

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'E': NEW DELHI**

**BEFORE,  
SHRI SAKTIJIT DEY, JUDICIAL MEMBER  
AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.2060/Del/2018  
(ASSESSMENT YEAR 2013-14)**

Mana Ram Ganpat Ram & Co. 257, Cycle Mkt, Jhandewalan Extn. New Delhi-110 055 PAN-AAHFM 2570Q	Vs.	Income Tax Officer Ward No.62(1) Civic Centre New Delhi-110 002
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Mr. C.L. Yadav, CA and Mr. R.S. Sisodia, Advocate
Respondent by	Mr. Jeetender Chand, Senior Departmental Representative ("Sr. DR" for short)

**ORDER**

**PER ANADEE NATH MISSHRA, AM:**

(A) This appeal by Assessee is filed against the order of Learned Commissioner of Income Tax (Appeals)-20, New Delhi ["Ld. CIT(A)", for short], dated 31/01/2018 for Assessment Year 2013-14.

Grounds taken in this appeal are as under:

*"1 This order of CIT(A) confirming order of A.O. is bad in law and against facts of the case.*

2. *CIT(A) has wrongly confirmed application of net profit rate of 8% on gross turnover of the 'A' by wrongly ignoring submissions of 'A' and history of the case.*

3. *CIT(A) has wrongly confirmed interest income on FDR pledged with Bank as EMD/security, etc. as income from other sources while 'A' has all along been treating this income as business income and hence it is requested that it be treated as business income as funds used for FDR were from borrowed funds on which interest was also paid.*

4. *CIT(A) has wrongly confirmed hire charges as fully taxable and not treating it as part and parcel of work done as there were expenses of labour, salaries, diesel & oil lubrications and repairs in earning the income.*

5. *'A' reserves its right to add/delete amend/modify any of the above grounds of appeal either prior or during the course of hearing."*

(A.1) In this case, assessment order dated 25/02/2016 was passed by the Assessing Officer ("AO" for short) u/s 144 of Income Tax Act ("IT Act" for short) wherein the assessee's total income was assessed at Rs.91,15,824/- (rounded off to Rs.91,15,820-) as against returned income of Rs.8,41,150/-. This was an *ex-parte* order passed by the Assessing Officer to the best of his judgment. Besides the addition of an amount of Rs.17,28,755/- on account of interest u/s 244A of Income Tax Act; Rs.14,51,321/-; there were other additions on account of receipts from M/s H.G. Infra Engineering (P) Ltd. and on account of estimation of income from gross business receipts of Rs.1,95,61,020/-. The assessee filed an appeal in the office of Ld. CIT(A); on the following grounds:

- “1. ‘A’ has already added interest on income tax refunded in the interest income of Rs.43,70,868/- & hence AO has wrongly made the addition. The addition is duplicate addition & needs deletion.*
- 2. ‘A’ has already included the receipts of Rs.14,51,321/- in his contract receipts and hence this is addition is a double addition & needs deletion.*
- 3. AO has wrongly taken business income as 8% of gross receipt instead of income as declared and this needs deletion too. This resulted in trading addition of Rs.9,02,788/-, which needs deletion.*
- 4. Interest income of Rs.43,70,868/- has wrongly been assessed as income from other sources whereas it is business income.”*

(A.2) Vide impugned appellate order dated 31/01/2018, the Ld. CIT(A) partly allowed the assessee’s appeal. The present appeal before us has been filed by the assessee against the aforesaid impugned appellate order of the Ld. CIT(A) in respect of additions confirmed by her i.e. by Ld. CIT(A).

(A.2.1) At the time of hearing before us, representatives of both sides, the ld. Counsel for the assessee as well as the Ld. Sr. DR for Revenue were of the view that the aforesaid assessment order dated 25/02/2016 having been passed u/s 144 of Income Tax Act, which was an *ex-parte* order qua the assessee; the assessee was not able

to explain its case properly before the Assessing Officer. Both sides were in agreement that the impugned appellate order dated 31/01/2018 of the Ld. CIT(A) may be set aside and the issues in dispute in the present appeal may be restored to the file of the Assessing Officer for fresh order in accordance with law after providing reasonable opportunity to the assessee. In view of the foregoing; and as the representative of both sides are in agreement with this, in the specific facts and circumstances of the present appeal before us, we set aside the impugned appellate order dated 31/01/2018 of the Ld. CIT(A) and we restore all the issues in dispute in the present appeal before us to the file of the Assessing Officer with the direction to pass a fresh order on these issues in accordance with law after providing reasonable opportunity to the assessee.

(B) For statistical purposes, the appeal is treated as partly allowed.

This order was already pronounced orally on 15<sup>th</sup> November, 2022 in Open Court, in the presence of representatives

of both sides, after conclusion of the hearing. Now this order in writing is signed today on 22/11/2022.

Sd/-  
**(SAKTIJIT DEY)**  
**JUDICIAL MEMBER**

Sd/-  
**(ANADEE NATH MISSHRA)**  
**ACCOUNTANT MEMBER**

Dated: 22/11/2022

*Pk*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW, DELHI