

**IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH, MUMBAI**

**BEFORE SRI MAHAVIR SINGH, JM AND SRI RAJESH KUMAR, AM**

**ITA No.7243/Mum/2014**

(A.Y:2010-11)

The Asst. Commissioner of Income Tax-22(3), Room NO.322, Piramal Chambers, 3 <sup>rd</sup> floor, Parel, Mumbai-12	Vs.	M/s. Quick Builders, Plot No.142, Shah House, 3 <sup>rd</sup> floor, S. V. Road, Khar (West), Mumbai- 400 052 <b>PAN: AAFAQ 0227F</b>
<b>Appellant</b>	..	<b>Respondent</b>

<b>Appellant by</b>	..	<b>Shri B. S. Bist, Sr. DR</b>
<b>Respondent by</b>	..	<b>Shri Ashit R. Mehta, AR</b>

<b>Date of hearing</b>	..	<b>22-09-2016</b>
<b>Date of pronouncement</b>	..	<b>22 - 09- 2016</b>

**ORDER**

**PER MAHAVIR SINGH, JM:**

This appeal of the Revenue is arising out of the order of the CIT (Appeals)-30, Mumbai in appeal No.CIT (A)-30/Addl. CIT-19(1)/13-14 dated 19-09-2014. Assessment was framed by the Addl. CIT, Range-19(1), Mumbai for assessment year 2010-11 u/s 143(3) of the Income Tax Act, 1961 (hereinafter “the Act”) vide his order dated 28-03-2013.

2. The only issue involved in this appeal of the Revenue against order of the CIT (A) deleting the addition of estimated income. For this, the assessee has raised the following ground No.1:-

*“1. On the facts and in the circumstances of the case and in law, the learned CIT(A) erred in deleting the addition of Rs.52.57 lakhs holding that rejection of books was not justified without appreciating the fact that stock details were not being maintained by the assessee”.*

3. We have heard the rival contentions and also gone through the facts of the case. Briefly stated facts are that the assessee is a civil contractor engaged in construction of residential buildings and other misc. construction works undertaken on tender basis. The Assessing Officer from the details furnished by the assessee noticed that the assessee has disclosed income from 19 projects, out of which 12 projects were carried forward projects and 7 projects have been awarded during the year. The assessee has disclosed total contract receipts at Rs.15.12 Crores and closing work-in-progress at Rs.2.27 Crores. According to the Assessing Officer, the assessee

has not maintained stock register; therefore, he rejected the book results by invoking the provisions of Section 145 (3) of the Act and estimated the income by applying profit rate of 8% of the total turnover. He estimated the income by computing business income by taking total turnover at Rs.17,39,64,992/- and estimated the net profit at Rs.1,39,17,199/-. The assessee has declared profit at Rs.86,59,243/- and thereby addition made by the Assessing Officer was at Rs.52,57,956/-. The CIT (A) after taking the following comparative rates deleted the addition:-

Asst. Year	Total sales	Gross Profit (GP)	Net Profit Before salary to partners (NP)	GP Ratio	NP Ratio	Assessed U/s.
2010-11	1512209206	15561156	6825637	10.29	4.51	Under appeal
2009-10	135695672	13764933	4221821	10.14	3.11	143(3)
2008-09	209271990	15965065	5966457	07.63	2.85	143(3)

4. After going through the arguments both the sides and going through the facts of the case, we find that after rejecting the books of account of the assessee the Assessing Officer has estimated the GP @8% by taking the total turnover of the assessee at Rs.17,39,64,992/- instead of Rs.15.14 Crores as mentioned in Para 4 of the assessment order. The Assessing Officer has also wrongly added work-in-progress of Rs.2.27 Crores to the contract income and computed GP @ 8% on the said amount, which was not income during the year. It is further seen that GP and NP rate during the AY 2010-11 was 10.29% and 4.5% respectively. For AY 2009-10 the same was 10.14% and 3.11% and for AY 2008-09 it was 7.63% and 2.85% respectively. Assessments for both the years i.e. AY 2009-10 and 2008-09 were framed u/s 143(3) of the Act and the Assessing Officer has not pointed out any reason for deviating from the stand taken in the earlier years in respect of the accounting method followed by the assessee consistently. In view of this, we hold that the Assessing Officer has not pointed out any material defects on record to show that the assessee's books of accounts were not correct and true and that the correct profit from the assessee's business cannot be determined from the same. We find the reliance of the Assessing Officer on the case laws for rejecting the books of accounts of the assessee is misplaced. Hence, we uphold the order of the CIT (A) directing the Assessing Officer for deleting the addition of Rs.52,57,956/- made by him on

account of addition to the net profit from assessee's contract income. Resultantly, Revenue's appeal stands dismissed.

**5. In the result, the appeal of the Revenue is dismissed.**

Order pronounced in the open court on 22-09-2016.

Sd/-  
(RAJESH KUMAR)  
ACCOUNTANT MEMBER

Sd/-  
(MAHAVIR SINGH)  
JUDICIAL MEMBER

Mumbai, Dated: 22-09-2016

*Lakshmikanta Deka/Sr.PS*

**Copy of the Order forwarded to:**

1. The Appellant
2. The Respondent.
3. The CIT (A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

Assistant Registrar  
ITAT, MUMBAI

Sr.No.	Particulars	Date	Initials	Member Concerned
1	Dictation given on (direct on computer)	22/09/16	LK Deka	JM
2	Draft placed before author	22/09/16		
3	Draft proposed/placed before The second Member			
4	Draft discussed/approved by Second member			
5	Approved Draft comes to the Sr.PS			
6	Kept for pronouncement on			
7	File sent to the Bench Clerk			
8	Date on which file goes to the Head Clerk			
9	Date of dispatch of Order			