

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad ' A ' Bench, Hyderabad**

श्री विजय पाल राव, उपाध्यक्ष एवं श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।

**Before Shri Vijay Pal Rao, Vice-President**  
**A N D**  
**Shri Madhusudan Sawdia, Accountant Member**

आ.अपी.सं / **ITA No.808/Hyd/2025**  
(निर्धारण वर्ष/Assessment Year: 2013-14)

Income Tax Officer Ward-1 (1) Hyderabad	Vs.	M/s. Adhithi Infra Projects Private Limited Hyderabad PAN:AADCD6261E
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by: N O N E		
राजस्व द्वारा/Revenue by: Shri S. Arun Kumar, Sr. DR		
सुनवाई की तारीख/Date of hearing: 04/12/2025		
घोषणा की तारीख/Pronouncement: 10/12/2025		

**आदेश/ORDER**

**Per Madhusudan Sawdia, A.M.:**

This appeal is filed by the Revenue feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)") dated 17.02.2025 for the A.Y 2013-14.

2. At the outset, it is seen that there is a delay of nine days in filing of the appeal before this Tribunal. Looking into the minor delay of nine days in filing the appeal before this Tribunal,

in the interest of justice, we condone the delay of nine days and admit the appeal of the Revenue for adjudication.

3. The appeal was fixed for hearing for the first time on 28.07.2025. On the said date, none appeared on behalf of the assessee, and no adjournment petition was filed. The matter was again listed on 04.12.2025, yet on this date also, there was no appearance on behalf of the assessee, nor any communication explaining the reason for non-appearance. In these circumstances, and considering that sufficient opportunities had already been afforded, the Bench proceeded to hear the Learned Departmental Representative ("Ld. DR") and to adjudicate the matter ex parte qua the assessee, on the basis of the material available on record.

4. The Revenue has raised the following grounds of appeal:

1. The Ld. CIT(A) erred on facts as well as law.
2. The Ld.CIT(A) erred in observing that AO has not been able to refute/rebut the claims of the assessee. In the 1st remand report dated 14.02.2018, the AO clearly stated that assessee has failed to submit relevant information inspite of giving multiple opportunities. Therefore the failure lies with the assessee and not the AO.
3. The Ld.CIT(A) passed the appellate order with out obtaining the remand report on additional evidence filed by the assessee in the second instance, which is violation of Rule 46A of IT Rules, 1962.
4. The Ld.CIT(A) erred in observing that it is failure of AO in not rebutting assessee's claims whereas the failure was on the assessee to submit response to AO inspite of multiple opportunities provided.
5. The Ld. CIT(A) failed to comply with the mandatory procedure prescribed under Rule 46A(3), which requires the Assessing Officer to be given a reasonable opportunity to rebut or cross-examine any additional evidence submitted by the assessee.
6. Any other ground that may be urged during the course of hearing with permission of the Chair.

Place: Hyderabad  
Date: 07.05.2025



*N. Sudhakar*  
एन. सुधाकर  
N. SUDHAKAR  
आयकर अधिकारी / INCOME TAX OFFICER  
वार्ड-1(1), हैदराबाद  
Ward-1(1), Hyderabad

*(SHIVRAJ B MOREY)*  
Pr. Commissioner of Income Tax-1  
Hyderabad.

शिवराज बी मोरे, ज.रा.से.  
SHIVRAJ B MOREY, I.R.S.  
प्रधान आयकर आशयल-1,  
Pr. Commissioner of Income Tax-1,  
हैदराबाद / Hyderabad

5. The brief facts of the case are that the assessee is a company engaged in the business of civil construction contracts. It filed its return of income for the Assessment Year 2013–14 on 30.09.2013, declaring a total income of Rs.41,79,790/- under the normal provisions of the Income Tax Act, 1961 (“the Act”) and book profit of Rs.45,03,802/- under section 115JB of the Act. The case of the assessee was selected for scrutiny under CASS and accordingly notice under section 143(2) of the Act dated 02.09.2014 was issued by the Learned Assessing Officer (“Ld. AO”). However, during the course of assessment proceedings, the assessee failed to comply with any of the statutory notices issued by the Ld. AO and did not furnish the required information or explanations. On the basis of the information available on record, the Ld. AO noted that the assessee had gross contractual receipts of Rs.6,78,44,372/- as per Form 26AS. In the absence of any details or evidence from the assessee, the Ld. AO estimated the income of the assessee at 8% of the gross contractual receipts. The estimated income at the rate of 8% on Rs.6,78,44,372/- came to Rs.54,27,550/-, which was brought to tax as business income. The Ld. AO further observed that, during the relevant previous year, the assessee had raised long-term borrowings amounting to Rs.4,24,81,284/- and short-term borrowings amounting to Rs.10,37,246/-. Since the assessee did not furnish any confirmation, explanation, or supporting documentary evidence with respect to these borrowings, the Ld. AO treated the total borrowings aggregating to Rs.4,35,18,530/- as unexplained cash credits within the meaning of section 68 of the Act and added the same to the income of the assessee. Accordingly, the assessment

was completed by the Ld. AO under section 144 of the Act on 24.03.2016, determining the total income of the assessee at Rs.4,89,46,080/- under the normal provisions and book profit at Rs.45,03,802/- under section 115JB of the Act.

