the material on record, we find that the CIT (A) has reduced the gross profit to 8% of the gross receipts and the Revenue is in appeal before us. As fairly admitted by the learned Counsel for the assessee, the income returned by the assessee is a little more than 8% of the gross receipts. Therefore, we see no reason to interfere with the order of the CIT (A).

6. As regards the unexplained credits u/s 68, we find that the assessee has not been able to substantiate its claim with any evidence either before the authorities below or before us. In view of the same, we see no reason to interfere with the order of the CIT (A) on this issue.

7. In the result, assessee's appeal is dismissed.

Order pronounced in the Open Court on 8th June, 2018.

Sd/-
(S.Rifaur Rahman)
Accountant Member

Sd/-
(P. Madhavi Devi)
Judicial Member

Hyderabad, dated 8th June 2018.

Vinodan/sps

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- 3 CIT (A)-5 Hyderabad
- 4 Pr. CIT – 5, Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order