

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK 'SMC'  
BENCH, CUTTACK**

**BEFORE SHRI N.S SAINI, ACCOUNTANT MEMBER**

**ITA No. 211/CTK/2016**  
Assessment Year : 2010-2011

M/s. Sidhi Cargo Carriers, Sukinda Block Road Transport, Dist: Jajpur	Vs.	ACIT, Circle 1(2), Cuttack
PAN/GIR No.AANFM 8220 B		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Damodar Pati, AR  
Revenue by : Shri D.K.Pradhan, DR

**Date of Hearing : 02 /02/ 2017**  
**Date of Pronouncement : 02/02/ 2017**

**ORDER**

This is an appeal filed by the assessee against the order of CIT(A)-Cuttack, dated 8.12.2015, for the assessment year 2010-2011 .

2. In this appeal, the grievance of the assessee is that the Id CIT(A) erred in confirming the action of the Assessing Officer determining the profit out of transportation business @ 5% and determination of profit @ 6% on trading business.

3. At the time of hearing, it was submitted by the AR of the assessee that the Assessing Officer determined the profit @ 8% on trading business, which was reduced by the CIT(A) to 6%. Hence, he is not pressing this ground of appeal. Accordingly, same is dismissed for want of prosecution.

4. Regarding determination of profit at 5% out of transportation business, the Assessing Officer observed that the assessee was asked as to who has executed the transport contract during the year and produce to books of account particularly the cash book. The assessee only furnished the ledger account copy of the expenses claimed in support of the profit and loss account. On verification of such ledger account copies, the Assessing Officer found that all the transportation charges were paid in cash. The Assessing Officer verified the bills and vouchers and observed that in some vouchers they were not having the recipient's signature and other details like addresses etc. Since the cash book was not produced and the bills and vouchers were not regular and could not be verified, therefore, the Assessing Officer held that the correctness and completeness of the accounts cannot be accepted and hence, reject the books of account u/s.145(3) of the Act and, thereafter, estimated the profit from transportation business at 5% of the gross receipts.

5. On appeal, the CIT(A) observed that the assessee has relied on the decision of this Bench of the Tribunal in the case of Harihar Roadways for the submission that the Tribunal has determined the profit for transportation business at 1%. The CIT(A) observed that the Tribunal in the case of Phulchand Agarwal has held that in the absence of cash book, the accounting results of the assessee can be rejected and estimation of profit can be made. The decision in the case of Harihar Roaways (supra) relied on by the assessee was in that particular case which may not have

application to the present case of the assessee. Hence, he confirmed the action of the Assessing Officer.

6. Before me, the only argument of the A.R. of the assessee is that the determination of income by applying rate of 5% to the transportation business of the assessee was excessive. He submitted that the assessee was not owning any vehicles and it was taking vehicles on hire and then giving to others on hire and thereby making a meagre profit. Therefore, in the given facts and circumstances of the case, a reasonable estimation of the income by applying the lower rate should be made.

7. The D.R. on the other hand supported the orders of lower authorities.

8. After considering the facts and circumstances of the case, I am of the considered view that it would meet the ends of justice if the net profit from transportation business of the assessee is estimated by applying the rate of 3% to the turnover from transportation business. I, accordingly, modify the order of the CIT(A) and partly allow the ground of appeal of the assessee.

9. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 02/02/2017 in the presence of parties.

Sd/-

(N.S Saini)  
**ACCOUNTANT MEMBER**

Cuttack; Dated 02/02/2017  
B.K.Parida, SPS

**Copy of the Order forwarded to :**

1. The Appellant : M/s. Sidhi Cargo Carriers,  
Sukinda Block Road Transport, Dist: Jajpur
2. The Respondent. ACIT, Circle 1(2), Cuttack
3. The CIT(A)- Cuttack
4. Pr.CIT, Cuttack
5. DR, ITAT, Cuttack
6. Guard file.  
//True Copy//

BY ORDER,

SR.PRIVATE SECRETARY  
**ITAT, Cuttack**