

**आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम**

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISAKHAPATNAM BENCH, VISAKHAPATNAM  
(through web-based video conferencing platform)**

**श्री एन के चौधरी, न्यायिक सदस्य एवं श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष  
BEFORE SHRI N.K.CHOUDHRY, HON'BLE JUDICIAL MEMBER &  
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपील सं./I.T.A.No.09/Viz/2020  
(निर्धारण वर्ष/Assessment Year:2010-11)**

Gali Subba Raju  
Dr.No.18-140/9  
Old NPCC Yard  
Dowleswaram

**[PAN : ADVPG0370K]  
(अपीलार्थी/ Appellant)**

Vs. Asst.Commissioner of  
Income Tax  
Circle 1(1)  
Rajahmundry

**(प्रत्यर्थी/ Respondent)**

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से / Respondent by

: Shri G.V.N.Hari, AR  
: Shri B.Rama Krishna, DR

सुनवाई की तारीख / Date of Hearing : 25.01.2021  
घोषणा की तारीख/Date of Pronouncement : 01 .02.2021

**आदेश /ORDER**

**Per D.S.Sunder Singh, Accountant Member :**

This appeal is filed by the assessee against the order of the Commissioner of Income Tax (Appeals) [CIT(A)], Rajamahendravaram in ITA No.10468/2013-14/CIT(A)/RJY dated 09.09.2019 for the Assessment Year (A.Y.) 2010-11.

2. The assessee has filed the appeal along with grounds originally in appeal memo. Since the grounds were lengthy and argumentative, subsequently revised the grounds vide letter dated 18.01.2020 as under :

*1. The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.*

*2. The learned Commissioner of Income Tax (Appeals) is not justified in partly sustaining to the extent of Rs.4,25,755 on the addition of Rs.8,51,510/- made by the assessing officer towards disallowance of labour charges on ad-hoc basis.*

*3. For any other ground that may be urged at the time of appeal hearing.*

Brief facts of the case are that the assessee is a civil contractor, filed his return of income, declaring total income of Rs.17,22,330/- for the A.Y.2010-11. The case was selected for scrutiny under CASS and notices u/s 143(2) and 142(1) were issued. During the course of assessment proceedings, the Assessing Officer (AO) has observed that the assessee has paid the amount of Rs.85,15,105/- towards labour charges and most of the vouchers are self-made vouchers which are not susceptible for verification and hence, disallowed 10% of labour charges claimed by the assessee and made the addition of Rs.85,51,510/- and added to the income returned by the assessee.

3. Aggrieved by the order of the AO, the assessee filed appeal before the CIT(A) and submitted that the labour charges incurred were genuine and further submitted that it is a general trade practice of obtaining signatures on the self-made vouchers for labour charges. The Ld.CIT(A) after considering the nature of business, details of expenditure and the ledger accounts produced before him held that the disallowance of @5% would be appropriate, accordingly directed the AO to disallow the expenditure @5% and partly allowed the appeal of the assessee. He has also taken the support of the decision of Hon'ble ITAT, Hyderabad in the case of Sri Pawan Kumar Gupta Vs. Addl. CIT in ITA No.718/Hyd/2013.

4. Aggrieved by the order of the Ld.CIT(A), the assessee filed appeal before the Tribunal and the Ld.AR submitted that the Ld.CIT(A) is not justified in partly sustaining the addition to the extent of Rs.4,25,755/- on the addition made by the AO towards disallowance of labour charges on adhoc basis. He argued that the entire expenditure was genuine, laid out for business and hence there is no need to make the estimated disallowance. Further, the Ld.AR has taken our attention to page No.35 of the paper book, wherein, the AO had issued a letter with the observation of too low rate of profit compared to the rate of profit declared in the immediately preceding

assessment year and directed the assessee to explain the reasons. In response to the letter, the assessee filed reply explaining the reasons for low profit. In his letter the assessee explained that the total turnover in the year under consideration was Rs.3,63,12,054/- consisting of government contracts of Rs.75,35,207/- and other contract receipts of Rs.2,87,76,787/-. He further submitted that in the government contracts, he was the stage-3 sub contractor and incurred losses and out of other contract works, he stated that he has given sub-contracts of Rs.1,35,61,680/- and thus explained that the rate of profit declared by the assessee was 5.06% which is reasonable. The Ld.AR argued that though the AO had issued the letter asking the assessee to explain the reasons for low rate of profit, having not found any defect, the AO ought not to have made the disallowance and therefore, requested to delete the addition and allow the appeal of the assessee.

5. On the other hand, the Ld.DR submitted that AO disallowed 10% of the labour charges which represent the unverifiable expenditure. During the assessment proceedings, the assessee's AR also accepted the fact that the expenditure was unverifiable. Since the CIT(A) has allowed the relief to the extent of 5% after detailed verification of the expenditure with relevant

books / ledgers, he argued that there is no reason to give further relief, hence, requested to uphold the order of the Ld.CIT(A) and dismiss the appeal of the assessee.

6. We have heard both the parties and perused the material placed on record. In the instant case, the total turnover of the assessee was Rs.3,63,12,054/- and the income returned by the assessee was Rs.17,22,330/-. Out of Rs.3.63 crores gross receipts, the assessee has given the sum of Rs.1.35 crores to sub contract works, thus, the labour charges incurred by the assessee was on the works executed by him to the extent of Rs.227.51 lakhs which amounts to 37.43%. When it was put to the assessee during the assessment proceedings, AR of the assessee also agreed that the expenditure was not verifiable. The Ld.AR did not substantiate the expenditure to the satisfaction of the AO by furnishing necessary evidences with the payments of PF/ESI and labour registers etc.. The explanation offered by the assessee was also general in nature and the same cannot establish the genuineness of the expenditure. Though, no pucca vouchers could be obtained from the labour, the details of labour register the payment of PF, ESI etc. ought to have produced to substantiate the expenditure. After the receipt of explanation for low profit vide letter

dt.18.02.2013, the AO has made the disallowance and the same was discussed with the AR also, who had no explanation whatsoever, thus we cannot find any error in the order of the Ld.AO in making the proportionate disallowance of unverifiable expenditure. The Ld.CIT(A) has already allowed the relief of 50% of the addition made by the AO, after verifying the ledgers and considering the nature of business and the same appear to be reasonable. Therefore, we do not find any error in the order of the Ld.CIT(A) and the same is upheld. Accordingly, the appeal of the assessee is dismissed.

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

Order pronounced in the open court on 1<sup>st</sup> February, 2021.

Sd/-

(एन के चौधरी)

(N.K.CHOUDHRY)

न्यायिक सदस्य / JUDICIAL MEMBER लेखा सदस्य /ACCOUNTANT MEMBER

Dated : 01.02.2021

L.Rama, SPS

Sd/-

(डि.एस.सुन्दर सिंह)

(D.S.SUNDER SINGH)

**I.T.A. No.09/Viz/2020, A.Y.2010-11**  
**Gali Subba Raju, Dowleswaram**

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee–Gali Subba Raju, Dr.No.18-140/9, Old NPCC Yard Dowleswaram
2. राजस्व/The Revenue –Asst.Commissioner of Income Tax, Circle 1(1), Rajahmundry
3. The Pr.Commissioner of Income Tax, Rajamahendravaram
4. The Commissioner of Income Tax (Appeals),Rajamahendravaram
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/DR, ITAT, Visakhapatnam
- 6.गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

// True Copy //

Sr. Private Secretary  
ITAT, Visakhapatnam