

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH:COCHIN**

**BEFORE SHRI SANJAY ARORA, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA No.212/Coch/2023& SP No.83/Coch/2023
Assessment Year: 2014-15

Varghese Chacko 50/96, Kantharuparambil Ponevazhi Road Edapally 682 041 Kerala PAN No.AEJPC4138C	Vs.	ITO Wad-1(5) Ernakulam
APPELLANT		RESPONDENT

Appellant by	:	Shri Anilkumar P.J., A.R.
Respondent by	:	Smt. Jamuna Devi, Sr.D.R.

Date of Hearing	:	09.05.2024
Date of Pronouncement	:	27.05.2024

O R D E R

PER SOUNDARARAJAN K., JUDICIAL MEMBER:

This appeal filed by the assessee against the order of NFAC passed u/s 250 of the Income Tax Act, 1961 (in short "The Act") for the assessment year 2014-15 dated 29.1.2023.

2. Brief facts of the case are that the assessee is a promoter of residential apartments and he filed the return of income for the assessment year 2014-15 and reported an income of Rs.4,72,930/-. The Id. AO after going through the profit & loss account had estimated the net profit at 8% instead of the net profit arrived by the assessee at 1.15% since the accounts were not audited u/s 44AB of the Act and the assessee has no idea on what basis he has arrived at the profit i.e. whether under project completion method or percentage completion method. The assessee filed an appeal before the NFAC and even before the Id. NFAC assessee has not produced any records

and also under what method he has arrived the profit margin and therefore, the NFAC rejected the appeal, against which the assessee preferred this appeal before this Tribunal.

3. The Id. A.R. had argued the matter generally and not submitted on what basis he has arrived the profit margin. The Learned AR also filed a written arguments and relied on the same.

4. The Id. D.R. pointed out that in the absence of any clearcut details submitted by the assessee, the net profit margin arrived by the assessing authority is in order and prayed to dismiss the appeal.

5. We heard the arguments of both sides and perused the records and at the time of hearing, we also put a question to the Id. A.R. under what basis the assessee had arrived the net profit rate for which the Id. A.R. was unable to give any valid explanations and in turn he has stated that their book profit is only 1.15% and therefore, estimating the profit at 8% is unwarranted.

5.1 Further, the Id. A.R. has also not produced any books of accounts maintained by them to show that the profit arrived by them is correct. It is the case of the Id. AO that the assessee had not maintained any books of accounts and also the books were not audited as per section 44AB of the Act and in those circumstances, the Id. AO had not accepted the net profit declared by the assessee and estimated the net profit at 8%. Even before the NFAC, the assessee had not made out a case for taking the 1.15% net profit as correct and also no records were produced in order to support their claim that the net profit arrived is in order and also as per the books of accounts maintained by them. In the absence of the basic records; the assessee also could not, during the hearing, explain us the basis of the valuation of the work-in-progress, and also in view of the fact that the assessee was not able to submit under what basis it has arrived at the net profit rate, we are unable to accept the view of the Id. A.R., and we approve the net profit arrived by the Id. AO at

8% as very reasonable and, therefore, the appeal of the assessee is dismissed by confirming the orders of the lower authorities.

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

7. Since the appeal of the assessee is dismissed, the stay petition filed by the assessee becomes infructuous and dismissed.

8. In the result, stay petition filed by the assessee is dismissed.

Order pronounced in the open court on 27th May, 2024

Sd/-
(Sanjay Arora)
Accountant Member

Sd/-
(Soundararajan K.)
Judicial Member

Bangalore,
Dated 27th May, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Cochin.
5. Guard file

By order

**Asst. Registrar,
ITAT, Cochin.**