IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD "B" BENCH : HYDERABAD

BEFORE SHRI VIJAY PAL RAO, VICE PRESIDENT
AND
SHRI MANJUNATHA G, ACCOUNTANT MEMBER

ITA.No.1134/Hyd/2024
Assessment Year 2017-2018

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| Dwaraka Pershad Radhey Ramanlal, SECUNDERABAD.<br>PAN AACFD4470F<br>PIN – 500 003 | vs. | The ACIT, Circle-10(1), Hyderabad. Telangana. |
| (Appellant) | | (Respondent) |

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| For Assessee : | CA C Suresh |
| For Revenue : | Dr. Sachin Kumar, Sr. AR |

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| Date of Hearing : | 27.03.2025 |
| Date of Pronouncement : | 07.04.2025 |

**ORDER**

**PER MANJUNATHA G, A.M. :**

This appeal has been filed by the Assessee against the order dated 26.07.2024, of the learned CIT(A)-National Faceless Appeal Centre [in short "NFAC"], Delhi, relating to the assessment year 2017-2018.

2. The sole substantive ground raised by the assessee in the instant appeal is estimation of income @ 6%

by rejecting the books of accounts of the assessee by the lower authorities.

3. Briefly stated facts of the case are that, the assessee-firm is a civil contractor and filed it's return of income on 28.10.2017 for the impugned assessment year 2017-2018 admitting total income of Rs.32,03,260/-. The case was selected for complete scrutiny under CASS. Notice u/sec. 143(2) of the Income-tax Act (in short "the Act") dated 09.08.2018 was issued and served on the assessee. Subsequently notices u/sec. 142(1) of the Act dated 14.02.2019 was issued and served on the assessee through ITBA Portal calling the assessee to furnish the financial statements, computation statement and Form 3CD. In response, the assessee has filed the same. During the course of assessment proceedings, the Assessing Officer noted that assessee has three branch offices located at Secunderabad, Hyderabad and Bidar. He observed from the trading accounts, branch wise and consolidated Profit and loss account that, assessee had claimed huge expenditure under purchases, direct and indirect expenses. The

Assessing Officer also observed that the assessee firm claimed 'Loss on Work Contracts' in respect of branch located at Hyderabad. Therefore, vide Notice u/s.142(1) of the Act dated 28.10.2019 and 08.11.2019, assessee was requested to furnish ledger accounts for all the expenses claimed to substantiate the loss claimed against Hyderabad Branch. In response to the notices, assessee furnished a summary of purchases, indicating name of the parties and for expenses towards Sand and Labour charges, mentioning the Voucher Nos. However, the assessee has not furnished any documentary evidence, justifying the loss against Hyderabad branch and overheads claim. Since the assessee has failed to furnish ledger accounts for party-wise local and Inter-state purchases and also for the expenditure claimed, a show cause notice was issued to the assessee to show cause as to why the net profit should not be estimated @ 8% of gross receipts since the assessee admitted the profit @ 3.8% only. In response to the show cause notice, assessee furnished part information, i.e., the ledger accounts, hand written for purchase of goods, sand, labour charges and

water charges in respect of Hyderabad branch only, but, not for the remaining two branches, i.e., Secunderabad and Bidar. The Assessing Officer after verification of sequence of Voucher Nos. in ledger accounts noted that, there is no continuity, but, there is leap in the numbers. Further, the voucher Nos. for purchases of sand as well as Labour charges are one and the same. Further, as regards the purchase of goods/materials, the assessee has recorded only the amounts of month-wise purchases but not the details of parties from which the purchases were made. In absence of the above information, the ledger accounts maintained by the assessee lacks credibility. Therefore, the Assessing Officer estimated the profits @ 6% of the contract receipts and determined profits from business at Rs.49,33,339/- and by making addition on account of interest on FDs and interest on refund at Rs.18,89,943/-, determined the total income of the assessee at Rs.68,83,282/- as against the returned income of the assessee at Rs.32,03,260/- vide order dated 09.12.2019 passed u/sec.143(3) of the Act.

4. On being aggrieved, the assessee carried the matter in appeal before the learned CIT(A). The learned CIT(A) after considering the written submissions of the assessee deleted the addition made on account of interest earned on term deposits with bank as security money/earnest money of Rs.18,89,943/-, however, confirmed the profit estimated @ 6% at Rs.49,93,339/- by the Assessing Officer.

5. Aggrieved by the order of the learned CIT(A), the assessee carried the matter in appeal before the Tribunal.

6. During the course of hearing, CA C. Suresh, Learned Counsel for the Assessee submitted that, the Assessing Officer has erred in rejecting the books of accounts of the assessee and estimated the profit @ 6% on contract receipts by giving a reason that assessee could not furnish supporting evidences in respect of expenditure incurred at Hyderabad Branch. However, the fact remains that the assessee has submitted complete details of expenditure in response to specific notice issued by the Assessing Officer and uploaded all the details which is

available in the paper book at page nos.32 and 33. Learned Counsel for the Assessee further submitted that, the assessee is maintaining regular books of accounts and got audited from an Accountant and the Auditor has not made-out any incorrectness in books of accounts or made any adverse comments in respect of various expenditure debited into the P & L A/c. Therefore, in absence of any observations, merely on the basis of non-production of details of one branch expenditure, the books of accounts cannot be rejected and profit cannot be estimated. Learned Counsel for the Assessee further referring to the assessment order passed by the Assessing Officer for earlier assessment years submitted that, in earlier assessment years, the appellant's case was subjected to scrutiny and the Assessing Officer has accepted the financial results declared by the assessee even though made some adhoc disallowances of expenditure. Therefore, in absence of any deviation in the method of accounting followed by the assessee or incorrectness in the books of accounts, the books of accounts cannot be rejected. He, therefore,

submitted that, addition made by the Assessing Officer towards estimation of profit @ 6% should be deleted.

