

**IN THE INCOME TAX APPELLATE TRIBUNAL, PUNE
SINGLE MEMBER CASE**

SHRI S.S. GODARA, JUDICIAL MEMBER

ITA No. 93/PUN/2022: Assessment Year : 2016-17

Shri Vikas Gangadhar Jagtap
Baijabai Housing society
Pipeline Road, Savedi
Ahmednagar 414 003
PAN: ADZPJ 9984 G

:Appellant

Vs.

The I.T.O. Ward 1, Ahmednagar

: Respondent

Appellant by : Shri Prasad S. Bhandari (through virtual)

Respondent by : Shri M.G. Jasnani

Date of Hearing : 29-07-2022

Date of Pronouncement : 17-08-2022

ORDER

This assessee's appeal for A.Y. 2016-17 arises against the CIT(A)-2, Pune's order dated 22-01-2020 passed in case No. PN/CIT(A)-2/ITO Wd-1/AN/1254/2018-19 involving proceedings u/s 143(3) of the Income-tax Act, 1961, in short "the Act".

Heard both the parties. Case file perused.

2. The assessee's sole substantive grievance raised herein challenges correctness of both the learned lower authorities' action invoking section 40a(ia) disallowance of sub-contract expenses @ 30%, coming to Rs. 32,64,066/- as upheld in the lower appellate order.

3. Suffice to say, it transpires during the course of hearing that the Assessing Officer had himself concluded in para 8 of the assessment order that the assessee had never even produced his books of accounts coupled with fact that the same remained un-audited as well. That being the case, I quote Indwell Constructions Vs. CIT (1978) 232 ITR 771 (AP) that the impugned disallowance is not sustainable in case of non-availability of books of accounts or rejection thereof. The impugned disallowance is directed to be deleted for

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this precise reason alone. The Revenue's vehement contentions supporting the impugned disallowance are rejected accordingly.

3. Delay of 683 days in filing of the instant appeal instituted on 3-02-2022 is condoned since falling in Covid 19 pandemic outbreak period.
4. This assessee's appeal is allowed.

Order pronounced in the open Court on this 17th August 2022.

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Pune; Dated, this 17th day of August 2022
Ankam

Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The Pr. CIT -1 Pune
4. The CIT(A)-2 Pune
5. The SMC Bench, ITAT Pune.
6. Guard File

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BY ORDER,
Sr. Private Secretary
ITAT, Pune.

		Date	
1	Draft dictated on	03-08-2022	Sr.PS
2	Draft placed before author	16-08-2022	Sr.PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on	17-08-2022	Sr.PS/PS
7	Date of uploading of order	17-08-2022	Sr.PS/PS
8	File sent to Bench Clerk	17-08-2022	Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		