6. Aggrieved by the order of the Ld. AO, the assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A), after considering the submissions of the assessee, upheld the estimation of income at 8% of the gross receipts of Rs.6,78,44,372/-, resulting in business income of Rs.54,27,550/-. However, with respect to the addition made under section 68 of the Act towards unexplained cash credits amounting to Rs.4,35,18,530/-, the Ld. CIT(A) restricted the addition to Rs.6,20,000/- as against the full addition made by the Ld. AO, thereby granting partial relief to the assessee. Thus, the Ld. CIT(A) partly allowed the appeal of the assessee.

7. Aggrieved by the relief granted by the Ld. CIT(A), particularly the substantial reduction of the addition made under section 68 of the Act, the Revenue has now preferred the present appeal before this Tribunal. At the outset, the Ld. DR submitted that the only issue arising from the grounds of appeal of the Revenue relates to the action of the Ld. CIT(A) in reducing the addition made by the Ld. AO under section 68 of the Act from Rs.4,35,18,530/- to Rs.6,20,000/-. It was argued that such a drastic reduction was unwarranted, unjustified, and contrary to law. The Ld. DR submitted that the Ld. AO had made the addition of Rs.4,35,18,530/- as unexplained cash credits under section 68 of the Act because the assessee had failed to produce any

documentary evidence to substantiate the genuineness of the borrowings amounting to Rs.4,35,18,530/-. The assessee had not responded to any of the notices issued during the assessment proceedings, and therefore the Ld. AO had no option but to treat the entire borrowings as unexplained. The Ld. DR further contended that before the Ld. CIT(A), the assessee filed certain documents as additional evidence under Rule 46A of the Income Tax Rules, 1962 ("the Rules"). The Ld. CIT(A) called for a remand report from the Ld. AO. The first remand report of the Ld. AO, as placed at page no. 11 of the appellate order, clearly records that the assessee again failed to respond to the remand notices issued by the Ld. AO during the remand proceedings. Subsequently, the assessee had requested the Ld. CIT(A) to provide one more opportunity so that the matter could be remanded back to the Ld. AO where the assessee proposed to furnish all relevant evidence. The Ld. CIT(A) accordingly called for a second remand report from the Ld. AO. However, the Ld. AO did not furnish any reply to the second remand notice for reasons not apparent from the record. Without waiting for the second remand report, and despite the remand process being incomplete, the Ld. CIT(A) proceeded to decide the appeal and reduced the addition under section 68 of the Act from Rs.4,35,18,530/- to Rs.6,20,000/-. The Ld. DR further submitted that the Ld. CIT(A) had provided as many as nine opportunities to the assessee during the appellate proceedings, as reflected on page no. 3 of the appellate order. Out of these nine opportunities, the assessee complied only once, displaying continuous non-cooperation of the assessee before the appellate authority also. The assessee had also not complied

during the original assessment proceedings, nor during the first remand proceedings before the Ld. AO. The Ld. DR argued that, despite continuous non-compliance from the assessee, the Ld. CIT(A) proceeded to adjudicate the appeal without awaiting the second remand report. This action, according to the Ld. DR, violates the principles of natural justice, because the Ld. CIT(A) relied upon additional evidence without obtaining the views of the Ld. AO, whose statutory right to comment on such evidence cannot be bypassed. The Ld. DR therefore prayed that the order of the Ld. CIT(A) be set aside and that the matter may be restored to the file of the Ld. CIT(A) with a direction to obtain a proper remand report from the Ld. AO and thereafter adjudicate the issue afresh on merits, in accordance with law.

8. We have carefully considered the submissions of the Ld. DR and have perused the material available on record. Since the assessee has chosen not to appear on both the dates of hearing, we proceed to decide the appeal on the basis of the submissions of the Ld. DR and the documents placed on record. It is evident from the appellate order that the Ld. CIT(A) had initially called for a remand report in respect of the additional evidence filed under Rule 46A of the Rules, which has been placed at page no. 11 of the order of Ld. CIT (A), which is to the following effect:

