

**IN THE INCOME TAX APPELLATE TRIBUNAL
AGRA BENCH 'SMC' AGRA**

(Through Physical/Virtual Hearing)

**BEFORE SHRI SUNIL KUMAR SINGH, JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER**

**ITA No.232/Agr/2024
[Assessment Year: 2010-11]**

Surya Awas Vikas Private Limited, Bajrang Oil Mill Wali Gali Sadar Bazar Morar, Gwalior Madhya Pradesh-474006	Vs	DCIT, Circle-3, Gwalior Aayakar Bhawan, City Centre, Gwalior, Madhya Pradesh-474009
PAN-AAGCS9315R		
Appellant		Respondent

Appellant by	None
Respondent by	Shri Shailender Srivastava, Sr. DR

Date of Hearing	01.04.2025
Date of Pronouncement	01.04.2025

ORDER

PER BRAJESH KUMAR SINGH, AM,

This appeal filed by the assessee is directed against the order dated 29.03.2024 of the Addl/JCIT(A), Faridabad, relating to Assessment 2010-11 arising out of order u/s 143(3) of the Act dated 14.03.2013 passed by the Dy. Commissioner of Income Tax, Circle-3, Gwalior.

2. None appeared on behalf of the assessee. However, the appeal of the assessee is being decided after hearing the ld. Sr. DR and on the basis of materials available on record.

3. Brief facts of the case: The assessee is a private limited company and is engaged in the business of civil contracts mainly in development of land before starting construction thereon. The assessee filed its return of income on 09.10.2010 declaring total income of Rs.3,02,280/-. The return was selected for scrutiny under CASS and notice u/s 143(2) of the Act was issued on 27.08.2011. Subsequently, notice u/s 142(1) was issued on 09.01.2012 along with questionnaire. In response, the assessee furnished the details. The Assessing Officer was not satisfied with the details of wages submitted before him and disallowed a sum of Rs.2,21,380/- being 15% of the total wages debited amounting to Rs.14,75,865/-. Further, an amount of Rs.63,383/- was disallowed being 20% of the various expenses debited in the profit & loss account.

4. Aggrieved with the said order, the assessee filed an appeal. The Ld. Addl. CIT/JCIT(A), Faridabad dismissed the appeal of the assessee ex-parte as the assessee did not appear before him despite opportunities given.

5. Aggrieved with the said order, the assessee is in appeal before us. The assessee has filed a written submission before us which is reproduced as below:-

The appellant is a Regd. Private Limited company with Registrar of Companies, Madhya Pradesh, Gwalior.

The appellant is engaged in business of civil contracts mainly in development of land before starting construction thereon.

The appellant filed Return of Income declaring taxable income at Rs.3,02,280 on 09.10.2010.u/s 139(1) enclosing Tax Audit Report u/s 144AB.

The case of the appellant was selected for scrutiny under CASS.

During assessment proceedings the appellant furnished details as available from time to time during assessment proceedings.

The learned was filed wages payment record to the daily wages labour, which in the opinion of the learned A.C. was not proper regarding place of work not shown etc and disallowed 15% of total wages claimed Rs. 14,75,865 i.e. Rs.2,21,380.

In addition to this 20% out of expenses claimed as under, Rs.63,383 were disallowed.

The appellant declared net profit of Rs.303810 on contract payment recd.rs.51,25,000. This gives NP rate of profit of 5.93% after claiming Directors Remuneration at Rs.5,16,000. If Directors Remuneration is not considered s contract expense then contract rate of profit is 16%.The recommended rate of profit on civil contracts is 8% as per section 44AD

Now coming to the disallowances from wages based on incomplete wage must roll/vouchers. The Total such expenses claimed are Rs.14,75,865/- against value of contract received Rs.51,25,000 including cost of work in progress Rs.15,61,350/- the % of labour comes to only 22% on works contract for development of land is most reasonable. The making of labour vouchers for daily payment labour are prepared by the labour incharge who is uneducated.

On the basis of disallowance made by the learned A.O., the learned C.I.T. Appeals also confirmed the same.

AS submitted above the appellant has shown better rate of profit than recommended under section 44AD, the disallowance may kindly be deleted.

Disallowance of 20% of following expenses

<i>Advertisement</i>	<i>2,000</i>
<i>Conveyance</i>	<i>25,000</i>
<i>Office</i>	<i>6,000</i>
<i>Printing and Stationary</i>	<i>1,240</i>
<i>Telephone</i>	<i>56,226</i>
<i>Vehicle Running</i>	<i>17,450</i>
<i>Vehicle Rent</i>	<i>2,10,000</i>
<i>Total Rs.</i>	<i>3,16,916</i>

The disallowance of 20% out of expenditure referred to above RS. 63,383 is unjustified. Vehicle rent is paid for vehicle used in business and amount claimed is only Rs. 2,10,000 on which TDS is deducted, before making payment All other expenses are petty and small amounts and details were produced. The learned A.O. has made adhoc allowance of 20% is unjustified.

On the same lines the learned C.I.T (a) has confirmed disallowance is unjustified.

Therefore, on both these issues we are appeal before your Honor.”

6. We have heard the ld. DR and perused the material available on record particularly the above written submission made by the assessee. In view of the above written submission, we are of the considered view that in the interest of justice, one more opportunity be given to the assessee to represent its case effectively before the First Appellate Authority (FAA). We, therefore, set-aside the order of the FAA and restore the matter to his file to pass an order afresh after giving a reasonable opportunity of being heard to the assessee and in accordance with law. Further, the assessee is also directed to appear during the appellate proceedings. Accordingly, grounds of appeal raised by the assessee are allowed for statistical purposes.

7. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 1st April, 2025.

Sd/-
[SUNIL KUMAR SINGH]
JUDICIAL MEMBER

Dated 01.04.2025.

Shekhar

Copy forwarded to:

1. Appellant
2. Respondent
3. PCIT
4. CIT(A)
5. DR

Sd/-
[BRAJESH KUMAR SINGH]
ACCOUNTANT MEMBER

Asst. Registrar,
ITAT, New Delhi,