

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B', NEW DELHI**

Before Dr. B. R. R. Kumar, Accountant Member

Ms. Astha Chandra, Judicial Member

ITA No. 3418/Del/2018 : Asstt. Year : 2014-15

ACIT, Circle-62(1), New Delhi-110002	Vs.	Subodh Gupta, D-3, East Jyoti Nagar, Loni Road, Shahdara, New Delhi-110093
(APPELLANT)		(RESPONDENT)
PAN No. AEVPG4646M		

Assessee by : Ms. Tanya, Adv.

Revenue by : Sh. Vivek Kr. Upadhyay, Sr. DR

Date of Hearing: 29.08.2023

Date of Pronouncement: 31.08.2023

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the Revenue against the order of Id. CIT(A)-20, New Delhi dated 28.02.2018.

2. Following grounds have been raised by the Revenue:

"1. On the facts and in the circumstances of the case and in law, the Id. CIT(A) has erred in reducing the percentage of profit to 5% of civil contract works as against 8% of civil contract work upheld by the Hon'ble Delhi High Court in the case of the assessee itself in AY 2009-10.

2. On the facts and in circumstances of the case and in law, the Id. CIT(A) has erred in allowing depreciation of Rs.20,09,838/- when the Assessing Officer had rejected the books of accounts of the assessee."

3. Heard the arguments of both the parties and perused the material available on record.

4. The turnover of the assessee during the year was Rs.33.05 Cr. The Assessing Officer estimated 8% as net profit on the gross receipts invoking the provisions of Section 44AD of the Income Tax Act, 1961.

5. The Id. CIT(A)-20, New Delhi, Smt. Sulekha Verma held that the profit determined @ 8% by the AO is excessive and the net profit has been determined @ 5% reduced by the depreciation.

6. Having gone through the order of the Id. CIT(A) and keeping in view the fact that the provisions of Section 44AD of the Income Tax Act, 1961 are not applicable to the case of the assessee owing to the turnover which is above the turnover limits prescribed by the Act and keeping in view the judgment of the Hon'ble Jurisdictional High Court in ITA No. 80/2014 dated 09.12.2014 in assessee's own case for the A.Y. 2009-10 on the similar issue, we decline to interfere with the reasoned order of the Id. CIT(A).

7. In the result, the appeal of the Revenue is dismissed.
Order Pronounced in the Open Court on 31/08/2023.

Sd/-

(Astha Chandra)
Judicial Member

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 31/08/2023

Subodh Kumar, Sr. PS