

**आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
VISAKHAPATNAM "DIVISION" BENCH, VISAKHAPATNAM**

**श्री रवीश सूद ,न्यायिक सदस्य एवं श्री ओंकारेश्वर चिदारा लेखा सदस्य के समक्ष,  
BEFORE SHRI RAVISH SOOD, HON'BLE JUDICIAL MEMBER**

**&**

**SHRI OMKARESHWAR CHIDARA, HON'BLE ACCOUNTANT MEMBER**

**आयकर अपीलसं./I.T.A.No.632 & 633/VIZ/2025  
(निर्धारण वर्ष/ Assessment Year:2017-18 & 2018-19)**

<b>M. Nagi Reddy &amp; Company</b> #213, Anand Apartment P& T Colony Visakhapatnam – 530013 <b>[PAN: AAFFM9212R]</b>	<b>Vs.</b>	<b>ACIT, Circle – 2(1)</b> Income Tax Office Infinity Towers Sankaramatam Road Visakhapatnam-530016 Andhra Pradesh
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri G.V.N.Hari, Advocate
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri K. Prasad, Sr.DR
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	11.02.2026
घोषणा की तारीख/Date of Pronouncement	:	18.02.2026

**आदेश /O R D E R**

**PER RAVISH SOOD, JM:**

The present appeals filed by the assessee firm are directed against the respective orders passed by the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi, both dated 12.08.2025, which in turn arises from

the orders passed by the Assessing Officer (for short, “A.O”) under section 143(3) of the Income-Tax Act, 1961 (for short, “the Act”), dated 28.12.2019 and under section 143(3) r.w.s. 144B of the Act dated 29.09.2021 for the A.Y. 2017-18 & A.Y.2018-19, respectively. As common issues are involved in the captioned appeals, therefore, we shall take up and dispose of the same vide a consolidated order. We shall first take up the appeal filed by the assessee firm for the A.Y. 2017-18 in ITA No. 632/VIZ/2025, and the order therein passed shall apply *mutatis-mutandis* for the purposes of disposing of the other appeal. The assessee firm has assailed the impugned order on the following grounds of appeal before us:

“1. The order of the learned Commissioner of Income Tax (Appeals) is contrary to the facts and also the law applicable to the facts of the case.

2. The learned Commissioner of Income Tax (Appeals) ought to have held that the assessing officer is not justified in rejecting the audited books of account of appellant.

3. Without prejudice to the above, the learned Commissioner of Income Tax (Appeals) is not justified in sustaining the addition of Rs.94,76,048 made by the assessing officer by estimating the profit @ 8% of the gross receipts.

4. The learned Commissioner of Income Tax (Appeals) ought to have held that the rate of profit adopted by the assessing officer at 8% is on higher side.

5. Any other grounds may be urged at the time of hearing.”

2. Succinctly stated, the assessee firm, which is engaged in civil contract business, had filed its return of income for the A.Y. 2017-18 on 30.10.2017,

declaring its income at Rs. 73,73,850/-. Subsequently, the case of the assessee firm was selected for scrutiny assessment under section 143(2) of the Act.

2. During the course of the assessment proceedings, the AO issued notice under section 142(1) of the Act, dated 05.09.2019, wherein the assessee firm was called upon to submit certain information relevant for framing of assessment in its case. In response, the assessee firm furnished a part reply. Thereafter, the A.O issued another notice under section 142(1) of the Act dated 09.12.2019, wherein he called upon the assessee firm to furnish certain specific details, viz., (i) details of unsecured loans along with the confirmation letters of the parties; (ii) details of sundry creditors along with documentary evidences; (iii) details of sundry debtors along with bills and vouchers and copies of ledger accounts; (iv) details of TDS returns along with the details of tax deducted at sources of sub-contractors with supporting evidences; (v) details of work-in-progress; and (vi) copies of the ledgers accounts along with the bills and vouchers, viz. (a) labor charges (paid to sub-contractors): Rs. 4,53,64,581/- (b) labor charges: Rs. 1,52,76,633/- (c) site expenses: Rs. 1,04,25,247/- and (d) office expenses: Rs. 13,55,040/-.

3. As the assessee firm did not comply with the aforesaid notice issued under section 142(1) of the Act and failed to place on record the requisite details/information, therefore, another notice under section 142(1) of the Act, dated 16.12.2019 was issued to him with a specific observation that in case the requisite

details were not filed then the assessment will be finalized as per the information available on record. In compliance, the assessee firm, though, partially replied to the queries raised by the AO, but failed to substantiate the same based on irrefutable supporting material. Accordingly, the AO issued another notice under section 142(1) of the Act dated 24.12.2019, and once again called upon the assessee firm to furnish its reply regarding the remaining queries that were earlier raised.

