

**IN THE INCOME TAX APPELLATE TRIBUNAL  
PATNA 'DB' BENCH AT KOLKATA**

**[Virtual Court]**

**Before**

**SRI MANISH BORAD, ACCOUNTANT MEMBER  
&  
SRI SONJOY SARMA, JUDICIAL MEMBER**

**I.T.A. No.: 153/Pat/2019  
Assessment Year: 2014-15**

***Md Shafique Alam.....Appellant***  
**[PAN: AGKPA 5138 R]**

**Vs.**

***ACIT, Circle-3, Purnea.....Respondent***

**Appearances by:**

*None appeared on behalf of the Assessee.*

*Sh. Rupesh Agrawal, Sr. D/R, appeared on behalf of the Revenue.*

Date of concluding the hearing : July 18<sup>th</sup>, 2022

Date of pronouncing the order : August 30<sup>th</sup>, 2022

**ORDER**

**Per Manish Borad, Accountant Member:**

This appeal filed by the assessee pertaining to the Assessment Year (in short "AY") 2014-15 is directed against the order passed u/s 250(6) of the Income Tax Act, 1961 (in short the "Act") by Id. Commissioner of Income-tax (Appeals), Bhagalpur [in short Id. "CIT(A)"] dated 08.03.2019 which is arising out of the assessment order framed u/s 143(3) of the Act dated 30.12.2016.

2. The assessee is in appeal before this Tribunal raising the following grounds:

*“1) THAT the Ld. A.C.I.T Tax has erred in rejecting audited books of account without showing any defect in books of accounts.*

*2) THAT Ld. A.C.I.T is incorrect in estimating the gross profit @ 6% on gross contractual work without any reason.*

*3) THAT the Ld. A.C.I.T is wrong to assessed the income from accrued interest on the NSC which is normally shown at the time of maturity.*

*4) THAT the other Ground of Appeal shall be urged at the time of hearing with due leave.”*

3. When the case was called for, none appeared on behalf of the assessee. A perusal of the records show that opportunity has been given to the assessee but there is no compliance. It seems that the assessee is not interested to pursue the appeal and, therefore, we decide to adjudicate the appeals with the assistance of ld. D/R and the available records.

4. Brief facts of the case are that the assessee is an individual engaged in civil works contract. Income of Rs. 33,64,680/- declared in e-return filed on 04.12.2014 for AY 2014-15. Case selected for scrutiny through CASS followed by serving of notices u/s 143(2) & 142(1) of the Act. Ld. Counsel for the assessee appeared from time to time and filed supporting documents/details including financial statements. Ld. AO was not satisfied with the details and he proceeded to reject the books of accounts and estimate the income of the assessee. Ld. AO accordingly applied 6% net profit rate of the gross turnover disclosed by the assessee and also made addition for accrued income from NSC and assessed the income at Rs. 98,75,670/-.

5. Aggrieved, the assessee preferred appeal before the Ld. CIT(A) and partly succeeded. Now, the assessee is in appeal before this Tribunal.

6. Ld. D/R vehemently argued supporting the orders of both the lower authorities. We have heard Ld. D/R and perused the records placed before us.

7. Through ground no. 1, the assessee has challenged the finding of Ld. CIT(A) confirming the action of the Ld. AO of rejecting the books of accounts without showing any defect therein. We notice that the assessee failed to satisfy the Ld. AO by providing all necessary details as called for by the Ld. AO. Before Ld. CIT(A) also such details were not filed and nor before this Tribunal. For the assessee to challenge the action of the Ld. AO of rejecting the book results, complete details and relevant information ought to have been filed. In absence thereof, we find no merit in ground no. 1 of the assessee and the same is dismissed.

8. Through ground no. 2 the assessee has challenged the estimation of gross profit at the rate of 6% alleging that no reasons have been assigned for the said estimation and that income from interest on NSC is shown on maturity and Ld. AO erred in making the addition thereon.

9. We, on perusal of the assessment order, find that Ld. AO has rejected the book results without recording any specific instance of a particular expenditure being claimed excessive or the claim being ingenuine. Ld. AO has himself noted the details of gross turnover, cost of material purchased, labour charges, power and

fuel expenses etc. The assessee is a civil contractor and revenue shown by the assessee has not been disturbed by Ld. AO and has estimated the income of the assessee.

10. We observe that though the assessee has filed the details but they were not to the satisfaction of the Ld. AO. Even before Ld. CIT(A) complete details were not filed and even before us no such details including paper book has been filed. However, looking to the overall facts and circumstances of the case where the assessee is regularly assessed to tax, books of accounts are audited, net profit of 2.23% is declared, details of expenditure and revenue has been filed before the Ld. AO, the revenue shown by the assessee is not in dispute and Ld. AO has also given a general finding without specifically pointing out any error committed by the assessee in maintaining such books of account, we, therefore, under these given facts and circumstances of the case and being fair to both the parties and without setting a precedence for other cases having similar nature of business, we hold to estimate net profit rate of 3% and on applying the same on gross turnover of Rs. 15,05,68,580/- and the result will be net profit of Rs. 45,17,057/- . Since the assessee has already declared net income of Rs. 33,64,680/-, the remaining amount of addition to be sustained in the hands of the assessee is worked out at Rs. 11,52,377/- and the assessee will not be allowed to claim any other deduction against the said addition sustained by us. Thus, ground no. 2 raised by the assessee is partly allowed.

11. As regards, ground no. 3 raised by the assessee challenging the addition for accrued interest on NSC, we are of the view that

since once the income of the assessee has been estimated on the gross turnover for the year after rejecting the book results, no addition is called for towards interest income on NSC. Thus, ground no. 3 raised by the assessee is allowed.

12. Ground no. 4 is general in nature which needs no adjudication.

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

***Kolkata, the 30<sup>th</sup> August, 2022.***

*Sd/-*  
[Sonjoy Sarma]  
Judicial Member

*Sd/-*  
[Manish Borad]  
Accountant Member

Dated: 30.08.2022

*Bidhan (P.S.)*

*Copy of the order forwarded to:*

- 1. Md Shafique Alam, Dhanpura, P.O.- Kanhaiya Bari, Dist.- Kishanganj, Bihar-855 107.***
- 2. ACIT, Circle-3, Purnea.***
- 3. CIT(A), Bhagalpur.*
- 4. CIT-*
- 5. CIT(DR), Patna Bench, Patna.*

*True copy*

By order

Assistant Registrar  
ITAT, Kolkata Benches  
Kolkata