

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH, AMRITSAR**  
**BEFORE DR. M. L. MEENA, ACCOUNTANT MEMBER  
AND SH. ANIKESH BANERJEE, JUDICIAL MEMBER**

**I.T.A. No. 376/Asr/2018**  
Assessment Year: 2009-10

Sh. Mukesh Chopra,  
118, Punjab Avenue,  
Jalandhar

[PAN: AAIPC 9200G]  
**(Appellant)**

Vs. Income Tax Officer,  
Ward II(2), Jalandhar

**(Respondent)**

Appellant by : Sh. Mukesh Chopra, Assessee  
Respondent by: Sh. Satbir Singh, Sr. DR

Date of Hearing: 22.02.2022  
Date of Pronouncement: 02.03.2022

**ORDER**

Per Dr. M. L. Meena, AM:

This appeal has been filed by the Assessee against the impugned order dated 28.03.2018 passed by Ld. Commissioner of Income Tax (Appeals)-1, Jalandhar, in respect of the Assessment Year 2009-10.

2. The assessee has raised the following grounds of appeal:

- “1. *The appellate order is illegal, perverse, arbitrary, not based on the facts of the case and the law.*
2. *The CIT(A) erred to confirm net profit rate of 10.45% on total contract receipts of Rs.1,23,76,529/- without citing any comparable case and ignoring the fact that in earlier year appellant had declared net profit rate of 8% on contract receipts and calculated net profit rate by including commission which was not related to contract business and as against rate of 5% held reasonable by the Hon'ble ITAT, Amritsar and many other authorities as reasonable. Further the assessment order is not in conformity with the direction of the ITAT, dated 22.06.2016 in ITAT No. 236(Asr)/2016. It is prayed that returned income may be ordered to be accepted.*
3. *The appellant craves leave to add any new ground of appeal or amend any ground of appeal before the appeal is disposed off.”*

2. This is second round of appeal and at the time of hearing, the assessee himself has appeared before the bench and contended that the appellant had declared net profit rate of 7.31 on the content receipts as against 8% in the earlier assessment years. The assessee has challenged impugned order alleging that the CIT(A) had confirmed the net profit rate of 10.45% on total contract receipts of ₹ 1 2376529 ignoring the facts of the case, past history of the assessee, net profit rate trends declared on the contract receipts and comparable case. He contended that ITAT Amritsar bench has held 5% NP rate as reasonable profit rate in the case of a government contractors. In support he placed reliance on the Tribunal

order in the case of Shri Anil Kumar proprietor M/s Sidarth Enterprises and others, ITA number 453-471/ ASR/20 10. The appellant assessee's filed a chart of past history and succeeding year's net profit rate trends for as under:

assessment year	nature of business	gross receipts from business	net profit	net profit percentage
2007-08	civil contractor	2334147	186750	8%
2008-09	civil contractor	1672153	133775	8 %
2009-10	civil contractor	12376529	905138	7.31%
2010-11	civil contractor	7641967	814286	10.65%

3. The learned additional CIT DR on the other hand stands by the order of the CIT appeal. He contended that the appellant plea that in the earlier years net profit rate of 8% shown was not acceptable to the Department in the absence of the documentary evidences which the appellant had failed to produce during appellate proceedings. However, the DR couldn't substantiate the basis of adoption of 11% net profit rate by confirmed by the learned CIT appeal in the case of the assessee, a government contractor.

4. Having heard the rival contentions, perusal of the material on record and citations referred, it is noticed that the assessee is a government contractor and has been declaring a net profit rate of 8% approximately. It is also an admitted fact, that the learned AO has adopted net profit rate of 12% in the case of the appellant assessee considering the facts that immediately succeeding year the assessee has declared net profit rate of 10.65% and the AO has applied net profit rate of 11% which has not been challenged by the assessee before the ITAT which cannot be a valid foundation for the addition in the NP rate without pointing out specific deficiency in the books of accounts or specific reasons with documentary evidences. In the present case, assessee's turnover of contract receipts has been reduced by 33% approximately in the succeeding year wherein the net profit rate was shown marginal increase by 2.65% on the lines of in the lines of accounting principles.

5. In the first round of appeal, the coordinate bench by following the Hon'ble Jurisdictional High Court, judgement in the case of M/s Telelinks has directed the AO to pass the assessment order, keeping in view seven factors including the past history of the assessee and comparable case carrying on similar business. However, the AO has not discussed the past history of the assessee and trading results nor he has discussed any

comparable case of similar business of same locality and the learning CIT appeal has also reiterated the finding of the AO without taking into consideration the direction of the ITAT given wide order dated 22- 06 – 2016 in ITA number 236/ASR/2016.

6. In the case of 'Mohan Singh contractor vs ITO, Gurudaspur', ITA No.59 /ASR/ 2012, Asst. Year 2008-09, the coordinate bench, Amritsar has held net profit rate of 5% as against 8% to the contract receipts declared by the assessing as reasonable and would meet the end of justice. Similar view was taken by the coordinate bench in the case of 'Anil Kumar proprietor M/s Siddarth enterprises vs. Deputy Commissioner of income tax, Jalandhar, ITA No.453/ ASR/ 2007, Asst. Year 2010-11,

7. Considering the factual matrix of the case, the trends of NP rate and volume of contract receipts, the order of the lower authorities is not found in conformity with the directions of ITAT order dated 22/06/2016. The adoption of the NP rate of 10.45 % without support of material and cogent evidence can not be justified. Merely assessee's acceptance in the previous year could not substantiate the net profit rate with the subsequent year without conjoint study and reference to the volume of contract receipts and analysis of changed circumstances.

8. In the backdrop of the discussion, in our view, net profit rate of 8% of the total contract receipts will be reasonable in the case of the assessee. Accordingly, we direct the AO to apply a net profit rate of 8% to the total contract receipts to determine the income of the assessee for the year under consideration.

9. In the backdrop of the discussion, the appeal of the assessee is allowed in the terms indicated as above.

*Order pronounced in the open court on 02.03.2022*

**Sd/-**  
**(Anikesh Banerjee)**  
**Judicial Member**

**Sd/-**  
**(Dr. M. L. Meena)**  
**Accountant Member**

Date: 02.03.2022

Copy of the order forwarded to:

- (1) The Appellant:
- (2) The Respondent:
- (3) The CIT(Appeals)
- (4) The CIT concerned
- (5) The Sr. DR, I.T.A.T

True Copy  
By Order