6.1. Learned Counsel for the Assessee further in response to a question from the Bench, he has filed a chart explaining the total turnover from the business and net profit declared for the each year, right from assessment year 2014-2015 to 2017-2018 and submitted that the appellant had declared net profit ranging from 4.12% to 5%. Therefore, estimation of profit by the Assessing Officer @ 6% is without any basis and needs to be deleted.

7. Learned Sr. AR Dr. Sachin Kumar, on the other hand, supporting the order of the learned CIT(A) submitted that, the assessee could not submit complete information in respect of various details called for by the Assessing Officer which is evident from the assessment order where the assessee has not submitted any details in respect of expenditure incurred at Hyderabad Branch. Therefore, the Assessing Officer in absence of relevant books of accounts and supporting evidences for various expenditure, has rightly rejected the books of accounts and estimated the net

profit @ 6% and the learned CIT(A) after carefully considering the submissions of the assessee and the assessment order has sustained the estimation made by the Assessing Officer. He accordingly submitted that the order of the learned CIT(A) should be upheld.

8. We have heard both the parties, perused the material on record and the orders of the authorities below. It is an undisputed fact that the assessee is in the business of execution of Civil Engineering Contracts for defense. The assessee has claimed loss on works contract in respect of Hyderabad Branch. The Assessing Officer rejected the books of accounts on the ground that the assessee failed to substantiate the loss claimed against Hyderabad Branch and also failed to furnish relevant information in respect of various expenditure debited into P & L A/c in respect of Hyderabad Branch and, therefore, estimated 6% profit on total contract receipts and determined the total income from business at Rs.49,93,339/-. Except stating that the assessee could not substantiate loss claimed in respect of Hyderabad Branch, the Assessing Officer did not make any

observation with regard to any incorrectness in the books of accounts maintained by the assessee or he has given any reasons for not accepting the financial results declared by the assessee. On the other hand, the assessee has filed evidences to prove that in response to notice issued u/sec.142(1) of the Act, he has complied with all details and furnished various bills and vouchers in respect of expenditure debited into P & L A/c for Hyderabad Branch which is available in page nos.30-32 of the PB filed by the assessee. Therefore, in our considered view, the Assessing Officer cannot reject the books of accounts merely for the reason of un-substantiating the claim of loss on works contract at Hyderabad Branch when all other evidences filed by the assessee goes to prove that the books of accounts maintained by the assessee are verifiable and there is no adverse comments in the books of accounts maintained by the assessee either from the Assessing Officer or from the Auditor. To this extent, we cannot uphold the reasons given by the Assessing Officer for rejection of books of accounts.

9. Having said so, let us come back, is there any basis for the Assessing Officer to estimate 6% net profit on gross contract receipts ? No doubt, the assessee has debited loss on works contract of Hyderabad Branch and the said expenditure has not been fully substantiated with relevant evidences. At the same time, the Assessing Officer also failed to make-out a case for rejection of books of accounts and estimation of profit @ 6%. Assuming for a moment, the Assessing Officer is right in rejection of books of accounts and resorted for estimation of profit @ 6%, in our considered view, the profit estimation cannot be arbitrary or without any basis. Although, the Assessing Officer has estimated 6% profit, but, could not give any reasons as to why 6% profit is justifiable with reasons in the given facts of the present case or with any comparable cases of similar nature of business. On the other hand, the assessee has filed a chart showing gross contract receipts and net profit declared for assessment years 2014-2015 to 2016-2017 which is ranging from 4.1% to 5%. In our considered view, in the course of estimation, the Assessing Officer should either follow the

financial results declared by the assessee for earlier assessment years or bring some comparable case of similar nature. In the present case, the Assessing Officer without any valid reasons, simply estimated 6% profit on total contract receipts even though the assessee's financial results shows the profit in this line of business ranging from 4.1% to 5%. Since the assessee's own financial results is acceptable and in fact the Assessing Officer has accepted the financial results of assessee for earlier assessment year, in our considered view, the Assessing Officer should have adopted the assessee's financial results for earlier years to estimate the profit for the impugned assessment year. Thus, we direct the Assessing Officer to estimate 5% profit on total contract receipts, including other receipts and interest income which is equal or similar to the profit declared by the assessee for earlier assessment years. Accordingly, the appeal of the assessee is allowed.

10. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open Court on 07.04.2025

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| Sd/- | Sd/- |
| [VIJAY PAL RAO] | [MANJUNATHA G] |
| VICE PRESIDENT | ACCOUNTANT MEMBER |

Hyderabad, Dated 07th April, 2025

VBP

Copy to

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| 1. | Dwaraka Pershad Radhey Ramanlal, 5-2-103/104, R P Road, SECUNDERABAD - 500 003 |
| 2. | The ACIT, Circle-10(1), Hyderabad. Telangana. |
| 3. | The Pr. CIT-(Central), Hyderabad. |
| 4. | The DR ITAT “B” Bench, Hyderabad. |
| 5. | Guard File. |

//By Order//

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