

IN THE INCOME TAX APPELLATE TRIBUNAL, BENCH 'D' KOLKATA

[Before Hon'ble Shri J.Sudhakar Reddy, AM & Shri S.S.Viswanethra Ravi, JM]

ITA No.382/Kol/2017
Assessment Year : **2006-07**

Naresh Kumar Chaparia
Burdwan
(PAN: AESPG9803M)
(Appellant)

-versus-

I.T.O., Ward-1(3),
Asansol.

(Respondent)

For the Appellant: Shri T.P.Roy, Advocate
For the Respondent: Smt. M.Ghosh, Sr.DR

Date of Hearing : 03.09.2018.

Date of Pronouncement : 12.09.2018.

ORDER

PER J.SUDHAKAR REDDY, AM:

This is an appeal filed by the assessee directed against the order of the Commissioner of Income Tax-(A)-Asansol dated 16.12.2016 passed u/s 250 of the Income Tax Act, 1961 (the 'Act ') relating to A.Y. 2006-07.

2. The only issue that arises for our consideration is whether, a separate addition can be made when the income of the assessee is assessed by applying the presumptive provisions and income is determined u/s 44AD of the Act. The assessee relies on the following decisions to the proposition, that no separate disallowance can be made, when income of the assessee has been assessed at the presumptive rate prescribed u/s 44AD of the Act :

a)ITA No.319/Kol/2017 in the case of ITO vs NareshKumar Chaparia order dated 08.06.2018

b) ITA NO.308/HYD/2009 in the case of Teja Constructions vs ACIT order dated 23.10.2009

3. No contrary decision is brought to our notice by the learned Departmental Representative. Under the circumstances, we respectfully following the decisions of

the coordinate bench of the Tribunal cited above and delete the addition made u/s 40(a)(ia) of the Act as the income in this case has been assessed u/s 44A of the Act.

4. In the result the appeal of the assessee is allowed.

Order pronounced in the Court on 12.09.2018.

Sd/-
[S.S.Viswanethra Ravi]
Judicial Member

Sd/-
[J.Sudhakar Reddy]
Accountant Member

Dated : 12.09.2018.
[RG Sr.PS]

Copy of the order forwarded to:

- 1.Naresh Kumar Chaparia, Prop. M/s Calcutta Delhi Transport Neamatpur, Sitrampur, Burdwan-713359.
2. I.T.O., Ward-193), Asansol.
3. C.I.T.(A)-Asansol 4. C.I.T-Asansol.
5. CIT(DR), Kolkata Benches, Kolkata.

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By order,

Senior Private Secretary
Head of Office/D.D.O, ITAT Kolkata Benches