

**IN THE INCOME TAX APPELLATE TRIBUNAL  
LUCKNOW 'B' BENCH, LUCKNOW**  
**BEFORE SH. SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER**  
**AND**  
**SH. NIKHIL CHOUDHARY, ACCOUNTANT MEMBER**

ITA No.551/LKW/2018

A.Y. 2015-16

Dee Control and Electric Pvt. Ltd., C-8, Site No. 5, Panki Udyog Kunj, Kanpur-208022	vs.	Deputy Commissioner of Income Tax, VI, Kanpur
<b>PAN: AABCD6695G</b>		
(Appellant)		(Respondent)

Assessee by:	Sh. B.P. Yadav, Adv
Revenue by:	Sh. R.R.N. Shukla, Addl CIT DR
Date of hearing:	10.12.2025
Date of pronouncement:	25.02.2026

**ORDER**

**PER NIKHIL CHOUDHARY, A.M.:**

This is an appeal filed by the assessee against the order of the Id. CIT(A)-Kanpur dated 25.05.2018, wherein the Id. CIT(A) has dismissed the appeal of the assessee against the orders of the Assessing Officer passed on 18.12.2017 under section 143(3) of the Income Tax Act for the A.Y. 2015-16. The grounds of appeal are as under:-

*"1- That the learned C.LT. (Appeal) has erred on facts in sustaining the taxation of Rs. 27,78,232/- made by A.O. on the ground that aforesaid amounts of receipts come in the head of income from other sources.*

*2-That the learned C.I.T. (Appeal) has erred on facts in sustaining the taxation of Rs. 27,78,232/- made by A.O. without 2 appreciating facts that aforesaid receipts have been originated in the course of business affairs and are business receipts.*

*3-That Rs. 27,78,232/- are gross business receipts and income to be estimated by applying net profit rate of 2.35% thereon as adopted by A.O. on supplies of goods and contract work.*

*4-That the learned C.I.T. (Appeals) has erred on facts in confirming the taxation of interest receipts of Rs. 7,57,097/- on the ground of its taxable in the head of income from other sources without appreciating facts that interest receipts are on F.D.Rs. which were totally utilized for business affairs and against receipts interest have been paid for Rs. 1,35,90,709/-.*

*5-That the learned C.I.T. (Appeals) has erred on facts in sustaining taxation of Rs. 18,73,904/- in the account of W.C.T. on the ground that the said amounts have been claimed as expenses in F.Y. 2011-12 without appreciating facts that the assessment of the company has been completed for A.Y. 2012-13 by applying flat net profit rate on gross receipts shown in books of accounts.*

*6-That the appellant craves to modify any grounds of appeal stated above and or to add any fresh grounds as and when it is required."*

2. The facts of the case are that the assessee filed a return of income declaring total income of Rs. 1,35,20,110/- on 26.09.2015. The case was picked up for scrutiny and various notices were issued. During the course of assessment proceedings, the assessee was required to furnish various details of expenditure claimed in the profit and loss account and also to produce complete books of accounts with all supporting bills and vouchers. In response, the assessee furnished the details, from which the AO determined that the assessee was engaged in two types of Contracts i.e. the supply and installation of material / equipment and contract of civil and electrical work inclusive of supply and installation of material / equipment. Verification of the bills and vouchers revealed that some expenses were made through self-made vouchers, in cash and therefore, not fully verifiable. He asked the assessee to furnish details, but the assessee could not furnish. Accordingly, he asked the assessee to show cause why the provisions of section 145(3) of the Act should not be invoked and on 7.12.2017, the assessee filed a letter in which it agreed to completion of assessment on estimate basis by applying a rate of 6.5% of receipts related to contract work and 2.35% of receipts related to material supply and installation work. Accordingly, the AO completed the assessment on the aforesaid lines. But he noted that the assessee had also received other income which included interest income of Rs. 7,57,097/-, recovery of WCT deduction at Rs. 18,73,904/- (claimed as deduction in F.Y. 2011-12 P & L Account) and misc. income of Rs. 1,45,116/- and amounts written off at Rs. 2,115/- totaling in all to Rs. 27,78,232/-, which he proposed to add separately as, "other income". Accordingly, the assessee was assessed at a total income of Rs. 1,87,03,726/- after making these additions.

