

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'A' BENCH, CHENNAI**

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं  
श्री डि.एस. सुन्दर सिंह, लेखा सदस्य केसमक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND**  
**SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos. 509 & 510/Mds/2016  
निर्धारण वर्ष / Assessment Years : 2010-11 & 2011-12

M/s. Vishranthi Sabari,  
C/o. S. Sridhar,  
Advocate,  
New No.14, Old No.82, Flat No.5,  
1<sup>st</sup> Avenue, Indira Nagar, Adyar,  
Chennai – 600 020.

v. The Income Tax Officer,  
Business Ward – XV(3),  
Chennai.

**PAN: AAFFV7809M**

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by  
प्रत्यर्थी की ओर से/Respondent by

: Shri S. Sridhar, Advocate  
: Shri Shiva Srinivas, JCIT

सुनवाई की तारीख/Date of Hearing

: 07.04.2017

घोषणा की तारीख/Date of Pronouncement : 12.04.2017

**आदेश /ORDER**

**PER D.S. SUNDER SINGH, ACCOUNTANT MEMBER:**

These appeals of the assessee are directed against the orders of Commissioner of Income Tax (Appeals)-4, Chennai, dated 26.11.2015 & 27.11.2015 and pertains to the assessment years 2010-11 & 2011-12 respectively.

**2.0** All the appeals are related to the assessment of income on estimation basis rejecting the books of accounts. The grounds of appeal are one and the same for both the assessment years, hence both the appeals are disposed in a common Order. The lead year is 2010-11 and the assessee charged the appeal on the following grounds:

1. *The order of the Commissioner of Income Tax (Appeals) 4, Chennai – 600 034 dated 26.11.2015 in I.T.A. No.8/2013-14/2010-11/CIT(A) for the above mentioned assessment year is contrary to law, facts and in the circumstances of the case.*
2. *The CIT (Appeals) erred in sustaining the assessment of estimated income at 8% of the project receipts on the strength of the provisions of section 145(2) of the Act in the computation of taxable total income without assigning proper reasons and justification.*
3. *The CIT(Appeals) failed to appreciate that the assessment of income on estimated basis while overlooking the consistent method of accounting in reckoning the revenue from the housing project development was wrong, erroneous, unjustified, incorrect and not sustainable in law.*
4. *The CIT(Appeals) failed to appreciate that having noticed the fact of the percentage of completion of the housing projects in the previous year relating to the assessment year under consideration, the sustenance of the assessment of income by estimating such income at 8% of the project receipts was wrong, erroneous, unjustified, incorrect and not sustainable in law.*
5. *The CIT(Appeals) failed to appreciate that the sustenance of the assessment framed u/s 144 of the Act was wrong, erroneous, unjustified and not sustainable in law.*
6. *The CIT(Appeals) failed to appreciate that the relevance of the accounting standard referred to should be tested with the reference to the facts of the case and ought to have appreciated that having not recorded any positive/express finding on its applicability, the reference to such standards would fall on the grounds.*
7. *The CIT(Appeals) failed to appreciate that the method of accounting as well as reckoning of revenue under project completion method should be considered as acceptable and ought to have appreciated that the change of course for the purpose of making addition on estimated basis was erroneous and wholly unjustified.*
8. *The CIT(Appeals) went wrong in recording the findings in this regard in paras 8 to 23 of the impugned order without assigning proper reasons and justified.*
9. *The CIT(Appeals) failed to appreciate that the decisions relied upon were applied out of context and not applicable to the factual matrix of the case thereby vitiating the decision*

*to sustain the wrong assessment framed by the original authority and ought to have appreciated that the entire computation of assessable income was wrong, erroneous, unjustified, incorrect and not sustainable in law.*

10. *The CIT(Appeals) failed to appreciate that there was no proper opportunity given before passing of the impugned order and any order passed in violation of the principles natural justice would be nullity in law.*
11. *The Appellant craves leave to file additional grounds/arguments at the time of hearing.*

**3.0** The facts of the case for both the assessment years i.e., 2010-11 & 2011-12 are the same. Therefore, the facts are extracted from the assessment year 2010-11 and the appeals are disposed in a common Order for the sake of convenience. The assessee is engaged in the business of promoting residential flats. For the assessment year 2010-11, the assessee filed return of income admitting income of Rs.NIL on 26.03.2012. During the previous year relevant to the assessment year 2010-11, the assessee was engaged in developing a residential project named 'MONDARIN' at Sholinganallur and had spent an amount of Rs.52.09 crores till the close of financial year 2009-10. The assessee had also received an amount of Rs.53.51 crores from the customers. Both these items, the revenue as well as the expenditure were retained as Balance Sheet items and furnished NIL returns. The case was selected for scrutiny and called for the details by the Assessing Officer. Before the Assessing Officer, the assessee submitted that the assessee is following the project completion method and has rightly accounted the

income and expenditure as balance sheet items. In the case of expenditure, the assessee has shown the entire expenditure in the balance sheet under the head 'Work in Progress Net of cost' and the receipts were admitted as 'Advance from Client' in the balance sheet. The appellant contented that on completion of the project, these items would be shifted to the P&L account and resultant income will be admitted in the return of income on final completion. However, during the assessment proceedings, the assessee has not produced the bills, vouchers, books of account and the relevant evidence before the Assessing Officer establishing that the assessee is correctly maintaining the books of accounts and the expenditure has been correctly accounted and categorized as 'work in progress' in the books of account. As per the assessee by the end of the financial year 2009-10, 77% of the construction was completed and received the 75% of the project income. According to the Assessing Officer, in case, the assessee is following Accounting Standard - 7 having completed 77% of the projects, the assessee should have estimated the income on percentage completion basis and admitted the resultant income. If the assessee is following Accounting Standard-9, the assessee would have admitted the value of flats sold as income. In the assessee's case, though the assessee claimed to be following the project completion method, the

books of accounts and the supporting evidences were not produced to establish the correctness of expenditure. The information furnished before the Assessing Officer do not throw clear picture regarding the method of accounting followed by the assessee in the absence of books of accounts. Therefore, the Assessing Officer rejected the books of accounts and estimated the income at the rate of 8% on the gross receipts received by the assessee till the end of the year 2010, which worked out Rs.1,59,00969/- on gross receipts of Rs.19,87,62,122/- for the assessment year 2010-11 and for the assessment year 2011-12, the Assessing Officer estimated the income on the balance receipts of Rs.44,35,321/- at the rate of 8% which work out to Rs.3,54,826/-.

**4.0** Aggrieved by the order of the Ld. Assessing Officer, the assessee went on appeal before the CIT (Appeals) and the CIT (Appeals) confirmed the order of the Assessing Officer. Hence, the assessee is in appeal before us.

**5.0** Aggrieved by the order of the CIT(Appeals), the assessee filed the appeals before us. Appearing for the assessee, Shri S. Sridhar, the Ld. Advocate argued that the assessee is following the Project Completion

Method and maintaining the books of accounts and as per the project completion method, the final accounts will be arrived at on completion of the project and the resultant income will be offered for the purpose of taxation. The Ld.AR further submitted that the assessee was following regular books of accounts and consistent method of accounting and recording the revenue from housing project development under the head advances and the cumulative expenditure under the head work in progress. The assessee is not engaged in the contract works and the AS-7 and AS-9 are not applicable in the case of developers. Further, the Assessing Officer has estimated the income on the total gross receipts received till the end of the year which is not permissible in law. The decision relied upon by the CIT (Appeals) is distinguishable on facts. According to the Ld. AR, the Assessing Officer should have accepted the books of accounts completed the assessment accepting the returned income. On the other hand, the Ld. DR supported the orders of the lower authorities.

**6.0** We heard both the parties and perused the material placed on record. According to the assessee, it is following the Project Completion Method consistently and the books of account are regularly maintained. Since, the assessee is consistently following the project completion

method, the assessee should be allowed to complete the project and furnish the return of income. Estimation of income or arriving at the income in the intervening period is not possible and lead to distorting trading results. Though the assessee claimed to have followed the project completion method, it is obligatory on the part of the assessee to maintain the regular books of accounts and support the contention with the books of accounts, bills and vouchers, that it is following project completion method and true and correct financial position can be drawn with the books of accounts. The expenditure debited to the work in progress / advances received required to be accounted correctly to show that no inflation of expenditure and no suppression of income was made by the assessee. The assessee has not produced the books of accounts, bills and vouchers. In the absence of the books of accounts, bills and vouchers the contention of the assessee that it is following project completion method is without any basis. Further, the assessee has not furnished any evidence to show that in the subsequent years the project was completed and the returns are filed. It revealed from the Assessment Order that the assessee filed returns regularly admitting 'Nil' income from the assessment year 2007-08 to 2010-11. It is clear from the facts gathered from the Assessment Order and the CIT(Appeals) that, the assessee is not following any method which gives

true and current financial affairs to deduce the income correctly. Therefore, we do not find any reason to disturb the Order of the CIT(Appeals). Accordingly, we confirm the addition made by the Assessing Officer at the rate of 8% on the gross receipts. This view is supported by ITAT Lucknow Bench in ITO IV(4) vs. M.A. Builder (P) Ltd ITA No.564/LKW/2011 dated 28.05.2013.

**7.0** The next issue raised by the assessee was that the Assessing Officer cannot estimate the income on accumulated gross receipts in the assessment year under consideration. The assessee has not followed any system of accounting as evidenced from the books of accounts and 77% of the projects were completed. In the earlier years, the assessee has not admitted any income and filed 'Nil' return of income as discussed earlier. No books of accounts were produced before the Assessing Officer to estimate that the Revenue and expenditure was accounted correctly. Therefore, till the date of filing the return, the assessee has admitted 'Nil' income and the earlier receipts were not offered to income. The assessee has not produced the books of accounts before the Assessing Officer and the relevant evidence in respect of expenditure incurred till date. In the absence of books of accounts, the correctness of the expenditure could not be established.

Therefore, only option available to the Assessing Officer to estimate the income on the gross receipts received up to accounting year 2009. Therefore, we do not find any infirmity in the Order of Ld.CIT(A) and confirm the same.

**8.0** In the result, the appeals of the assessee are **dismissed**.

Order pronounced in the open Court on 12<sup>th</sup> April, 2017 at Chennai.

Sd/-  
(एन.आर.एस. गणेशन)  
(N.R.S. Ganesan)  
न्यायिक सदस्य/Judicial Member

Sd/-  
(डि.एस. सुन्दर सिंह)  
(D.S. Sunder Singh)  
लेखा सदस्य/Accountant Member

चेन्नई/Chennai,  
दिनांक/Dated, the 12<sup>th</sup> April, 2017.

JR.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)-4, Chennai
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.