

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD 'B-SMC' BENCH : Hyderabad**

Before Shri A. Mohan Alankamony, Accountant Member

**ITA No. 246/Hyd./2019
Assessment Year: 2009-10**

Vijaya Bhavani Constructions P.Ltd. C/o P.Murali & Co., Chartered Accountants 6-3-655/2/3, Somajiguda Hyderabad – 500 082	vs.	ITO Ward 17(4) Hyderabad
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PAN: AABCV6770A

(Appellant)

(Respondent)

For Assessee: Sh. P. Murali Mohan, A.R.

For Revenue: Sh. Sunil Kumar Pandey, D.R.

Date of Hearing : 23/01/2020

Date of Pronouncement : 03/06/2020

ORDER

This appeal is filed by assessee against the order of the Ld.CIT(A)-5 dated 13.03.2018 in appeal no. 0038/2015-16/CIT(A)-5 for the A.Y. 2009-10.

2. The assessee has raised several grounds in its appeal. However, the crux of the issue is that the Ld.CIT(A) has erred in upholding the order of the Ld.AO who had made addition of Rs.14,44,500/- by estimating 15% of the expenditure amounting to Rs.96,30,000/- for which proper vouchers were not produced.

3. The brief facts of the case are that the assessee is a Private Limited Company engaged in the business of civil work contracts, filed its return of income for the relevant A.Y. 2009-10 on 29.09.2009 by admitting loss(sic) income of Rs.20,80530/-. Thereafter, the case was taken up for scrutiny.

During the course of scrutiny assessment proceedings the Ld.AO observed that the assessee had withdrawn cash from various bank accounts of the company aggregating to Rs.96,30,000/-. On query, it was explained that the assessee had to incur various expenses relating to execution of the contract works undertaken by the assessee. On further verification it was observed that the assessee could not produce cogent evidence to support the claim of expenditure for Rs.96,30,000/- because only self-made vouchers were available. Therefore, the Ld.AO estimated 15% of the expenditure of Rs.96,30,000/- citing it to be non-verifiable which works out to Rs.14,44,500/- and added to the income of the assessee.

3.1. On appeal, the Ld.CIT(A) confirmed the order of the Ld.AO by agreeing with the view of the Ld.AO and also by following the order of his predecessor in the assessee's own case for the Assessment Year 2012-13.

4. Before me the Ld.AR vehemently argued by stating that the expenditure incurred by the assessee is genuine. He further submitted that with regard to payment of wages, there was no option for the assessee other than to obtain signatures from the labourers on the self-made vouchers. It was therefore prayed that the addition made by the Ld.AO which are further upheld by Ld. CIT(A) may be deleted since the expenditure incurred by the assessee is genuine.

5. Ld.DR on the other hand relied on the orders of Ld. Revenue authorities.

6. I have heard the rival submissions and carefully perused the materials on record. From the facts of the case it is apparent that the Ld. Revenue authorities has not doubted the nature of expenditure incurred. They have only made the addition because the vouchers were self-made and not

verifiable. Though the Ld. Revenue authorities have some justification for making the addition, they have not ventured to look into the net profit earned by the assessee and compared it with the net profit of the companies engaged in similar business to establish that the expenditure are inflated. Therefore it appears that the addition made by the Ld. Revenue authorities are based on surmises and conjectures. In this situation, I do not find much merit in the order of the Ld. Revenue authorities for having made the addition of Rs.14,44,500/- by estimating the disallowance at 15% of the expenditure incurred of Rs.96,30,000/- and confirming the same. Hence I hereby direct the Ld.AO to delete the addition made by him for Rs.14,44,500/- which was further confirmed by the Ld.CIT(A).

6.1. Before parting, it is worthwhile to mention that this order is pronounced after 90 days of hearing which is though against the usual norms, I find it appropriate taking into consideration of the extra-ordinary situation in the light of the lock-down due to Covid 19 pandemic. While doing so I have relied in the decision of Mumbai Bench of the Tribunal in the case of DCIT vs. JSW Ltd. In ITA No.6264/M/2018 and 6103/M/2018 for AY 2013-14 order dated 14th May, 2020.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in Open Court on the 03rd June, 2020.

Sd/-

(A. MOHAN ALANKAMONY)
ACCOUNTANT MEMBER

Dated: 03rd June, 2020.

**GMP*

Copy forwarded to:

1. Vijaya Bhavani Constructions Private Limited, C/o P.Murali & Co., CAs, 6-3-655/2/3, Somajiguda Hyderabad 500 082.
2. ITO, Ward 17(4), Hyderabad
3. ACIT, Range – 17, Hyderabad/CIT(A)-5 Hyderabad.
4. Pr.CIT-5, Hyderabad
5. D.R. ITAT Hyderabad
6. Guard File

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