

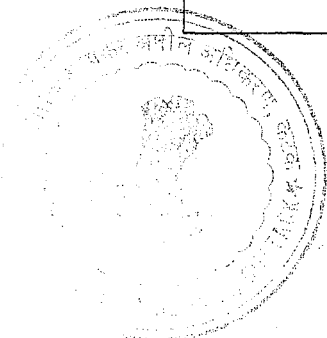
4.11.2016

**IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK 'SMC' BENCH,  
CUTTACK**

**BEFORE SHRI N.S SAINI, ACCOUNTANT MEMBER**

**ITA No.44/CTK/2016**  
Assessment Year :2010-2011

Suresh Kumar Sahu, Rahama, Jagatsinghpur	Vs.	ITO, Ward-1, Paradeep
PAN/GIR No. ASTPS 0611 C		
<b>(Appellant)</b>	..	<b>( Respondent)</b>



Assessee by : Shri S.N.Sahu  
Revenue by : Shri D.K.Pradhan, DR

**Date of Hearing : 28 /10/ 2016**  
**Date of Pronouncement : 28/10/ 2016**

**ORDER**

This is an appeal filed by the assessee against the order of CIT(A)-Cuttack, dated 20.11.2015, for the assessment year 2010-2011 .

2. Ground Nos.1 to 2, 5 & 6 are general in nature, hence, requires no separate adjudication.

3. In Ground No.3 of the appeal, the grievance of the assessee is that the Id CIT(A) erred in confirming the addition of Rs.44,537/- made by the Assessing Officer for purchase less shown.

4. Brief facts of the case are that the Assessing officer observed that the assessee has shown purchases less Rs.44,537/-. Since the assessee could not explain the difference to the Assessing Officer, the Assessing Officer added the amount to the income of the assessee, which was confirmed in appeal by the Id CIT(A).

5. I have heard the rival submissions and perused the materials available on record.

6. Before me, Id A.R. submitted that if the purchases shown by the assessee are less of Rs.44,537/-, this means that the assessee has claimed less deduction from sales for costs of purchases incurred and thereby has shown higher profit to that extent to the revenue. Hence, the revenue could have no grievance against the same. Therefore, the addition made was not justified.

7. Ld D.R. relied on the orders of lower authorities.

8. In the above facts and circumstances of the case, I find force in the arguments of Id A.R. of the assessee. The lower authorities besides pointing out that purchases shown by the assessee in the profit and loss account is

less Rs.44,537/- has brought no material on record to show that the assessee has made payment in purchase out of undisclosed source. In the absence of the same, I find no good justifiable reasons to make the addition of Rs.44,537/- to the income of the assessee. I, therefore, set aside the orders of lower authorities on this issue and delete the disallowance of Rs.44,537/- and allow this ground of appeal.

9. In Ground No.4 of the appeal, the grievance of the assessee is that the Id CIT(A) erred in confirming the disallowance of Rs.1,60,036/- being the difference in transport contract receipts as shown by the assessee in the profit and loss account and as shown in Form 26AS.

10. I have heard the rival submissions and perused the materials available on record. In the instant case, the Assessing officer found from Form 26AS that the assessee has not shown transport contract receipt and receipt for technical services from different concerns amounting to Rs.1,60,036/-. Therefore, he added the entire amount of receipt to the income of the assessee. On appeal, the Id CIT(A) confirmed the same.

11. Ld A.R. of the assessee has relied upon the decision of the Cuttack ITAT in the case of R.R. Carrying Corporation vs ACIT, 30 DTR 569, wherein, it was held that in case of difference between the gross receipts as shown in the assessee's books and as per TDS certificate, addition could be made only in respect of profits embedded therein..

12. On the other hand, Id D.R. relied on the orders of lower authorities.
13. After considering the facts and circumstances of the case, I find that the entire receipts of Rs.1,60,036/- cannot be the income of the assessee. Ld A.R. of the assessee filed before me the copy of tax audit report u/s.44AB and pointed out therefrom that the net profit shown by the assessee is 1.42%. Therefore, the decision of Co-ordinate Bench in the case of R.R.Carrying Corporation (supra) is squarely applicable to the facts of the assessee's case. I, therefore, set aside the orders of lower authorities and direct the Assessing Officer to assess the income of the assessee the differential amount of contract receipt of Rs.1,60,036/- @ 1.42%% of the gross contract receipt as disclosed by the assessee in the return of income. Thus, this ground is allowed.
14. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 28/10/2016 in the presence of parties.

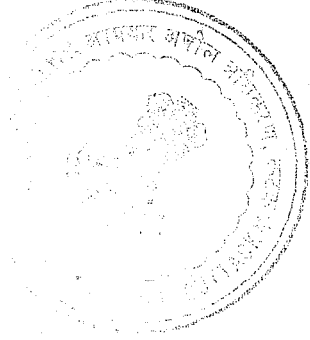
Sd/-

(N.S Saini)  
**ACCOUNTANT MEMBER**

Cuttack; Dated 28 /10 /2016  
B.K.Parida, SPS

**Copy of the Order forwarded to :**

1. The Appellant : Suresh Kumar Sahu,  
Rahama, Jagatsinghpur
  2. The Respondent. ITO, Ward-1, Paradeep
  3. The CIT(A), Cuttack
  4. CIT, Cuttack
  5. DR, ITAT, Cuttack
  6. Guard file.
- //True Copy//



BY ORDER,

**ASST.REGISTRAR,  
ITAT, Cuttack**

सहायक पंजीकार  
Assistant Registrar,  
आयकर अपिलीय अधिकरण  
Income Tax Appellate Tribunal  
कटक न्यायपिठ  
Cuttack Bench