4. The AO observed that the assessee firm, during the course of the assessment proceedings, had failed to produce corroborative evidence to support its claim for deduction of various expenditure debited in the “profit and loss account”. Thus, the AO, based on the aforesaid facts, concluded that in the absence of the requisite details, the genuineness of the claim of the assessee for deduction of various expenditure debited in its “profit and loss account” was not open for verification. Accordingly, the AO, based on his aforesaid conviction, held the “book results” of the assessee-firm as not reliable and rejected the same under section 145(3) of the Act. Thereafter, the AO, after having rejected the “book results” of the assessee firm, estimated its income @ 8% of its total gross receipts and determined its income at Rs. 1,68,49,898/-.

5. Aggrieved, the assessee firm assailed the impugned assessment order before the CIT(A) but without success. For the sake of clarity, we deem it apposite to cull out the observations of the CIT(A), as under: -

“5. Decision:

5.1. The grounds of appeal, assessment order u/s. 143(3) of the Act and submission of the appellant have been carefully considered.

5.2. Ground Nos. 1,2,3,4,5 & 6 raised by the appellant against the action of the AO in estimating the business income @ 8% of total turnover/work receipts without considering the submissions made by the appellant, rejection of books of accounts u/s. 145(3) of the Act and the expenditure is genuine since the TDS was deducted. The appellant not pressed the ground no.7 and hence does not require adjudication.

5.3. On verification of the material available, the appellant submitted the ledger extracts, TDS bifurcation and confirmation of sundry creditors but failed to submit the bills/vouchers for the expenditure debited to P & L alc. It was further noticed that the appellant had given a statement showing the closing stock and percentage of completion of the projects without any documentary evidences. Therefore, the finding of the AO that the appellant failed to furnish the corroborative evidences cannot be found fault with. The action of the AO in rejecting the books u/s. 145(3) is justified. In the absence of the same, the AO rejected the books of accounts u/s. 145(3) of the Act and estimated the business income @8% of the total turnover/work receipts by relied on the various case laws, which are as under:

1. Ram Chandra Singh Ramnik Vs CIT (Pat) 42ITR 780.
2. Bhai Sunder Das Sardar Singh (P) Ltd. Vs CIT (Del) 84 ITR 106.
3. Dwarka Prasad Bajaj Vs CIT (Cal) 181 ITR 277.
4. Arihant Builders, Developers Investors (P) Ltd. Vs ACIT (ITAT, SB-Ind) 106 ITD 10.
5. Surinder Pal Nayyar Vs CIT (P & H) 177 Taxmann.207.
6. Indwell Constructions Vs CIT (AP) 232 ITR 776.

5.4. On perusal of the written submission, the appellant contended that books of accounts were audited u/s. 44AB of the Act, furnished the reply along with all details/documents in response to the notice u/s. 142(1), show-cause notice and passed the assessment order without considering the reply, is not correct. Further, the appellant stated that for the A.Ys.2014-15 &

2015-16 subjected to scrutiny, AY 2016-17 non-subjected to scrutiny, the net profit the appellant is at an average of 6%.

5.5. On perusal of the Form-35, the appellant did not mention any additional evidence in support of his claim. The index of the paper book containing the certificate of the appellant i.e., "Certified that S.No. 1 written submissions, S.No.2-9 are the documents filed before AO, S.No.10 case laws". It clearly shows that the appellant did not have any additional/new evidence furnished before the undersigned during the appeal proceedings other than the submissions before the AO. The appellant himself admitted that the above documents were submitted before the AO during the assessment proceedings. The documents furnished by the appellant before the AO were examined and rejected the books of accounts u/s. 145(3) of the Act by relying on the judicial decisions since the appellant failed to furnish corroborative evidence towards the claim of the various expenditure debited to P & L a/c. The AO after considering the similar line of business of the appellant with other persons/entities and estimated the business income @ 8% on total gross receipts/ work receipts.

5.6. After considering the facts and circumstances of the case, I am of the considered opinion that the action of the AO in estimating the business income @ 8% on total gross receipts/work receipts, is reasonable. Therefore, the action of the AO is upheld. Accordingly, the ground nos. 1,2,3,4,5 & 6 are dismissed.

Ground Nos.8 and 9 are general in nature and do not require any adjudication.

7. In the result, the appeal filed by the appellant against order u/s. 143(3) of the Act for the AY 2017-18 is dismissed.”

6. The assessee firm, aggrieved with the order of the CIT(A), has carried the matter in appeal before us.

7. We have heard the Learned Authorized Representatives of both parties, perused the orders of the authorities below and the material available on record, as well as considered the judicial pronouncements that have been pressed into service by the Ld. AR to drive home his contentions.

8. Shri G.V.N. Hari, Advocate, Learned Authorized Representative (for short “Ld.AR”) for the assessee firm, at the threshold of hearing of the appeal, submitted that as per instructions, he seeks not to press the “ground of appeal no.2”. Accordingly, in terms of the aforesaid concession of the Ld. AR the “Ground of appeal No.2” raised by the assessee firm is dismissed as not pressed.

9. The Ld. AR submitted that the grievance of the assessee firm in the present appeal hinges around the solitary aspect, i.e., the estimation of its income at an exorbitant rate of 8% of the gross receipts after rejection of the “book results” under section 145(3) of the Act. Elaborating on his contention, the Ld.AR submitted that against the Net Profit rate of 3.5% disclosed by the assessee firm based on its audited financial accounts, the AO, without any basis, had substituted the same by an exorbitant NP rate of 8% and worked out the impugned addition in the hands of the assessee firm. Carrying his contention further, the Ld.AR submitted that having rejected the “book results” of the assessee firm under section 145(3), the AO ought to have adopted a logical and reasoned approach for estimating the income of the assessee firm. The Ld. AR submitted that the assessee firm in the last three preceding years had, from its same line of business, disclosed substantially lower profits/income, viz. (i). A.Y. 2014-15: 5.34%; (ii). A.Y. 2015-16: 6.87%; and (iii) A.Y. 2016-17: 5.28%, which had consistently been accepted by the department. The Ld. AR submitted that in two of the aforementioned preceding years, i.e., A.Y. 2014-15 and A.Y. 2015-16, the cases

of the assessee firm were scrutinized and the respective assessments were framed under section 143(3) of the Act. The Ld.AR to buttress his claim had taken us through the respective assessment orders passed by the A.O under section 143(3) of the Act, dated 30.11.2016 and 18.12.2017 for the A.Y. 2014-15 and A.Y. 2015-16. Also, the Ld. AR had taken us through the audited financial statements of the assessee firm for the aforementioned preceding years. The Ld. AR submitted that in the case of the assessee-firm for the A.Y. 2014-15, wherein the NP rate was disclosed at 5.34%, the AO had, vide his order passed under section 143(3) of the Act, dated 30.11.2016, accepted its returned income, as such. It was further submitted by him that the AO, while framing the assessment for the AY. 2015-16 had, vide his order passed under section 143(3) of the Act, dated 18.12.2017, after making certain disallowance determined the income of the assessee firm at Rs. 83.45 lacs (approx.), based on which the NP rate for the said year worked out at 6.87%. Further, the Ld. AR submitted that the assessee firm in the immediately preceding year, i.e., A.Y. 2016-17, had disclosed its NP rate at 5.28% which had been summarily accepted by the department vide an intimation issued under section 143(1) of the Act. The Ld. AR based on his aforesaid contentions submitted that the A.O in all fairness and in the interest of justice after having rejected the “book results” of the assessee-firm under section 145(3) of the Act, ought to have estimated its income for the subject year by adopting the average of the NP rate(s) of the aforementioned three years which worked out at 5.83%.

10. Per contra, Shri K. Prasad, Learned Senior Departmental Representative (for short, “Ld. DR”) supported the orders of the authorities below. The Ld. DR submitted that as the assessee firm in the course of the assessment proceedings had failed to furnish the requisite details which would substantiate the genuineness of its claim for deduction of expenses debited in the “profit and loss account”, therefore, the A.O had rightly rejected its “book results” under section 145(3) of the Act and fairly estimated its income @8% of its gross receipts.

11. We have given thoughtful consideration to the contentions advanced by the Learned Authorized Representatives of both parties in the backdrop of the orders of the authorities below.

12. We are unable to persuade ourselves to concur with the estimation of the income of the assessee-firm by the AO @8% of his total work receipts of Rs. 21,06,23,728/-. On a specific query by the Bench as to on what basis the AO had adopted the NP rate @8%, the Ld. DR failed to come forth with any explanation.

13. In our view, where the “book results” of the assessee are rejected, then undeniably the process of estimation of the income would get triggered, but such a process of estimation of income cannot be allowed to go wild and baseless, and is supposed to be based on a reasonable and logical basis. We are of the firm conviction that as the case of the assessee firm for two preceding years (out of three preceding years) have been subjected to scrutiny assessment, viz. (i) A.Y.

2014-15 vide order under section 143(3) of the Act, dated 30.11.2016; and (ii) A.Y. 2015-16 vide order under section 143(3), dated 18.12.2017, therefore, the A.O while estimating the income of the assessee-firm should have looked into the NP rate (weighted average) as was arrived at based on the assessed income of the assessee firm for the said preceding years.

14. We find that the assessee-firm has filed before us the details of its NP rates for the preceding three years, as under:

<b>A.Y.</b>	<b>Gross receipts in Rs.</b>	<b>NP Rate</b>
2014-15	5,76,01,550	5.34%
2015-16	10,85,55,322	6.87%
2016-17	17,55,89,760	5.28%

In our view, the A.O in all fairness and in the interest of justice, after having rejected the “book results” of the assessee firm under section 145(3) of the Act, ought to have adopted the NP rate (weighted average) for the aforementioned two years [out of three years] which had been subjected to scrutiny assessment i.e., A.Y. 2014-15 and A.Y. 2015-16, for estimating the income of the assessee-firm for the year under consideration on a logical basis. As the NP rate (weighted average) of the aforementioned two preceding years works out @ 6.10%, which we find is more than that disclosed by the assessee-firm as per its audited financial results for the year under consideration, therefore, the A.O in absence of any material which would have irrefutably evidenced that the business activities of the assessee-firm for the subject year under consideration had witnessed any shift

in comparison to those of the aforementioned two preceding years, ought to have in all fairness adopted the same as a yardstick and estimated the income of the assessee-firm.

15. At this stage, we may herein observe that, as neither is it discernible from the orders of the authorities below nor anything has been placed on our record by the Ld. DR which would reveal that the profit earned by the assessee-firm during the subject year was for certain specific reasons not comparable to those of the preceding years; nor any such material has been produced before us which would reveal that the profits earned by the assessee-firm during the subject year had witnessed any abnormal increase, therefore, we find no reason as to why the aforesaid NP rate (weighted average) for the aforementioned two preceding years which had been subjected to scrutiny assessment by the department should not be adopted for estimating the income of the assessee-firm for the year under consideration.

16. We, thus, finding no justification in estimation of the income of the assessee firm for the year under consideration by adopting the NP rate @8% of the gross receipts, direct the A.O to estimate the income of the assessee-firm based on our aforesaid deliberations @6% of its gross receipts of Rs. 21,06,23,728/- which works out at Rs.1,26,37,424/-. Accordingly, the addition made in the hands of the assessee-firm is directed to be restricted to an amount of

Rs. 52,63,574/- [Rs.1,26,37,424/- (minus) Rs.73,73,850/-]. The **Grounds of appeal Nos. 3 & 4** are partly allowed in terms of our aforesaid observations.

17. The **Grounds of appeal Nos. 1 & 5**, being general, are dismissed as not pressed.

18. Resultantly, the appeal filed by the assessee in ITA No. 632/VIZ/2025 for the A.Y. 2017-18 is partly allowed in terms of our aforesaid observations.

**ITA NO. 633/VIZ/2025 (A.Y. 2018-19)**

19. As the facts and the issue involved in the present appeal remain the same as were before us in the case of the assessee-firm for the immediately preceding year, i.e., A.Y. 2017-18 in ITA No. 632/VIZ/2025, therefore, our order passed hereinabove shall apply *mutatis mutandis* for the purpose of disposing of the present appeal. We, thus, on the same terms, direct the AO to restrict the addition in the case of the assessee-firm to 6% of its total turnover/gross receipts of Rs. 26,40,60,303/-. Accordingly, the addition made in the hands of the assessee-firm is directed to be restricted to an amount of Rs. 63,77,415/- [Rs. 1,58,43,618/- (minus) Rs. 94,66,203/-].

20. Resultantly, the appeal filed by the assessee firm for the A.Y. 2018-19 in ITA No. 633/VIZ/2025 is on the same terms, partly allowed based on our aforesaid observations.

21. In the result, both the appeals filed by the assessee firm are partly allowed in terms of our aforesaid observations.

Order pronounced in the open court on 18<sup>th</sup> February, 2026.

Sd/-  
(**ओंकारेश्वर चिदारा**)  
(**OMKARESHWAR CHIDARA**)  
लेखा सदस्य /ACCOUNTANT MEMBER

Dated: 18.02.2026

\*Giridhar, Sr.PS

Sd/-  
(**रवीश सूद**)  
(**RAVISH SOOD**)  
न्यायिक सदस्य/JUDICIAL MEMBER

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee : **M. Nagi Reddy & Company**  
#213, Anand Apartment  
P& T Colony  
Visakhapatnam – 530013
2. राजस्व/ The Revenue : **ACIT, Circle – 2(1)**  
Income Tax Office  
Infinity Towers, Sankaramatam Road  
Visakhapatnam-530016  
Andhra Pradesh
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam