

**आयकर अपीलीयअधिकरण, विशाखापटणम पीठ, विशाखापटणम**

IN THE INCOME TAX APPELLATE TRIBUNAL,  
VISAKHAPATNAM BENCH, VISAKHAPATNAM

**श्री दुव्वूरु आर एल रेड्डी, न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष**

BEFORE SHRI DUVVURU RL REDDY, HON'BLE JUDICIAL MEMBER &  
SHRI S BALAKRISHNAN, HON'BLE ACCOUNTANT MEMBER

आयकर अपील सं./ I.T.A. No.242/Viz/2023

(निर्धारण वर्ष / Assessment Year: 2014-15)

Eplus Projects (P) Ltd.,  
Vijayawada.  
PAN: AABCE 5044 L

Vs. The Asst. Commissioner of  
Income Tax,  
Circle-3(1),  
Vijayawada.

(अपीलार्थी/ Appellant)

(प्रत्यर्थी/ Respondent)

अपीलार्थी की ओर से/ Assessee by

: Sri GVN Hari, AR

प्रत्यर्थी की ओर से / Revenue by

: Dr. Aparna Villuri, Sr. AR

सुनवाई की तारीख / Date of Hearing

: 07/02/2024

घोषणा की तारीख/Date of

: 13/02/2024

Pronouncement

**ORDER**

**PER S. BALAKRISHNAN, Accountant Member :**

This appeal filed by the assessee is against the order of the  
Ld. Commissioner of Income Tax (Appeals)-National Faceless  
Appeal Centre, Delhi [CIT(A)-NFAC] in DIN & Order No.  
ITBA/NFAC/S/250/2023-24/105554646571(1), dated 29/8/2023

arising out of the order passed U/s. 143(3) of the Income Tax Act, 1961 [the Act] for the AY 2014-15.

2. Briefly stated the facts of the case are that the assessee, a firm, is engaged in the business of carrying on contract works filed its return of income for the AY 2014-15 on 27/11/2014 admitting a total income of Rs. 98,43,280/- as against the deemed total income of Rs. 67,85,114/- U/s. 115JB of the Act. The case of the assessee was selected for scrutiny through CASS and notice U/s. 143(2) was issued on 18/09/2015 and the same was duly served on the assessee on 21/9/2015. Subsequently, notice U/s. 142(1) of the Act dated 1/6/2016 was issued along with annexure and called for certain information. In response, the assessee's Authorized Representative appeared before the Ld. AO and furnished the information from time to time as called for. As per the details submitted by the assessee, the Ld. AO noted that during the AY 2014-15, the assessee has received gross receipts aggregating to Rs. 16,31,65,179/- with respect to main contracts [Rs. 10,56,45,061/-] and sub-contracts [Rs. 5,75,20,118/-] given at six different sites. Subsequently, the assessee was asked to produce the agreement copies with contractors / sub-contractors, books of account, evidences in

support of the claim of expenses under the schedule "other expenses" etc. On perusal of the documents furnished by the assessee, the Ld. AO noted that some of the bills/vouchers are not verifiable and some of the expenses were supported by self-made vouchers. In view of the above, a show cause notice was issued to the assessee stating that why the income cannot be estimated @ 12.5% on gross contract receipts. In response, the assessee's Representative submitted that the contract receipts of Rs. 61,45,010/- made through M/s Swarna Constructions also pertains to receipts from sub-contracts and has furnished the documentary evidence in support of the same. The assessee's Representative further pleaded the Ld. AO to consider the remuneration of Rs. 12,60,000/- paid to the Directors while estimating the income on gross receipts @ 12.5% on main contract receipts and @ 8% on sub-contract receipts. After considering the submissions of the assessee, the Ld. AO rejected the books of account of the assessee by holding that the assessee has not maintained proper books of accounts and also failed to produce some of the vouchers for verification and the expenditure claimed by the assessee is not substantiated by proper bills / vouchers. Therefore, the Ld. AO resorted to estimate the income of the assessee-firm with respect to main contracts and sub-

