

IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH "A", HYDERABAD
(Through Virtual Hearing)

**BEFORE SHRI A. MOHAN ALANKAMONY, ACCOUNTANT MEMBER
AND SHRI S.S. GODARA, JUDICIAL MEMBER
(THROUGH VIDEO CONFERENCE)**

ITA No.814/Hyd/2019 (Assessment Year : 2014-15)		
Shri Bontala Aleem Miah, Kurnool. PAN AGRPM2246D	Vs.	Asst. Commissioner of Income Tax, Circle – 1, Kurnool.
Appellant		Respondent

Appellant By : Shri B. Satyanarayana Moorthy, C.A.
Respondent By : Shri Rajendra Kumar, CIT-DR.

Date of Hearing : 05.01.2022.
Date of Pronouncement : 08.02.2022.

ORDER

PER A. MOHAN ALANKAMONY, A.M:

This appeal is filed by the assessee against the order of the Ld. Pr.
CIT, Kurnool dt.20.03.2019 U/s.263 of the Act for the A.Y. 2014-15.

2. The assessee has raised several grounds herein below reproduced
for reference :

*" 1. The order of the learned Principal Commissioner of Income
Tax is contrary to the facts of the case and the provisions of Law.*

*2. The learned Principal Commissioner of Income Tax is not
justified setting aside the Order of the Assessing Officer.*

3. The learned Principal Commissioner of Income Tax is not justified in holding that the Assessing Officer did not make any proper enquiry while making the Assessment.

4. The learned Principal Commissioner of Income Tax should have appreciated that the Order of Assessing Officer is neither erroneous nor prejudicial to the interest of the revenue.

5. The learned Principal Commissioner of Income Tax should have appreciated that the Assessing Officer completed the Assessment after proper enquiry and that it is in consistent with the assessment Orders passed in the earlier years. Therefore, the learned Principal Commissioner of Income Tax should have not interfered with the Order of the Assessing Officer U/s.263 of the Income Tax Act.

6. The learned Principal Commissioner of Income Tax should have seen that additions U/s.40A(3)/40(a)(1a) cannot be made when once the income is estimated by the Assessing Officer.

7. The learned Principal Commissioner of Income Tax should have seen that the Assessment is completed by the Assessing Officer after taking into account the manner in which the assessments were completed in the earlier years and that the same facts and the same circumstances compared to the earlier years, exist this year also.

8. The learned Principal Commissioner of Income Tax is not justified in directing the Assessing Officer to assess the total income at 8% or at such amount determined taking into account the violations U/s. 40A(3)/40(a)(1a) whichever results in higher income.

For these and other grounds that may be urged at the time of hearing it is prayed that the order U/s.263 is set aside or modified as may be deemed fit.”

3. The brief facts of the case are that the assessee is an individual engaged in the business of civil contracts filed his return of income for

the relevant assessment year on 27.11.2014 admitting total income of Rs.24,10,790/-. Thereafter the case was selected for scrutiny under CASS and the assessment was completed u/s.143(3) of the Act vide order dt.30.06.2016 wherein the Ld.AO estimated the income of the assessee at 6% of the gross receipts of Rs.10,92,25,344/- which works out to Rs.55,53,521/- as against the income declared by the assessee for Rs.24,34,596/- and thereby made an addition of Rs.41,18,925/-. The Ld.AO briefly arrived at such conclusion because the assessee had not maintained proper vouchers and bills with respect to the expenditure incurred by him. The Ld. Pr.CIT, Kurnool after examining the order of the Ld.AO made the following observations: -

1. The assessee had disclosed Rs.1,42,239 in his return of income under the head "Income from other source" which was omitted to be assessed by the Ld.AO in the assessment order.
2. The Ld.AO has estimated the income of the assessee at 6% of the turnover however there was no proper explanation for the same when the nature of work the assessee was engaged in generates more income.
3. The assessee had not deducted tax at source for the payments made towards expenditure incurred which was not taken into consideration by the Ld.AO while framing the assessment.
4. There was lack of inquiry by the Ld.AO for making the assessment.

5. The Ld. Pr. CIT also relied on various decisions of higher judiciary cited in his order for invoking powers under section 263 of the Act.

4. Considering these facts and circumstance of the case, at the outset, we do not find any infirmity in the order of Ld. Pr. CIT. The assessee is a civil contractor, and his turnover is more than Rs.10 crores. Normally in civil contracts where turnover is of such high magnitude, the net profit realised is much more. Even in the case of small-time contractors, who's assessments are completed u/s.44AD of the Act, the net income is assessed at 8% of the turnover. Therefore, in the case of the assessee, we do not understand as to why the assessment is completed by estimating the income at 6% of the turnover when no specific reasons are pointed out. Further we find that the Ld.AO has not passed a speaking order in the case of the assessee other than stating simply that the assessee had not maintained proper bills and vouchers to support his claim of expenditure. The Ld.AO has also not examined the trend of profit in that industry before arriving at his conclusion. Hence considering the facts and circumstances of the case, we do not find any infirmity in the order of the Ld. Pr.CIT, accordingly we hereby sustaining the same.

5. In the result, the appeal of the assessee is dismissed.

Pronounced in the open Court on the 08th Feb., 2022.

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Sd/-
(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Hyderabad, Dated: 08th.02.2022.

* Reddy gp

Copy to:-

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2.	ACIT, Circle 1, Kurnool.
3.	Pr. C I T, Kurnool.
4.	Addl. CIT, Kurnool Range, Kurnool.
5.	DR, ITAT, Hyderabad.
6.	Guard File.

By Order

Sr. Pvt. Secretary, ITAT, Hyderabad.