

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

**श्री चंद्र पूजारी, लेखा सदस्य एवं**  
**श्री चल्ला नागेन्द्र प्रसाद, न्यायिक सदस्य के समक्ष**  
BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER &  
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
आयकर अपील सं./ **I.T.A. Nos.146 & 147 /Mds/2011**  
(निर्धारण वर्ष / Assessment Years : 2005-06 & 2006-2007)

The Deputy Commissioner of  
Income Tax,  
Company Circle IV( 1),  
Chennai

M/s. Mayflower Properties (P) Ltd,  
Vs Sharanya Apartments,  
38, Ruckmani Road,  
Kalashetra Colony,  
Chennai 600 090.

(अपीलार्थी/Appellant)

[PAN:AAACM 6618B]  
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Dr. Nischal, JCIT.

प्रत्यर्थी की ओर से / Respondent by : Shri. R. Vijayaraghavan, Advocate

सुनवाई की तारीख/Date of hearing : 19.03.2015.

घोषणा की तारीख /Date of Pronouncement : 19.03.2015

**आदेश / O R D E R**

**PER CHANDRA POOJARI, ACCOUNTANT MEMBER**

These two appeals are filed by Revenue in respect of above assessee for the assessment years 2005-06 and 2006-07. Since both the appeals are related to same assessee, these appeals are clubbed,

heard and disposed of by this common order for the sake of convenience.

2. First, we take up ITA No.146/Mds/2011. The Revenue raised the following grounds:-

1. The order of the learned CIT(A) is contrary to law and facts of the case.
- 2.1 The learned CIT(A) has erred in deleting the disallowance of bad debts.
- 2.2 The learned CIT(A) failed to appreciate the immovable properties transaction have only been accounted as investments in assessee's books of accounts.
- 2.3 The transaction did not form part of the P & L a/c. and closing sock value work in progress were not accounted and hence cannot be claimed as bad debts.
- 2.4 The learned CIT(A) failed to appreciate that the assessee as Per letter dated 05.05.2008 stated that ₹7,92,000/- was received from Bali Meadows whereas before the CIT(A) the assessee claimed that this money was received from Shri. Lt. Gen. M.N. Batra against transferring rights under an agreement with M/s. Raja Housing.
3. For these and other grounds that may be adducted at the time of hearing, it is prayed that the order of the learned CIT(A) may be set aside and that of the Assessing Officer restored.

3. We have heard both the parties and perused the record. We are of the opinion that tax effect involved in this appeal is less than Rupees four lakhs and in view of the CBDT circular No.5/2014, dated

10<sup>th</sup> July, 2014, the Revenue is precluded from filing the appeal before the Tribunal.

4. Accordingly, this appeal is dismissed as non-admitted.

5. Coming to the ITA No.147/Mds/2011, the Revenue raised a ground that the Commissioner of Income Tax (Appeals) erred in deleting the addition of ₹48,90,475/- which the assessee showed as advance received for joint development of Velachery land.

6. The facts of the case are that in the course of assessment proceedings, the assessing officer noticed that the assessee has received ₹48,90,475/- towards joint development property receipts from M/s Suresh & Co and shown as Velachery Land advance. The assessee was asked to explain why the same was not offered to taxation during the FY 2005-2006. The assessee company has replied that the company has entered into a joint development agreement with M/s Suresh and Company for the development of the Velachery property.

6.1 As against the entitlement of 40% of total sale proceeds of the Joint Development, the company has received a sum of

₹48,90,475/- being their share during the year ended 31.03.2006. As the company couldn't arrive at the clear profit and loss on this joint development, the amount received was kept as advance received against the sale of land as the transaction was not completed in full i.e. the entire project was not sold before 31.03.2006. So the above contention of the assessee was rejected by the Assessing Officer on the ground that, the assessee is following mercantile system of accounting.

6.2 In the course of First appellate proceedings, the Authorised Representative has submitted that the assessee owned a piece of land at Velachery which was given on development basis to one M/s.Suresh & Co., where as per the terms of understanding the assessee should receive 40% sale proceeds of the property developed by the developer and during the course of the Assessment year 2006-07, a sum of Rs.48,90,475/- was received as advance. In fact as per the covenants of the agreement, the assessee should receive a minimum sale consideration of ₹ 60,00,000/- as its share and this amount is receivable only on completion of the project and in fact the project was completed during the assessment year 2007 – 08 and the assessee offered the entire income to tax in the said

assessment year 2007 -08. Having opted to treat the advance received as the income of the appellant the Assessing Officer ought to have allowed the proportionate cost corresponding to the advance received as a deduction, against the advance received. Without allowing such cost as deduction the Assessing Officer has opted to notionally tax the advance received as income which is highly irrational and completely unjustified.

6.3 The authorized representative has also submitted an extract of the Balance sheet for the Ay 2006-2007 where it is clearly shown that under the current liabilities, ₹48,90,475/- is shown as Velchery Land sales advance and under the head current assets ₹54,20,204/- towards cost for Joint venture development. Also extract of the profit and loss account for the year 2007 -2008 submitted showing gross receipts from Velachery Joint Development for ₹67,45,6301- as income and ₹54,20,2041- as expenditure towards Joint Development. Thus showing a clear profit of ₹13,25,426/-on this account, he also submitted a note offering this as an income for the A Y 2007 -2008. Aggrieved by this action of the Assessing Officer, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals).

7. The Commissioner of Income Tax (Appeals) deleted the addition by observing that the assessee has followed complete contract method accounting in terms of AS-7 issued by the ICAI, New Delhi. The Assessing Officer has completely ignored the Joint Development cost incurred towards the property. As this transaction is properly accounted and offered for taxation in the assessment year 2007-2008, the Commissioner of Income Tax (Appeals) deleted the addition. Against this, Revenue is in appeal.

8. We have heard both parties and perused the record. In this case, there is no dispute that the assessee, following complete contract method, treated the amount received as advance only in the assessment year under consideration and offered to tax in the assessment year 2007-2008 as income. There is no income accrued for the assessee in the assessment year under consideration, though the assessee followed mercantile system of accounting. In our opinion, the Commissioner of Income Tax (Appeals) is justified in deleting the addition and the same is confirmed. The ground raised by the Revenue is dismissed.

9. In the result, both appeals of the Revenue in ITA Nos.146 &

147/Mds/2011 are dismissed.

Order pronounced in the open court at the time of hearing on Thursday, the 19<sup>th</sup> of March, 2015 at Chennai.

Sd/-

(चल्ला नागेन्द्र प्रसाद )

(CHALLA NAGENDRA PRASAD)

न्यायिक सदस्य/ JUDICIAL MEMBER

चेन्नई/Chennai.

दिनांक/Dated:19.03.2015.

Sd/-

(चंद्र पूजारी )

(CHANDRA POOJARI)

लेखा सदस्य/ ACCOUNTANT MEMBER

**KV**

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant 2.प्रत्यर्थी/ Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF.