

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD BENCH

**Before: Shri Rajpal Yadav, Judicial Member
And Shri Amarjit Singh, Accountant Member**

**ITA No. 2290/Ahd/2014
Assessment Year 2007-08**

The ITO, Ward-4(2), Ahmedabad (Appellant)	Vs	Jai Mahakali Infrastructure Pvt. Ltd. Ground Floor, Shyam Shikhar Complex, L.B.S. Road, Bapunagar, Ahmedabad-380024 PAN: AACBJ0618B (Respondent)
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**Revenue by: Shri Mudit Nagpal, Sr. D.R.
Assessee by: None**

Date of hearing : 20-11-2017
Date of pronouncement : 27-11-2017

आदेश/ORDER

PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-

This Revenue appeal for A.Y. 2007-08, arises from order of the CIT(A)-VIII, Ahmedabad dated 22-05-2014, in proceedings under section 143(3) r.w.s. 147 of the Income Tax Act, 1961; in short the Act.

2. The revenue has raised following grounds of appeal:-

"1. The Ld. CIT(A) has erred in law and on facts in deleting the addition of Rs. 36,07,210/- made on account of under valuation of closing stock. However, the assessing officer restricted the disallowance to Rs.83,75,488/- subject to the available income.

2. On the facts and in the circumstances of the case, the Ld. CIT(A) ought to have upheld the order of the assessing officer.

3. It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that of the Assessing Officer may be restored to the above extent."

3. In this case, assessee has filed return of income declaring loss of Rs. 9,16,608/- on 15th Feb, 2013. The same was accepted during assessment u/s. 143(3) made on 12th November, 2009. Subsequently, the case was reopened u/s. 147 of the act by issuing of notice u/s. 148 on 26th March, 2012 stating that there was difference in closing stock of Rs. 36,07,210/-. The assessee has submitted that there was no under-statement of closing stock and the reason of loss for the was on account of sale of land made during the year under consideration. The assessing officer has not accepted the explanation of the assessee and observed that the assessee had closing stock of land in the previous year relevant to the assessment year 2006-07 of Rs. 2,95,40,877/- and after sale of plot in the assessment year 2007-08 of Rs. 17,61,444/- the net stock of land was reflected as Rs. 2,41,72,223/- as against aggregate closing stock of Rs. 2,77,79,433/-.0/-. Therefore, the assessing officer added Rs. 36,07,210/- to the total income of the assessee.

4. Aggrieved assessee filed appeal before the Id. CIT(A). The Id. CIT(A) has allowed the appeal of the assessee by observing as under:-

“5.3 Decision:-

I have carefully considered the Assessment Order and submission filed by Appellant. The Assessing Officer has observed that Appellant has shown opening stock at Rs. 2,95,40,877/- whereas sale of plot in A.Y. 2007-08 was Rs. 17,61,444/- and after reducing sale value of plot sold during the year from opening stock of land, closing stock is worked out at Rs. 2,77,79,433 (2954877 - 1761444). As Appellant had shown closing stock of land, at Rs.2,41,72,223, addition of Rs. 36,70,210 was made. On the other hand, Appellant has argued that land, on which plotting activity was carried out was purchased in A.Y. 2005-06 at cost of Rs. 2,74,75,165/- and after considering other ancillary cost of Rs. 28,29,600 incurred in A.Y. 2006-07, total cost of land was worked out at Rs. 3,03,04,765 and as area of land was 20260.36 sq.mt., average cost of land worked out at Rs. 1495.761 per sq. mt. Thus, this average cost of land per square meter was considered for valuing closing stock of land on year to year basis from A.Y. 2006-07, 2007-08 and onwards. As Appellant has valued closing stock at cost value, addition made by Assessing Officer should be deleted.

It is noted that appellant has valued the closing stock of land-at Rs.-1495.761 per square meter considering cost of land along with other charges and total area of land. The working of per square meter cost of land computed by Appellant as submitted before Assessing Officer is tabularised herein below: -

Particulars	Area of Land(Sq. Mfrs.)	Rate per Sq. (Rs.)	Amount (Rs.)	Remarks
Land Acquired on 22.06.2004	20,260.36	1,356.10	2,74,75,165	
Cost incurred during F.Y. 2005-06		1 39.66	28,29,600	

Total				The average rate is calculated after considering the total value of land and total Sq, Mtrs.
Land Sold during F.Y.2005-06	510.70	837.44	4,27,682	
Closing stock for F.Y. 2005-06	19,749.66	1,495.761	2,95,40,877	The average rate per Sq. Mtrs. derived above is considered

Land sold during F.Y. 2005-06 and credit made in Account of F.Y. 2006-07	1700.85	1161.82	19,76,091	
Land sold during F.Y. 2006-07	1,888.38	932.78	17,61,444	
Closing stock for F.Y. 2006-07	16,160.43	1,495.761	2,41,72,223	The average rate per Sq. Mtrs. derived above is considered i

It is clear from the above that the Appellant has computed rate per square meter of land on scientific basis and this rate has been consistently applied on closing stock of land, it is an undisputed fact that Appellant has valued opening stock of land at Rs.2,95,40,877/- after considering rate per square meter of - Rs. 1,495.761 and same rate has been considered while computing closing stock of land. It is a matter of fact that assessment in the case of Appellant for A.Y. 2006-07 was completed under Section 143(3) on 18th December, 2008 wherein Assessing Officer has accepted valuation of closing stock as computed by Appellant. Therefore, there is no reason to deviate from such valuation while valuing closing stock of land in A.Y. 2007-08. It is pertinent to mention that Assessing Officer has computed closing stock by simply reducing sale value from opening stock of land valued at cost which is patently incorrect as closing stock is required to be computed on cost basis and after reducing cost of goods sold and not sale value. Thus, on holistic consideration of entire facts, Appellant has correctly computed value of closing stock applying methodology adopted for valuing opening stock by cost per square meter hence addition of Rs. 36,07,210/- made by Assessing Officer is deleted."

5. During the course of appellate proceedings before us, Id. departmental representative has supported the order of the assessing officer. After hearing Id. departmental representative and perusal of material on record, we observed that assessee has valued opening stock of land at Rs.2,95,40,877/- after considering rate per square meter of - Rs. 1,495.761 and same rate has been considered while computing closing stock of land. On the other hand while valuing closing stock of land in A.Y. 2007-08 the Assessing Officer has computed closing stock by reducing sale value from opening stock of land which was valued at cost .We observed that assessing officer

has computed it incorrectly as closing stock is required to be computed on cost basis and after reducing cost of goods sold and not sale value. We considered that Id. CIT(A) has correctly demonstrated in the table in this order that there is no inconsistency in the computation of closing stock by the assessee. After considering the detailed findings of the Ld. CIT(A) we do not find any error in the decision of the Ld. CIT(A). Therefore, the appeal of the revenue is dismissed.

6. In the result, the appeal of the revenue is dismissed.

Order pronounced in the open court on 27-11-2017

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER
Ahmedabad : Dated 27/11/2017

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

आदेश का प्रतिलिपि अपेक्षित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलार्थ आधिकरण,
अहमदाबाद