

## **AO cannot make additions on estimation basis without rejecting books of account: Madras HC**

**Summary – The High Court of Madras in a recent case of Marg Ltd., (the Assessee) held that Profits of an assessee cannot be estimated without rejecting its books of account**

### **Facts**

- The assessee, a public limited company, was engaged in the business of civil construction and related services.
- The assessing Officer had made addition to, income returned by the assessee by estimating gross profit.
- The Commissioner (Appeals) held that the addition could not be made in hands of assessee merely based on the perception of the Assessing Officer that the assessee had declared low profit margin for certain projects when books of account had not been rejected.
- The Tribunal dismissed the appeal of the revenue by holding that profits of an assessee could not be estimated without rejecting the books of account.
- On appeal:

### **Held**

- The Tribunal has expressed its considered opinion that only when an assessee is not maintaining books of account properly and the correct income cannot be estimated on the basis of the books of account, then only the books of account can be rejected. The Tribunal has gone on to hold that the Assessing Officer can estimate profit only thereafter.
- It is also seen that the assessee is doing civil construction work for residential projects, many projects for the Government, Government related agencies and some for Non-Government Organizations (NGOs) across the country. Considering this spectrum, there can be certainly low profit margins in projects for Government and Government related agencies. So can be the case for NGOs.
- It becomes obvious that there is no legal position which is debatable. Equally, no settled position of law has been misapplied by the authorities in answering the material questions either. Therefore, no substantial question of law arises in the instant appeal.
- There is no merit whatsoever in the appeal filed by the revenue as the addition of income on estimate basis for certain projects (as admitted/conceded by the revenue before Tribunal) without scrutiny and without rejecting the books of account of assessee. Equally, no substantial question of law arises.