Sl. No.	Queries raised	Submission of AO
1	Whether the documents furnished before the Appellate Authority can be admitted as additional evidence	The assessee neither appeared nor submitted any information during scrutiny proceedings. Hence, the scrutiny proceedings completed exparte u/s 144 of the I.T. Act, 1961. As the submissions of assessee before Hon'ble CIT(A)-5 are filed for the first time, the same may be admitted.
2	The account copies contained in the paper books show that several transactions were routed through bank accounts which need to be verified vis-as-vis cash book/bank book.	The assessee was given several opportunities for submission of certain information viz. copies of bank statements, detailed note on all above 1 Lakh transactions in bank statement regarding nature thereof alongwith documentary evidence and confirmation from

	You are required to comment on the authenticity/genuineness of transactions.	other transacting party, cash book, bank book etc. for verification and to submit remand report. However, it was informed by the assessee-company through their Accounts incharge that Shri Yella Reddy, Managing Director's husband, used to take care of all these issues and he has passed away in 2016 and therefore, the company is stated to be not in a position to provide the desired information.
3	Further, whether there was any bogus billing were carried out is to be verified as the Company had received substantial amount as mobilisation advance. Simultaneously, whether it had paid any sub-contract amounts needs to be verified.	<p>The assessee has submitted confirmations from respective parties for Mobilization Advance received and the allotment of sub-contracts received from the under mentioned parties.</p> <ol style="list-style-type: none"> <li>1. M/s IVRCL Limited, Hyderabad</li> <li>2. M/s SEW Infrastructure Ltd.</li> <li>3. M/s Prasad &amp; Company Ltd.</li> </ol> <p>The Mobilization Advances were received during the FY 2011-12. Relevant ledger extract of the assessee company in the books of above mentioned parties [Upto 29.08.2016 in the book of IVRCL Ltd., upto 31.07.2016 in the books of Sew Infrastructure Ltd. and upto 31.08.2016 in books of Prasad &amp; Company Ltd.] for the Mobilization advance and the sub-contracts are obtained and the same are enclosed for kind perusal and consideration of CIT(A)-5, Hyderabad.</p> <p>Further, regarding subcontracts given by the assessee, even though sufficient opportunities were provided the assessee could not produce any documentary evidence in this connection.</p>

9. It is evident from the above that in the first remand report the Ld. AO confirms that the assessee did not respond to the notices issued by him during the remand proceedings. The assessee thereafter requested the Ld. CIT(A) to provide one more opportunity to submit the required evidence before the Ld. AO. The Ld. CIT(A) acceded to this request and called for a second remand report. However, before the Ld. AO could furnish the second remand report, the Ld. CIT(A) proceeded to decide the appeal and drastically reduced the addition under section 68 of the Act from Rs.4,35,18,530/- to Rs.6,20,000/-. The procedure adopted by the Ld. CIT(A), in our considered view, is not in accordance with law. When additional evidence is filed under Rule 46A of the Rules and the matter is remanded, it is mandatory that the Ld. AO be given an effective opportunity to examine such evidence and furnish a remand report. Deciding the issue without awaiting the remand report amounts to denying the Ld. AO his statutory right and results in violation of the principles of natural justice. Moreover, the assessee has been consistently non-compliant before the Ld. AO, during the first remand proceedings, and even before the Ld. CIT(A), as demonstrated by the fact that out of nine opportunities granted, compliance was made only once. Despite such non-cooperation, the Ld. CIT(A) proceeded to grant substantial relief without the benefit of a complete remand exercise.

10. In view of the above factual and procedural deficiencies, we are of the considered opinion that the appellate order cannot be sustained. In the interest of justice, the matter

requires to be restored to the file of the Ld. CIT(A) for fresh adjudication, after obtaining a proper and complete remand report from the Ld. AO. Accordingly, we set aside the order of the Ld. CIT(A) on this issue and restore the matter to his file with the following directions:

(a) The Ld. CIT(A) shall call for a fresh and complete remand report from the Ld. AO in respect of all additional evidence filed by the assessee under Rule 46A of the Rules.

(b) The Ld. AO shall be provided due opportunity to examine the evidence and furnish his report within a reasonable time.

(c) After receipt of the remand report, the Ld. CIT(A) shall adjudicate the issue on merits, strictly in accordance with law.

(d) The assessee shall extend full cooperation and shall not seek unnecessary adjournments.

11. In the result, the appeal of the Revenue is allowed for statistical purposes.

Order pronounced in the Open Court on 10<sup>th</sup> December 2025.

Sd/-

**(VIJAY PAL RAO)**  
**VICE PRESIDENT**

Sd/-

**(MADHUSUDAN SAWDIA)**  
**ACCOUNTANT MEMBER**

Hyderabad, dated 10<sup>th</sup> December 2025

***Vinodan/sps***

Copy to:

S.No	Addresses
1	Income Tax Officer Ward – 1 (1) 7 <sup>th</sup> Floor, B Block I.T. Towers, Hyderabad 500004
2	M/s. Adhithi Infra Projects (P) Ltd, Flat No.504, Sai Silicon Heights, Ayyappa Society, Madhapur, Hyderabad 500081
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*