

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

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER

ITA.No.550/NAG./2024 [E-APPEAL]
Assessment Year 2013-2014

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

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

Date of Hearing :	23.01.2025
Date of Pronouncement :	05.02.2025

ORDER

PER V. DURGA RAO, J.M. :

This appeal has been filed by the Revenue against the order dated 27.08.2024, of the learned Addl./JCIT(A)-1, Noida, relating to assessment year 2013-2014.

2. Briefly stated facts of the case are that the assessee is a civil contractor and doing contract work at Dhariwal Infrastructure Ltd., and GMR & Pune Llyod Ltd., During the F.Y. 2012-2013, the assessee had got the receipts

from contract work for Rs.1,10,19,071/- against which TDS amount of Rs.1,46,315/- has been deducted. The assessee had get his books audited in time and declared income of Rs.9,36,621/- i.e., @ 8.5% on gross receipts in the income and expenditure account. The assessee did not file his return of income. Therefore, the Assessing Officer determined the income out of gross receipts @ 15% and determined the income of the assessee at Rs.16,52,860/- and passed ex-parte order u/sec.144 r.w.s.147 of the Act vide order dated 23.12.2018.

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

4. Aggrieved by the order of the learned CIT(A), the Revenue is in appeal before the Tribunal.

5. During the course of hearing, the Learned DR relied on the order of the Assessing Officer. He submitted that that the assessee did not file his return of income during the previous year and for the impugned assessment year also. In

absence of filing of return and producing sufficient documentary evidence as called for by the Assessing Officer, the impugned estimate of net profit @ 15% by the Assessing Officer is justified and pleaded that the order of the Assessing Officer be confirmed.

6. I have heard the arguments made by both the parties and perused the material on record. I find that there is no dispute between the parties that the assessee is a civil contractor and had not filed his return of income for the impugned assessment year. In absence of filing of return and not appearing before the Assessing Officer nor filing any documentary evidence, the Assessing Officer passed his ex-parte assessment order u/sec.144 r.w.s.147 of the Act. However, I find that while estimating the net profit of the assessee @ 15%, the Assessing Officer is not justified. Further while passing ex-parte assessment order, the Assessing Officer must have make a rational and fair assessment but not making arbitrary estimations/additions. Since, the assessee had fairly offered net profit @ 8.5%, which is generally in the line of civil contract work, the learned CIT(A)

rightly accepted the estimation of net profit @ 8.5%. I, therefore, find no infirmity in the order of the learned CIT(A) and accordingly I confirm the same. Accordingly, the grounds raised by the Revenue are dismissed.

7. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open Court on 05.02.2025.

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Nagpur, Dated 05th February, 2025

VBP/-

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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//

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Sr. Private Secretary : ITAT : Nagpur Bench
NAGPUR.