

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

**BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

**ITA No. 400/VIZ/2018
(Asst. Year : 2014-15)**

M/s. Sri Vigneswara
Parameswara Earth Movers,
D.No. 28-33-6, RH Colony,
Vadlapudi, Gajuwaka,
Visakhapatnam.

vs. ITO, Ward-5(3),
Visakhapatnam.

PAN No. ABZFS 8603 H
(Appellant)

(Respondent)

Assessee by : Shri G.V.N. Hari – Advocate.
Department By : Mrs. Suman Malik – Sr.DR

Date of hearing : 29/11/2018.
Date of pronouncement : 07/12/2018.

ORDER

PER V. DURGA RAO, JUDICIAL MEMBER

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-9, Hyderabad, dated 25/06/2018 for the Assessment Year 2014-15.

2. Facts of the case, in brief, are that assessee is a partnership firm deriving income from supply of material to M/s. Megha Engineering & Infrastructure Ltd., had filed its return of income by admitting income of Rs. 12,81,880/-. Later on, case of the

assessee was selected for scrutiny under CASS and after following due procedure, assessment was completed under section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'Act'). During the course of assessment proceedings, the Assessing Officer has asked the assessee to produce the books of account, bills and vouchers. One of the partners of the assessee firm showed his inability to produce the same and submitted that some of the bills were kept with M/s. Megha Engineering & Infrastructure Ltd. and some of the bills were lost. The Assessing Officer has considered the explanation given by the partner of the assessee-firm and observed that it is not possible to allow the claim of the assessee without supporting the bills and accordingly he proposed to reject the books of account. The same is explained to the partner of the firm, who did not object for rejection of books of account. Therefore, Assessing Officer rejected the books of account and estimated the income at 8% of the gross receipts of the firm. Before the Assessing Officer, the partner of the firm has requested the Assessing Officer to allow the claim of depreciation, interest and remuneration paid to the partners, the same is accepted by the Assessing Officer, and accordingly total income of the firm is calculated.

- 3.** On appeal before the Id. CIT(A), it was submitted that the estimation of income at 8% of the gross receipts is on higher side. The Id. CIT(A) rejected the same.
- 4.** Before us, Id. counsel for the assessee reiterated the submissions which he made before the Id. CIT(A).
- 5.** On the other hand, Id. Departmental Representative submitted that when the Assessing Officer proposed to estimate the income by rejected the books of account, one of the partners of the firm requested the Assessing Officer to consider depreciation, interest and remuneration paid to the partners. The Assessing Officer by considering the same, estimated the income of the firm at 8% of the gross receipts, therefore, Id. counsel for the assessee cannot be said that it is on higher side and submitted that appeal of the assessee may be dismissed.
- 6.** We have heard both the sides, perused the material available on record and orders of the authorities below.
- 7.** The assessee is a partnership firm, supplies material to M/s.Megha Engineering & Infrastructure Ltd. During the course of assessment proceedings, Assessing Officer has asked the assessee to submit the books of account, bills and vouchers. The assessee has not able to file the same on the ground that some of the bills were kept with M/s. Megha Engineering & Infrastructure Ltd. and

some were lost. When the Assessing Officer proposed for rejection of books of account and estimation of income, the partner of the firm accepted the same and requested the Assessing Officer to consider depreciation, interest and remuneration paid to the partners. The Assessing Officer after considering the request made by the partners of the assessee firm, estimated the interest at 8% of the gross receipts. Now case of the assessee is that he is not a contractor and is only a sub-contractor and the estimation of income at 8% is on higher side. We find no force in the submissions made by the assessee for the reason that he has not filed any details in respect of the expenditure incurred before the Assessing Officer that he is a sub-contractor. That apart, he accepted the estimation at 8% after considering the depreciation, interest and remuneration paid to the partners. Once assessee is accepted before the Assessing Officer, now coming to the appellate authorities requesting that it is on higher side, in our opinion, is not correct and cannot be considered. Therefore, we find no reason to interfere with the order passed by the Id. CIT(A). Thus, this appeal filed by the assessee is dismissed.

8. In the result, appeal filed by the assessee is dismissed.

Order Pronounced in open Court on this 07th day of Dec., 2018.

Sd/-
(D.S. SUNDER SINGH)
Accountant Member

sd/-
(V. DURGA RAO)
Judicial Member

Dated: 07th Dec., 2018.

vr/-

Copy to:

1. *The Assessee – M/s. Sri Vigneswara Parameswara Earth Movers, D.No. 28-33-6, RH Colony, Vadlapudi, Gajuwaka, Visakhapatnam.*
2. *The Revenue – ITO, Ward-5(3), Visakhapatnam.*
3. *The Pr.CIT-2, Visakhapatnam.*
4. *The CIT(A)-9, Hyderabad.*
5. *The D.R., Visakhapatnam.*
6. *Guard file.*

By order

(VUKKEM RAMBABU)
Sr. Private Secretary,
ITAT, Visakhapatnam.