

IN THE INCOME TAX APPELLATE TRIBUNAL
“PATNA BENCH, PATNA
VIRTUAL HEARING AT KOLKATA

Before Shri Sonjoy Sarma, Judicial Member and Shri Rakesh Mishra, Accountant Member

I.T.A. No.365/Pat/2024
Assessment Year: 2016-17

Nehal Ahmed.....Appellant

House No – B/15, New Azimabad
Colony (East), Sector-B,
Sandalpur, Mahendru,
Patna- 800006.

[PAN: AERPA2555B]

vs.

ACIT, Circle-4, Patna..... Respondent

Appearances by:

Shri Pankaj Kumar, CA appeared on behalf of the appellant.

Shri Ashwani Kumar, Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : January 28, 2025

Date of pronouncing the order : January 30, 2025

आदेश / ORDER

Per Sonjoy Sarma, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 01.03.2024 of the National Faceless Appeal Centre [hereinafter referred to as ‘CIT(A)’] passed u/s 250 of the Income Tax Act (hereinafter referred to as the ‘Act’).

2. Brief facts of the case are that the assessee is an individual and earned income from civil contract. The assessee filed his return of income for the assessment year 2016-17 by declaring an income of Rs.10,58,610/-. The assessee initially had filed return of income u/s 139(9) of the Act and subsequently revised it declaring the same income. The assessee disclosed income from contractual receipt amounting to Rs.92,51,630/- and declared taxable income u/s 44AD on presumptive basis at Rs.9,25,163/-. The case of the assessee was

selected for limited scrutiny under guidelines issued by the department to verify whether the contract receipts were correctly offered to tax. Consequently, notices u/s 143(2) and 142(1) of the Act were issued. In response to the notices, the assessee submitted the required details before the Assessing Officer during the assessment proceedings. The Assessing Officer observed that there was discrepancy in the income computed in relation to the assessee's disclosed contract receipt of Rs.92,51,630/- as declared as presumptive income u/s 44AD whereas the computation income reflected on turnover of Rs.1,15,64,529/-. Accordingly, the Assessing Officer concluded that the assessee had undisclosed turnover of Rs.23,12,899/- and added the said amount as undisclosed income of the assessee.

3. Dissatisfied with the above order, the assessee preferred an appeal before the ld. CIT(A). However, the ld. CIT(A) while sustaining the order of the Assessing Officer held that the assessee has received payment amounting to Rs.1,15,64,539/- and there was an undisclosed difference of Rs.23,12,899/- in the hands of the assessee which was rightly added as undisclosed income by the Assessing Officer.

4. Aggrieved, the assessee filed an appeal before this Tribunal raising various grounds. However, the primary contention of the ld. AR before the Bench is that the ld. CIT(A) erred in adding the entire amount of Rs.23,12,899/- in the case of the assessee. The ld. AR submitted that only the profit element was to be taxed on entire contract receipts. He stated that any income from contract work would not arise without incurring any expenditure and the addition was the part and parcel of gross contract receipt which was duly shown by the assessment order in ITR. He stated that the assessee was made on presumptive basis.

The ld. AR contended that although there was discrepancy but 8% profit element on contract receipt of the differential turnover was justified to tax while the remaining amount should be treated as

business expenditure. He, therefore, prayed that the addition of Rs.23,12,899/- as added by the Assessing Officer was not justified and it may be restricted to 8% of the turnover.

5. On the other hand, the ld. DR supported the decisions of the authorities below.

7. We, after hearing both the parties and reviewing the materials available on record, find that if the total contract receipt of Rs.1,15,64,539/- are subjected to 8% as net profit under the Act then adding the entire amount of Rs.23,12,899/- as income is arbitrary. In view of the above, we, therefore, direct the Assessing Officer only 8% of Rs.23,12,899/- i.e. Rs.1,85,032/- be treated as taxable profit while the remaining amount i.e. Rs.21,27,867/- is allowed as expenditure.

8. In terms of the above, the appeal of the assessee is partly allowed.

Kolkata, the 30th January, 2025.

Sd/-

[Rakesh Mishra]

लेखा सदस्य/Accountant Member

Sd/-

[Sonjoy Sarma]

न्यायिक सदस्य/Judicial Member

Dated: 30.01.2025.

RS

Copy of the order forwarded to:

1. Nehal Ahmed
2. ACIT, Circle-4, Patna
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches