

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH 'A' : NEW DELHI)**

**BEFORE SHRI ANIL CHATURVEDI, ACCOUNTANT MEMBER  
and  
SHRI KULDIP SINGH, JUDICIAL MEMBER**

**(THROUGH VIDEO CONFERENCE)**

**ITA NO.6045/DEL/2016  
(ASSESSMENT Year 2012-13)**

Shri Alok Garg,  
C/o M/s. RRA TAXINDIA,  
D – 28, South Extension Part I,  
New Delhi – 110 049.

vs. DCIT, Circle 1,  
Ghaziabad.

**(PAN : AARPG7151K)**

**(APPELLANT)**

**(RESPONDENT)**

ASSESSEE BY : Shri R.K. Gupta, Advocate  
REVENUE BY : Ms. Kirti Sankartyan, Senior DR

Date of Hearing : 18.11.2021  
Date of Order : 25.11.2021

**ORDER**

**PER KULDIP SINGH, JUDICIAL MEMBER :**

Appellant, Shri Alok Garg (hereinafter referred to as 'the assessee') by filing the present appeal sought to set aside the impugned order dated 05.10.2016 passed by the Commissioner of Income-tax (Appeals), Aligarh on the grounds inter alia that :-

**“1. That having regard to the facts and circumstances of the case, Ld. CIT(A) has erred in law and on facts in confirming the action of Ld. AO in estimating the net profit of assessee @ 8% of contract receipt and has further erred in rejecting the books of account of the assessee and that too**

**without any basis and without bringing anything contrary on record and without considering the submissions and evidences filed by the assessee.**

**2. That in any case and in any view of the matter, action of Ld. CIT(A) in confirming the action of Ld. AO in estimating net profit of assessee @ 8% of contract receipt and framing the impugned assessment order is illegal, void ab initio, contrary to law and facts, beyond jurisdiction and deserves to be quashed.”**

3. Briefly stated the facts necessary for adjudication of the controversy at hand are : Assessee is a contractor doing the business in the name and style as M/s. Alok Builders and has completed contract work in Himachal Pradesh for NHPC, Himuda Dharamshala and in Haryana for PWD B & R Branch Kaithal, State Agricultural Marketing Board etc.. During the scrutiny proceedings, assessee was called upon to produce the books of account along with bills and vouchers which assessee has produced. Assessing Officer (AO) by giving detailed reasons rejected book results and by following assessment framed for Assessment Year 2010-11 under section 143 (3) of the Income-tax Act, 1961 (for short ‘the Act’) estimated income at 8% of the contract receipt being reasonable and justified and thereby made addition of Rs.62,55,632/-.

4. Assessee carried the matter before the Id. CIT (A) by way of filing the appeal who has partly allowed the appeal. Feeling

aggrieved by the order passed by the Id. CIT (A), the assessee has come up before the Tribunal by way of filing the present appeal.

5. We have heard the Id. Authorized Representatives of the parties to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

6. Undisputedly, AO as well as Id. CIT (A) have estimated the net profit rate @ 8% by following their own order for AY 2010-11. Ld. AR for the assessee contended that order passed by AO and confirmed by Id. CIT (A) for AY 2010-11 estimating net profit rate @ 8% have since been set aside by the **coordinate Bench of the Tribunal in ITA No.7023/Del/2016 vide order dated 21.04.2017** and thereby estimated the net profit rate @ 3% of the turnover which fact has not been controverted by the Id. DR for the Revenue who has otherwise vehemently relied upon the order passed by the AO as well as Id. CIT (A).

7. We have perused the order passed by the **coordinate Bench of the Tribunal in assessee's own case vide order** (supra) and after thrashing the facts in detail and in view of the past history of the assessee, net profit @ 3% of the turnover has been accepted by returning following findings :-

*“5. At the outset we find that there is no denial- of the completion of the assessment u/s 143(3) of the Act for the years 2000-01, 2003-04, 2006-07, 2007-08 and 2009-10 accepting the profit ratio at 3.31, 1.60, 2.63, 2.39, 2.30 and 2.46: Without going into the merits of the reasons assigned by the AO for rejecting the books of account of the assessee, we find that for all the years stated above the Department consistently accepted the profit ratio in the business of the assessee is between 1.60 and 3.31 and at no point of time any objection is taken by the AO on the ground that in the kind of business of the assessee average rate of profit would be anything around 8%. In the circumstances, we do not find any rational in the AO estimating the profit at 8% and the consistency of the net profit as was established by the accepted books of account in the business of the assessee was something between 1.60% and 3.31% as such taking a pragmatic view, we find that 3% of the profit ratio of the contract receipt would meet the ends of justice. With this view of the mater, we direct the AO to estimate the profit of the assessee at 3% of the total turnover.”*

8. So, following the order passed by the **coordinate Bench of the Tribunal in AY 2010-11** (supra), we consider it reasonable and justify to estimate the net profit @ 3% of the contract receipt/turnover. AO is directed accordingly. Consequently, the appeal filed by the assessee is hereby allowed.

**Order pronounced in open court on this 25<sup>th</sup> day of November, 2021.**

**Sd/-  
(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

**sd/-  
(KULDIP SINGH)  
JUDICIAL MEMBER**

**Dated the 25<sup>th</sup> day of November, 2021.**

**TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A), Aligarh.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT  
NEW DELHI.**