

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

**BEFORE SHRI N.K. CHOUDHRY, HON'BLE JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

**I.T.A. No. 326/VIZ/2019
(Asst. Year : 2013-14)**

Mettupalayam Sabapati
Palanivelu, Plot No.6,
Room No.7, Bankers
Colony, Behind
Deepamahal, Srikakulam.

Vs. Income Tax Officer
Ward-1, Srikakulam.

PAN No. AFQPP 9356 R
(Appellant)

(Respondent)

Assessee by : Shri C.Subrahmanyam, FCA
Department by : Shri B.Rama Krishna, Sr.DR

Date of hearing : 13/09/2021.
Date of pronouncement : 23/09/2021.

ORDER

PER BENCH

This appeal has been preferred by the Assessee against the order dated 03/05/2019 impugned herein passed by the Id. Commissioner of Income Tax (Appeals)-2 [for short, "Id. Commissioner"], Guntur u/sec. 250(6) of the Income Tax Act, 1961 (hereinafter referred to as "Act") for the A.Y. 2013-14.

2. Having heard the parties and perused the material available on record. Though, the Assessee has raised five grounds of

appeal, however, at the time of hearing, he confined only to ground No.2 which relates to confirmation of addition made by the AO on the gross receipts pertaining to machinery hire charges.

3. The AO considered the machinery hire charges at Rs.9,82,500/- and added the same to the income of the Assessee and also estimated the income @ 12.5% on the gross receipts, against which the Assessee went on appeal before the Ld. Commissioner. The Ld. Commissioner scaled down the estimated income to 8%, however, sustained the addition qua machinery hire charges received from others whenever the machinery is not used for his own business by holding that the Assessee's regular business has no connection with the hiring machinery activity. Regular business is separate and hiring machinery is a separate activity. The Ld. Commissioner further held that the AO has estimated profit only on Assessee's regular business.

4. Ld. AR during the course of argument emphasised that because income of the Assessee has been estimated at 8% by the Ld. Commissioner, therefore no separate addition is warranted. Ld. AR, alternatively, prayed for sustenance of addition @ 25% of the machinery hire charges.

5. On the other hand, Id. DR though refuted the claim of the Assessee, however contended for affirmation of addition at least to the extent of 50% of the receipts.

6. Considering the peculiar facts and circumstances as the income of the Assessee has already been estimated @8% and accepted by the parties, however, as prayed for by the Assessee

and agreed by the Ld DR, for the ends of justice we deem it appropriate to add 50% of the machinery higher charges in the income of the Assessee instead of 100% of the gross receipt on that account as done by the authorities below. Hence ordered accordingly.

7. In the result, appeal filed by the Assessee is partly allowed.

Order Pronounced in open Court on this 23rd day of Sep., 2021.

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

sd/-
(N.K. CHOUDHRY)
Judicial Member

Dated: 23rd Sep., 2021.

vr/-

Copy to:

1. *The Assessee -Mettupalayam Sabapati Palanivelu, Plot No.6, Room No.7, Bankers Colony, Behind Deepamahal, Srikakulam.*
2. *The Revenue - Income Tax Officer, Ward-1, Srikakulam.*
3. *The Pr.CIT-2, Visakhapatnam.*
4. *The CIT(A)-2, Guntur.*
5. *The D.R., Visakhapatnam.*
6. *Guard file.*

By order

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