

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

**BEFORE SHRI A.K.GARODIA, ACCOUNTANT MEMBER
ITA No. 564(Bang) 2014
(Assessment year : 2004 – 05)**

M/s Subha & Prabha Developers (P) Ltd.,
Flat No. 203, R. K. Hoysala Residency,
3rd main, 9th Cross, Hoysalanagar,
Bangalore – 560016
PAN : AAICS5023J

Appellant

Vs

The ITO, Ward 12 (2),
Bangalore

Respondent

**Assessee by : None
Revenue by : Shri Naresh Saka, JCIT**

**Date of hearing : 22-09-2016
Date of pronouncement : 23-09-2016**

ORDER

PER A. K. GARODIA, A.M.:

This appeal is filed by the assessee. This is directed against the order of learned CIT (A) - 1 Bengaluru dated 30.01.2014 for A. Y. 2004 – 05.

2. The assessee has raised various grounds. The main grievance of the assessee is about addition of Rs. 27,42,247/- in respect of excess of sale price of certain flats as per sale agreement and the amount of sale consideration accounted for in books.

3. This appeal was fixed for hearing on several dates but was adjourned on the request of the learned AR of the assessee Shri Kiran Kumar, Advocate. Last occasion was on 15.09.2016. On this date, the hearing was adjourned to 22.09.2016 and this date of hearing was pronounced in open court. In spite of this, none appeared on 22.09.2016 and there is no request for adjournment also, and hence, this appeal was heard exparte qua the assessee. Learned DR of the revenue supported the orders of the authorities below.

4. I have considered the orders of the authorities below. I find that as per the Statement of Shri T. D. Ramakrishna, M. D. of the assessee company on 21.11.2005 reproduced by the A. O. on pages 4 & 5 of the assessment order, it was explained by him

that in these cases, some works such as woodwork, toilet fittings, paintings, kitchen arrangements etc. was not done by the assessee and these works were done by the purchasers and for this reason, prices were reduced below the price as per agreements. This explanation was rejected by the A. O. and CIT (A) on mainly this basis that no evidence was produced in support. In my considered opinion, the assessee should be asked to give full details of such finishing expenses and from the same, if the assessee can establish that the expenses claimed are less than were required to be incurred if the assessee has done all required finishing works as per agreement for all flats and the difference between the actual finishing expenses incurred and required to be incurred is near to the rebate allowed by the assessee than the claim and explanation of the assessee should be accepted. But since this exercise was not done, I feel it proper to restore the matter back to the file of learned CIT (A) for a fresh decision. Hence, the order of CIT (A) is set aside and the matter is restored back to his file for a fresh decision with the direction that he should provide adequate opportunity to the assessee to provide details and evidences on the line discussed above and if the same is submitted by the assessee, he may obtain remand report from the A.O. in that regard and thereafter, he should pass necessary order as per law after providing adequate opportunity of being heard to both sides.

4. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on the date mentioned on the caption page.

(A.K. GARODIA)
ACCOUNTANT MEMBER

Bangalore:

D a t e d : 23.09.2016

am*

Copy to :

- 1 Appellant
- 2 Respondent
- 3 CIT(A)-II Bangalore
- 4 CIT
- 5 DR, ITAT, Bangalore.
- 6 Guard file

By order,
AR, ITAT, Bangalore

1.	Date of Dictation
2.	Date on which the typed draft is placed before the dictating Member
3.	Date on which the approved draft comes to the Sr. P. S.
4	Date on which the order is placed before the dictating Member for pronouncement
5.	Date on which the order comes back to the Sr. P.S.
6.	Date of uploading the order on website
7.	If not uploaded, furnish the reason for doing so.....
8.	Date on which the file goes to the Bench Clerk
9.	Date on which order does for Xerox & endorsement
10.	Date on which the file goes to the Head Clerk.....
11	The date on which the file goes to the Assistant Registrar for signature on the order.....
12	The date on which the file goes to the dispatch section for dispatch of the Tribunal order.....
13	Date of dispatch of order.....