

IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCH 'SMC – A', BANGALORE

BEFORE SHRI A.K.GARODIA, ACCOUNTANT MEMBER

ITA No.1270 (Bang) 2017
(Assessment year : 2012 – 13)

M/s. Indiabuild Villas Development Pvt. Ltd.,
No. 6/A 2nd Floor, Kabra Excelsior,
7th Cross, 1st Block,
Koramangala,
Bangalore – 560034.
PAN. AACCI3931K

Appellant

Vs

The DCIT, Circle 3 (1) (1),
Bangalore.

Respondent

Assessee by : Shri Siddesh Gaddi, C. A.
Revenue by : Dr. G. Manoj Kumar, Addl. CIT DR

Date of hearing : 09-01-2018
Date of pronouncement : 11-01-2018

O R D E R

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

This appeal is filed by the assessee which is directed against the order of CIT (A) – 3 Bangalore dated 31.03.2017 for A. Y. 2012 – 13.

2. The assessee has raised three grounds as per revised grounds of appeal. The nature of expenses are three i.e. Advertisement Expenditure Rs. 15.65 lacs, 2) Legal & Professional fees Rs. 14.80 Lacs and 3) Site Administrative Expenditure Rs. 11,84,600/- but the finding of the learned CIT (A) is common that all these expenses are to be capitalized to Inventory as per AS – 2 on Inventory read with section 145A of I T Act.
3. Learned AR of the assessee that the arguments of the assessee before CIT (A) on this account are noted by CIT (A) on page 5 of his order but this aspect of the matter was decided by him as per Para 9.3 of his order in a cryptic manner without any finding in respect of applicability of clauses (c) and (d) of Para 13 of AS – 2, copy available on page 104 of the paper book. Learned DR of the revenue supported the orders of the authorities below.

4. I have considered the rival submissions. I find that as per Para 13 of AS – 2, administrative overheads that do not contribute to bringing the inventories to their present location and condition and selling and distribution costs are to be excluded from the cost of inventories. As per the learned AR of the assessee, the amount in dispute of Rs. 15.65 Lacs & Rs. 14.80 lacs are hit by the clause (d) of Para 13 of AS – 2 and the remaining amount of Rs. 11,84,600/- is hit by the clause (c) of Para 13 of AS – 2. These contentions were raised before CIT (A) also and were noted by CIT (A) on page 5 of his order but while deciding the issue as per Para 9.3 of his order, learned CIT (A) has decided the issue without examining and deciding the applicability of clauses (c) and (d) of Para 13 of AS – 2. Hence, I set aside the order of CIT (A) on this issue and restore the matter back to his file for a fresh decision by way of a speaking and reasoned order in respect of applicability of clauses (c) and (d) of Para 13 of AS – 2 after providing adequate opportunity of being heard to both sides.
5. 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.

Sd/-
(A.K. GARODIA)
ACCOUNTANT MEMBER

Bangalore:

D a t e d : 11.01.2018

/MS/

Copy to:

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

By order

Senior Private Secretary,
Income Tax Appellate Tribunal,
Bangalore.