

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, AHMEDABAD**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.814/Ahd/2024
(Assessment Year: 2017-18)

Sarandhar Umashankar Gupta, 25, Guru Bungalow Society, Opp: Gayatri Temple, Abu Road Highway, Palanpur, Gujarat-385001	Vs.	Assistant Commissioner of Income Tax, Circle, 1 st Floor, Shri Hari Complex, Opp. Gayatri Temple, Abu Road Highway, Palanpur-385001
[PAN No.AEVPG3999R]		
(Appellant)	..	(Respondent)

Appellant by :	None
Respondent by:	Shri Rignesh Das, Sr. DR
Date of Hearing	05.12.2024
Date of Pronouncement	26.12.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 21.03.2024 passed for A.Y. 2017-18.

2. The assessee has raised the following grounds of appeal:

“1. Both the lower authorities erred in law and on facts confirm addition of Rs. 40,44,977 by rejecting books of accounts u/s. 145A of the Act, estimating the gross profit at the rate 20.97 percent purely on assumption and presumption without appreciating the nature of business of the appellant and past gross profit and net profit therefore addition of GP/NP may be deleted in the interest of justice.”

3. The brief facts of the case are that the assessee is engaged in the business of road maintenance and Govt. contractor. During the assessment proceedings of the assessee, from a detailed examination of the books and records, the Assessing Officer observed several

discrepancies. The assessee was asked to provide supporting documents for their income and expenses. Upon reviewing the provided details, the Assessing Officer made the following key observations: The first major issue was the statement of contract expenses, where the assessee reported total contract expenses of Rs. 6,45,21,600/-. Out of this amount, Rs.1,96,01,970/- had been paid in cash to 206 different individuals. The second significant finding was that with regards to other major expenses such as raw material expenses (amounting to Rs. 6,37,40,829/-) and labour expenses (Rs. 3,08,44,613/-), a major portion of these expenses was also paid in cash, and the entries lacked any narrative description, with only the notation "cash on hand" listed as the explanation for the expenses. The Assessing Officer was of the view that absence of details made it difficult to verify the legitimacy of the expenses. The Assessing Officer was of the view that the assessee had intentionally structured their accounts in such a way that it became nearly impossible to verify the expenses properly, especially considering the huge amount of cash payments and lack of adequate documentation. Further, the assessee reported contract income of Rs. 82,48,175/- in cash, with each of amounts being just below Rs. 20,000/-. The assessee submitted details for government contracts, which amounted to Rs. 19,09,84,032/-. The Assessing Officer noted that when both of these figures were added together, the total came to Rs. 19,92,32,207/-. However, in the Profit and Loss (P&L) account, the total contract income was shown as Rs. 19,62,06,649/-, which led to a discrepancy of Rs. 30,25,558/-. In view of these findings, the Assessing Officer issued a show cause notice to the assessee, asking why their books of accounts should not be

rejected under Section 145A of the Income Tax Act, and why their gross profit should not be estimated at 20.97% (as in the previous year, Assessment Year 2016-17). In reply, the assessee submitted the assessee hired local villagers for supervision of machinery such as tractors, trolleys, and JCBs used in road construction and maintenance. The assessee submitted that these workers, who were paid in cash, were not permanent employees but were hired as and when needed. It was submitted that cash payments were made based on the workers' demands and expectations, and payments for raw materials were made via bank transactions, and not in cash. The Assessing Officer rejected the submission of the assessee on the ground that the explanation provided did not sufficiently address the discrepancies in the documentation. The assessee had submitted two lists of individuals who received payments. One list included 17 persons to whom payments totaling Rs. 4,49,19,680/- were made, where TDS had been deducted while the other list contained 206 persons who received a total of Rs. 1,96,01,970/- in cash. A ledger was provided showing that all contract expenses totaling **Rs. 6,45,21,600/- were paid in cash, with payments often being below Rs. 20,000/-**. Despite providing this information, the assessee **did not clarify the nature of the work done by the contractors or explain why payments were not made by cheque, particularly in cases where TDS had been deducted and the payments ranged between Rs. 1,50,000 and Rs. 50,00,000/-**. Similar issues were noted for labour and raw material expenses. Given the lack of adequate documentation and explanation for the expenses, and the failure to provide necessary details for verifying the expenses, the assessing

officer held that the books of accounts could not be relied upon. Consequently, the books of accounts were rejected under Section 145A of the Income Tax Act. For the current year, the Assessing Officer applied the gross profit rate from the previous year i.e. assessment year 2016-17 (20.97%) to the total turnover as reported by the assessee. Based on the P&L account, the total contract receipt shown was Rs. 19,62,06,649/-, and applying the 20.97% gross profit rate resulted in a gross profit of Rs. 4,11,44,534/-. However, the gross profit reported by the assessee for the year under review was Rs. 3,70,99,557/-, representing a gross profit rate of 18.91%. The difference of Rs. 40,44,977/- (Rs. 4,11,44,534/- minus Rs. 3,70,99,557/-) was added to the total income of the assessee.

4. In appeal before Ld. CIT(Appeals), the assessee relied on various case laws to support his position. However, Ld. CIT(Appeals) observed that these cases were distinguishable from the facts of the assessee's case. The assessee had admitted that their business involved hiring local villagers for supervising road construction and maintenance activities, such as working with tractors, trolleys, and JCB machines. The assessee submitted that the reason for hiring these individuals was to prevent theft and wastage of raw materials. The assessee also mentioned that they made cash payments to these workers based on their demands, as they fell within the limits for Tax Deducted at Source (TDS) requirements, and raw material bills were paid through banks. The assessee further submitted that these workers were not permanent employees but were hired as needed for different contracts in various locations, and they demanded payment in cash. Despite these explanations, Ld. CIT(Appeals) observed that the

genuineness of the expenses, especially the contract expenses, labour expenses, and raw material expenses, could not be substantiated. As a result, the Ld.CIT(A) upheld the decision of the Assessing Officer in rejecting the books of accounts. Ld. CIT(Appeals) noted that in the case of Ram Chandra Singh Ramnik Lal vs CIT by the Hon'ble Patna High Court, it was held that the absence of stock books and a register for work in progress could justify the rejection of the books of account. Similarly, in the case of Bhai Sunder Dass, Sardar Singh (P) Ltd. vs CIT by the Hon'ble Delhi High Court, it was held that the absence of full quantitative details of materials consumed in a contract led to the estimation of profits, with the Tribunal relying on material evidence before them. Furthermore, in the case of Arihant Builders Developers & Investors Pvt. Ltd. vs ACIT decided by the ITAT Indore, the AO rejected the books of account due to defects in the maintenance of records, particularly regarding payments for labour charges and cartage. The assessee's failure to maintain proper documentation and vouchers led to the rejection of their book results, with a net profit rate of 12.5% applied to their total receipts. After considering the relevant case laws, Ld. CIT(Appeals) held that the AO had rightly rejected the books of accounts under Section 145A of the Act. Consequently, the addition of Rs. 40,44,977/- made by the AO through an estimation of the gross profit at 20.97% on turnover was confirmed. Therefore, the ground of appeal was dismissed, and the assessee's appeal was partly allowed.

5. The assessee is in appeal before us against the aforesaid order passed by Ld. CIT(Appeals). We observe that despite several opportunities of hearing, the assessee has been consistently seeking

adjournment (on 23 July 2024, 27 August 2024 and 28 October 2024) and has not come forward to argue the case. Finally, the Bench gave a final opportunity of hearing to the assessee on 4th December 2024, but again the assessee did not cause appearance and the Bench has proceeded to decide the case on merits. On going through the case records, we are of the considered view that Ld. CIT(Appeals) has taken a reasonable approach in the matter and has correctly concluded that the assessee has not been able to establish the genuineness of expenses and therefore, the Assessing Officer was correct in rejecting books of account of the assessee, since the assessee's accounts completely failed in giving a correct picture of the true state of affairs of the assessee's business expenses and thereby making it difficult to verify the genuineness of expenses. Accordingly, we find no infirmity in the order of Ld. CIT(Appeals) so as to call for any interference.

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

This Order pronounced in Open Court on	26/12/2024
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Sd/-
(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 26/12/2024

TANMAY, Sr. PS

TRUE COPY

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad