

IN THE INCOME TAX APPELLATE TRIBUNAL "CUTTACK" BENCH, CUTTACK

**BEFORE SHRI GEORGE MATHAN, JM
AND**

SHRI RAJESH KUMAR, AM

ITA No. 511/CTK/2024

(Assessment Year: 2017-18)

**Sat Inder Constructions Private
Limitd**

Inder Bhawan, TV Station Road,
Tulasipur, Cuttack,
Odisha-753008

(Appellant)

DCIT ASMNT, Circle 2(1)

Aaykar Bhavan, Cuttack, Odisha-
753002

Vs.

(Respondent)

PAN No. AASCS8658P

Assessee by : Shri P.K. Mishra & B.N. Behera,
ARs

Revenue by : Shri Nishanth Rao B, DR

Date of hearing: 17.07.2025

Date of pronouncement: 17.07.2025

ORDER

PER PENCH:

This is an appeal filed by the assessee against the order of the Id. CIT (A), National Faceless Appeal Centre, Delhi in appeal no. ITBA/NFAC/S/250/2024-25/1066723603(1) dated 15.07.2024 for A.Y. 2017-18.

02. Shri P.K. Mishra & B.N. Behera represented on behalf of the assessee and Shri Nishanth Rao B, represented on behalf of the Revenue.
03. It was submitted by the Id. AR that the assessee is in the business of doing civil contract. The assessee had filed its return of income on 04.11.2017, declaring an income of ₹1,31,21,770/- on a total receipts of ₹30,03,06,603/-. It was the submission that the Id. AO has estimated the income of the assessee at 8%. It was further submission that the said 8% was estimated after depreciation. It was the submission by the

Id. AR that the Id. AO has not rejected the assessee's books of account but estimated the income. It was the submission that the estimation of income was not permissible without the rejection of the books.

04. In reply, the Id. Sr. DR submitted that the Id. AO has mentioned the reasons for his estimation in para 3 of the assessment order at pages 2 and 3 of his order. It was further submitted that the Id. CIT (A) has categorically brought out the reasons for the estimation and rejection in para 6 of his order at page 14 of the appellate order. It was the submission that the reasons given by the Id. AO for the estimation should be considered as the books of the assessee having been rejected. It was further submission that the assessee has also not produced the details in regard to the deduction u/s 80G of the Act. It was the submission that the assessee was not in a position to substantiate its return and therefore, the estimation as made by the Id. AO was liable to be upheld.
05. We have considered the rival submissions. A perusal of the facts in the present case clearly shows that there is no mention by the Id. AO in the assessment order that the books of account are to be rejected. The Id. AO admittedly pointed out various errors in the assessment order such as the payment claimed under the head labour charges appeared to be bogus. Similarly, the Id. AO mentioned that the assessee did not have sufficient plant and machinery to execute the civil construction work of such huge magnitude and there was no claim of plant and machinery of hire charges in the Profit and Loss account. The Id. CIT (A) in para no.6 of his order also brought the various points which have been mentioned by the Id. AO but nowhere in the assessment order the Id. AO has mentioned that the provisions of Section 145 have been invoked or that the books of accounts of the assessee have been



rejected. For the purpose of estimating the income of an assessee, one of the compulsory requirements are that the provisions of Section 145 of the Act have to be invoked and the books of account of the assessee have to be rejected. As the Id. AO has not rejected the assessee's books of accounts, we are of the view that the estimation has done by the Id. AO and has affirmed by the Id. CIT (A) is unsustainable and consequently, we direct the Id. AO to delete the estimation of income as done by him.

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

Order pronounced in the open court on 17.07.2025.

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Sd/-
(GEORGE MATHAN)
(JUDICIAL MEMBER)

Kolkata, Dated: 17.07.2025

Sudip Sarkar, Sr.PS

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Cuttack