3. Aggrieved with the said order, the assessee went before the Id. CIT(A). Before the Id. CIT(A), it was submitted that the entire income pertains to income from business and the AO ought not to have bifurcated the receipts into the business receipts and receipts from other sources. Therefore, the rate of 6.5% should have been assessed in respect of this amount also instead of assessing it at 100%. The Id. CIT(A), noted that in earlier years, the AO had bifurcated the gross receipts into business receipts and receipts from other sources with regard to interest income. He held that it could be assessed either as business income or as income from other sources depending upon the activities carried out by the assessee. If the investment yielding interest was part of the business of the assessee, the same would be assessable, "business income", but where the earning of interest income was incidental to and not the direct outcome of the business carried on by the assessee, the same was assessable as, "income from other sources". Id. CIT(A) pointed out that the assessee had not filed any evidence to show that this income was directly attributable to its business. He also held that the rest of the receipts namely recovery of WCT deduction of Rs. 18,73,904/- had already been claimed as full deduction in F.Y. 2011-12 and therefore was not subject to the application of any GP rate in the year under consideration. Therefore, it should be included at 100% in computing the income of this year. Hence, he upheld the orders of the AO.

4. The assessee is aggrieved at this order of the Id. CIT(A) and has accordingly come before us. Sh. B.P. Yadav, Advocate (hereinafter referred to as the Id. AR) appearing on behalf of the assessee submitted that the interest of Rs. 7,57,097/- had been earned on fixed deposits that were pledged for earnest money deposit and therefore, it was income from business and should be assessed @ 6.5% of gross receipts instead of being taxed at 100%. He pointed out that this principle had been followed in previous years. In support of his arguments, he relied upon the decisions of the Hon'ble Kerela High Court in the case of CIT vs. Chinna Nachimuthu Construction (2008) 297 ITR 70 (Ker), DCIT vs Teenlog Advisory Services P. Ltd. (2016) 159 ITD 991 (Kolkata) and the decision of the

Hon'ble Patna High Court in the matter of Shyam Bihari vs. CIT (2012) 345 ITR 283 (Pat). He also filed a petition under Rule 29 for admission of additional evidence. It was prayed that all the FDRs/DDs/EMDs were made wholly and exclusively for the purposes of the business of the assessee and the details of these FDRs were on the record of the Revenue and interest earned on these FDRs were treated as business income. During the current year, they had been treated as income from other sources on the grounds that details of the FDRs had not been furnished before the AO. The ld. AR submitted that this was the fault of the person looking after the case of the assessee before the lower authorities but consideration of these documents was of paramount importance in the interest of justice as these documents could assist the Hon'ble Bench in adjudicating the additions of Rs. 7,57,097/- on merit. Accordingly, he sought permission to file the ledger accounts of DD/FDR/EMD for the financial years. 2012-13 to 2014-15 on this account. On the issue of taxation of WC tax, it was submitted that the same was also a business receipt as it arose out of a refund of tax earlier deposited and therefore, it too should be taxed as a percentage of profits rather than for the entire amount.

5. On the other hand, Sh. R.R.N. Shukla, Addl CIT DR (hereinafter referred to as the DR) pointed out that the assessee had not made any submissions before the AO or the CIT(A) with regard to the nature of the WCT or the interest on DD/FD etc., and did not have any explanation as to why he had not submitted the same. Therefore, the action of the ld. CIT(A) in dismissing his appeal was justified.

6. We have duly considered the facts and circumstances of the case. We note that the nature of the interest income earned by the assessee has not been examined by the lower authorities on account of there being no submissions to this effect before them, either because queries were not raised or because the assessee did not deem it necessary in view of previous year's assessments. In the circumstances, we deem it appropriate that this additional evidence should be admitted and restored to the file of the AO for examination of this issue. Similarly, we have noted the contention of the assessee that the amount received on WCT was in the nature of a refund of tax previously deposited and therefore, should also

be assessed to tax at a fixed percent rather than on the entire amount. We note that these aspects have not been presented before or considered by the AO or the Id. CIT(A) in proceedings before them. Accordingly, we restore this matter also to the file of the AO so as to enable the assessee to furnish the necessary information in this regard before the AO and the AO may thereafter take an appropriate decision in accordance with law. As the matter stand restored to the file of the AO for *de novo* assessment, the appeal of the assessee is held to be allowed for statistical purposes.

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

Order pronounced on 25.02.2026 in the Open Court.

***Sd/-***  
**[SUDHANSHU SRIVASTAVA]**  
**JUDICIAL MEMBER**

DATED: 25/02/2026

Sh

***Sd/-***  
**[NIKHIL CHOUDHARY]**  
**ACCOUNTANT MEMBER**

Copy forwarded to:

1. Appellant –
2. Respondent –
3. CIT DR , ITAT,
4. CIT,
5. The CIT(A)

By order  
Sr. P.S.