contracts and estimated @ 12.5% on main (direct) contracts and @ 8% on sub-contracts given (or) taken. While estimating the income of the assessee, the Ld. AO held that the assessee is entitled for depreciation and remuneration to directors on the profit estimated. Accordingly, the Ld. AO estimated the total income at Rs. 1,75,30,716/- [Rs.1,24,37,506 on main contracts @ 12.5% + Rs. 50,93,210/- on sub-contracts given (or) taken @ 8%] and made addition of Rs.32,22,870/- being the difference income on estimation and determined the assessed income at Rs. 1,30,66,150/-. Aggrieved by the order of the Ld. AO, the assessee preferred an appeal before the Ld. CIT(A)-NFAC. On appeal, the Ld. CIT(A)-NFAC, restricted the estimation to 8% on receipts of main contracts and 5% on receipts of sub-contracts as against the Ld. AO's estimation of 12.5% and 8% on main contracts and sub-contracts given (or) taken respectively. The Ld. CIT(A)-NFAC, however denied the deduction claimed by the assessee on account of Remuneration to Directors and depreciation by relying on the decision of this Bench in the case of M/s. K. Venkata Raju (ITA No. 501/Viz/2019, dated 7/4/2022). Thus, the Ld. CIT(A)-NFAC partly allowed the appeal of the assessee and granted part relief to the assessee. Aggrieved

by the order of the Ld. CIT(A)-NFAC, the assessee is in appeal before the Tribunal by raising the following grounds of appeal:

- “1. The order of the Ld. CIT(A)-NFAC is contrary to the facts and also the law applicable to the facts of the case.*
- 2. The Ld.CIT(A)-NFAC ought to have held that the AO is not justified in rejecting the books of account and in estimating the income from business.*
- 3. Without prejudice to the above, the Ld. CIT(A)-NFAC is not justified in not granting separate deduction towards remuneration to Directors (Rs. 12,60,000) and depreciation (Rs. 32,04,566).*
- 4. Any other grounds may be urged at the time of hearing.”*

3. At the outset, the Ld. Authorized Representative [AR] argued that the Ld. AO has rejected the books of account and estimated the income @ 12.5% on the main contracts and @ 8% on the sub-contract works. The Ld. AR further submitted that the Ld. CIT(A)-NFAC has granted part relief to the assessee by allowing 8% on the main contracts and 5% on the sub-contracts. However, the Ld. AR pleaded that the Ld. CIT(A)-NFAC did not allow the depreciation and remuneration to Directors claimed by the assessee and allowed by the Ld. AO while estimating the profits of the assessee. The Ld. AR pleaded that since the issue of allowance of remuneration and depreciation was not before the

Ld. CIT(A)-NFAC, he has suo-moto decided not to allow the same. He therefore pleaded that the remuneration to Directors amounting to Rs. 12,60,000/- may please be allowed.

Per contra, the Ld. Departmental Representative heavily relied on the order of the Ld. CIT(A)-NFAC and strongly objected that when the income is estimated, no further deductions can be allowed from the total income of the assessee. He therefore pleaded that the order of the Ld. CIT(A)-NFAC may be upheld.

4. We have heard both the sides and perused the material available on record as well as the orders of the Ld. Revenue Authorities. We find from the order of the Ld. CIT(A)-NFAC, the Ld. CIT(A)-NFAC has considered and granted relief to the extent of Rs. 19,22,890/- by reducing the estimated profits to 8% of main contracts and 5% of sub-contracts as against 12.5% of main contracts and 8% of the sub-contract works estimated by the Ld. AO. We find that the Ld. CIT(A)-NFAC has granted substantial relief to the assessee and this Bench of the Tribunal has consistently held that while estimating the profits, it shall be 8% on the main contracts and 5% on the sub-contract work. The Ld. CIT (A)-NFAC has relied on the decision of this Bench in the case of M/s. K. Venkata Raju (ITA No. 501/Viz/2019, dated

7/4/2022) and accordingly estimated the income of the assessee. We therefore find no merit in the argument of the Ld. AR and we have no hesitation uphold the decision of the Ld. CIT(A)-NFAC and dismiss the grounds raised by the assessee.

5. In the result, appeal of the assessee is dismissed.

Pronounced in the open Court on 13<sup>th</sup> February, 2024.

Sd/- (दुव्वूरु आर. एल रेड्डी) (DUVVURU RL REDDY) न्यायिकसदस्य/JUDICIAL MEMBER	Sd/- (एस बालाकृष्णन) (S.BALAKRISHNAN) लेखा सदस्य/ACCOUNTANT MEMBER
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Dated : 13.02.2024

OKK - SPS

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee – Eplus Projects (P) Ltd., D.No. 23-39-1/B, Kanumurivari Street, Saqtyanarayana Puram, Vijayawada, Andhra Pradesh – 520003.
2. राजस्व/The Revenue – Income Tax Officer, CR Building, MG Road, Vijayawada, Andhra Pradesh – 520002.
3. The Principal Commissioner of Income Tax,
4. आयकर आयुक्त (अपील)/ The Commissioner of Income Tax
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, विशाखापटणम/ DR, ITAT, Visakhapatnam
6. गार्ड फ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam