

IN THE INCOME TAX APPELLATE TRIBUNAL
NAGPUR "SMC" BENCH : NAGPUR

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

ITA.No.41/NAG./2024 [E-APPEAL]
Assessment Year 2015-2016

The Income Tax Officer, Ward-2, Aayakar Bhawan, Railway Station Road, Jal Nagar Ward, CHANDRAPUR – 442 401. Maharashtra.	vs.	Janardhan Shyam Bihari Singh, Ganesh Nagar, Near Carmel Academy D.O.C. Road, Tukum, CHANDRAPUR – 442 401. PAN AFPPS7844J Maharashtra.
(Appellant)		(Respondent)

For Revenue :	Shri Abhay Y. Marathe, Sr. DR
For Assessee :	Shri Mahavir Atal, C.A.

Date of Hearing :	27.01.2025
Date of Pronouncement :	28.01.2025

ORDER

PER V. DURGA RAO, J.M. :

This appeal has been filed by the Revenue against the order dated 29.11.2023, of the learned CIT(A)-National Faceless Appeal Centre [in short "NFAC"], Delhi, relating to assessment year 2015-2016.

2. Facts of the case, in brief, are that the assessee is a civil contractor and doing contract work at Dhariwal Infrastructure Ltd.,

& GMR & Pung Llyod Ltd., During the F.Y. 2014-2015, the assessee had got the receipts from contract work for Rs.1,68,59,845/- against which TDS was also deducted at Rs.3,37,199/-. The Assessing Officer noted from the ITD system/ITBA portal that the assessee had not filed his return of income for the impugned assessment year and not get his books of account audited u/sec.44AB of the Act. Since the Assessing Officer has reason to believe that the income chargeable to tax has escaped assessment, the Assessing Officer reopened the case of the assessee u/sec.147 of the Act by taking necessary approval from the competent authority and issued statutory notices u/sec.148 and 142(1) of the Act and served upon the assessee. As there were no response from the side of the assessee despite providing numerous opportunities, the Assessing Officer had no option, but, to pass ex-parte assessment order u/sec.144 r.w.s.147 of the Act by determining the total income of the assessee at Rs.25,28,980/- vide order dated 23.12.2018 by estimating the net profit of the assessee from contract business @ 15% of the gross receipts.

3. Aggrieved by the order of the Assessing Officer, the assessee carried the matter in appeal before the learned CIT(A). The

learned CIT(A) after considering the submissions of the assessee and remand report of the Assessing Officer, the learned CIT(A) estimated the net profit rate of 10% of gross receipts as reasonable estimate of total income of the assessee. While arriving at such conclusion, the learned CIT(A) noted that for the assessment year 2011-12 the assessee had computed net profit @ 8.57% and for the subsequent assessment year 2016-2017 the assessee estimated it's net profit @ 8.5% in his returns of income, respectively. Considering the net profit declared by the assessee in the previous and subsequent assessment years and the net profit estimated by the Assessing Officer @ 15% is much on higher side, the learned CIT(A) estimated the net profit @ 10% of gross receipts.

3. During the course of hearing, Learned Counsel for the Assessee, reiterated the submissions made before the learned CIT(A) and submitted that the order of the learned CIT(A) is based on facts and judicial ratio and prayed that the order of the learned CIT(A) be upheld.

4. The Learned DR, on the other hand, vehemently relied on the order of the Assessing Officer. He submitted that for the impugned assessment year, the assessee has not filed his return of

income nor get his books audited u/sec.44AB of the Act and therefore, the Assessing Officer has rightly estimated the net profit @ 15% of the gross receipts and pleaded that the order of the Assessing Officer be confirmed.

5. I have heard rival submissions of both the parties and perused the material on record. It is an undisputed fact that the assessee is a contractor in civil construction and for the previous assessment year 2011-2012, he has filed return of income by estimating net profit @ 8.57% and for the subsequent assessment year 2016-2017 also he has declared net profit @ 8.5%. Considering the facts and circumstances of the case in the line of civil construction works and the net profits declared by the assessee's in the line of civil construction work, the learned CIT(A) reduced the net profit rate in the case of assessee to 10% as against 15% determined by the Assessing Officer. I find that the order of the learned CIT(A) is based on facts and judicial ratio. I, therefore, find no infirmity in his order. I accordingly confirm the order of the learned CIT(A) and dismiss the grounds raised by the Revenue.

6. In the result, appeal of the Revenue dismissed.

Order pronounced in the open Court on 28.01.2025.

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Nagpur, Dated 28th January, 2025

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	The CIT(A), Nagpur concerned
4.	The CIT, Nagpur concerned
5.	The D.R. ITAT, Nagpur SMC-Bench, Nagpur
6.	Guard File.

//By Order//

//True Copy//

Sr. Private Secretary : ITAT : Nagpur Bench
NAGPUR.