

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
'C' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ ITA Nos. 119 & 120/Chny/2022  
(निर्धारण वर्ष / Assessment Years: 2014-15 & 2015-16)

<b>Geethanjali</b> 73/9, Pookkollai Road, Mannargudi, Thiruvarur District, Tamil Nadu 614 001.	<b>बनाम/</b> Vs.	<b>ACIT</b> Circle -2(1), Trichirappalli – 620 001.
स्थायी लेखा सं./जीआइ आर सं./ <b>PAN/GIR No. AHOPG-0936-G</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	Shri V.B. Jeyachandran, Advocate
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Shri P. Sajit Kumar, JCIT

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	21.07.2022
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	03.08.2022

**आदेश / ORDER**

**PER MAHAVIR SINGH, VICE PRESIDENT:**

These two appeals by assessee are arising out of the common order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Appeal No. CIT(A), Tiruchirapalli-1/10762/2019-20 vide order dated 21.12.2021. Assessment was framed by ACIT, Circle-2(1), Trichy for AYs 2014-15 & 2015-16 u/s. 143(3) r.w.s. 147 of

the Income-tax Act, 1961 (herein after referred to as 'the Act') vide order dated 14.12.2019.

2. At the outset, it is noticed that the appeals filed by assessee are barred by limitation by 3 days. The assessee has filed condonation petition along with affidavit stating that the orders of CIT(A) dated 21.12.2021, were received by assessee through email but the appeals were filed electronically on 19.02.2022 and the hard copy of the appeal papers were filed through Registered post and delivered to this office only on 22.02.2022 due to Covid-19 pandemic. It means that there is a delay of 3 days. The Id.DR before us stated that this delay is due to pandemic period of Covid 19 and subsequent events and the Hon'ble Supreme Court in Miscellaneous Application No.665 of 2021 vide order dated 23.03.2020 has given directions that the delay are to be condoned during this period 15.03.2020 to 14.03.2021 and they have condoned the delay up to 28.02.2022 in Miscellaneous Application No.21 of 2022 vide order dated 10.01.2022. Since the Hon'ble Supreme Court has condoned the delay during the said period, respectfully following the same we condone the delay and admit the appeals.

3. The only common issue in this two appeals of assessee is as regards to the order of CIT(A) confirming the action of the AO in

assessing gross undisclosed contract receipts and not allowing any expenditure despite the fact that the assessee has revised return of income and offered profit u/s. 44AD of the Act. For this issue, in both the years assessee has raised argumentative grounds which need not to be reproduced. The facts and circumstances are exactly identical in both the years and hence, we take the facts from AY 2015-16 in ITA No. 119/Chny/2022.

4. Brief facts are that the assessee is a contractor and filed her original return of income on 22.11.2014. Subsequently, the AO issued notice u/s. 148 of the Act and in response to notice u/s. 148, the assessee file her return of income on 30.05.2019. Subsequently, notice u/s. 143(2) of the Act was issued and served on assessee on 30.09.2019. The Assessing Officer issued show cause notice dated 05.12.2019 u/s. 142(1) of the Act and noted that an amount of Rs. 1,55,795/- credited on 15.03.2014 pertains to contract receipts, which has not been disclosed. The assessee replied that the contract receipts of Rs. 1,55,795/- relates to her husband credit account and alternatively she also pleads that only gross profit on this should be assessed to tax. The Assessing Officer added the entire undisclosed contract receipts of Rs. 1,55,795/- and added to the returned income of the assessee. Aggrieved, the assessee preferred appeal before CIT(A). The CIT(A) also

confirmed the action of the AO. Aggrieved, assessee is in appeal before Tribunal.

5. We have heard the rival contentions and gone through the facts and circumstances of the case. We noted that the assessee has not contested and admitted the fact that these are undisclosed contract receipts of Rs. 1,55,795/- but only claim by assessee is that Assessing Officer has not allowed to expenses against this undisclosed contract receipts and alternatively it was pleaded that the assessee has offered these receipts in the revised return of income and offered profit u/s. 44AD of the Act. This fact has not been contested by Revenue, but Revenue's only contests is that once the contract receipts are unaccounted, the entire contract receipts should have been added. Now, Ld. Counsel for the assessee before us filed a copy of the order of Hon'ble Madhya Pradesh High Court in the case of CIT vs Balchand Ajit Kumar [2003] 263 ITR 610, "wherein it has held that the total sale could not be regarded as the profit of the assessee. The net profit rate had to be adopted and once it was adopted it could not be said that there was perversity of approach. Whether the rate was low or high would depend upon the facts of each case."

6. We noted that even otherwise, the assessee in the revised return has included these unaccounted contract receipts of Rs. 1,55,795/- and

accordingly drawn profit and loss account. In our view only profit rate has to be applied, reasonable profit rate as declared by assessee should have been applied to this unaccounted contract receipts of Rs. 1,55,795/-. Hence, we direct the AO to assess only the profit rate on this undisclosed contract receipt and accordingly assess the income. Hence, this appeal of the assessee is partly allowed.

7. Coming to other AY 2015-16 in ITA No. 120/Chny/2022, the facts and circumstances are exactly identical except the quantum of contract receipts undisclosed i.e., Rs. 14,62,935/-. The AO will apply profit rate as we have already taken a view in AY 2014-15. Taking the consistent view, we direct the AO to apply profit rate only as disclosed by assessee.

8. In the result, both the appeals filed by the assessee are partly allowed.

Order pronounced on 3<sup>rd</sup> August, 2022.

Sd/-  
(मनोज कुमार अग्रवाल)  
**(MANOJ KUMAR AGGARWAL)**  
लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-  
(महावीर सिंह )  
**(MAHAVIR SINGH)**  
उपाध्यक्ष /VICE PRESIDENT

चेन्नई / Chennai; दिनांक / Dated : 03-08-2022

**JPV**

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT     | 5. विभागीय प्रतिनिधि/DR  | 6. गार्ड फाईल/GF             |