

आयकर अपीलिय अधिकरण “फ” न्यायपीठ मुंबई मे ।

**IN THE INCOME TAX APPELLATE TRIBUNAL “F” BENCH, MUMBAI
BEFORE SRI MAHAVIR SINGH, JM AND SRI G MANJUNATHA, AM**

आयकर अपील सं./ ITA No.177/Mum/2017

(निर्धारण वर्ष / Assessment Year 2012-13)

Veena Developers, Nikunj Signature, Manav Mandir, Ambadi Road, Vasai (W), Thane	Vs.	ACIT, Circle-4, 6 th Floor, Road No.162, A Wing, Ashar IT Park, Ambika Nagar, Wagle Indl. Estate, Thane (W)-400 602
(अपीलार्थी / Appellant)	..	(प्रत्यर्थी / Respondent)
PAN No.AAEFV3871C		

Revenue by : Pooja Swaroop, DR

Assessee by : Ankita Lunia, AR

Date of hearing: 18.06.2018 **Date of pronouncement :** 18-06-2018

आदेश / ORDER

PER MAHAVIR SINGH, JM:

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-3, Mumbai [in short CIT(A)], in appeal No. 87-THN/15-16 dated 7.10.2016. The Assessment was framed by the Assistant Commissioner of Income Tax, Circle-4, Thane (in short 'ACIT') for the A.Y. 2012-13 vide order dated 30.03.2015 under section 246A(1)(a) of the Income Tax Act, 1961 (hereinafter 'the Act').



2. The only issue in this appeal of the assessee against the order of CIT(A) confirming the action of the A.O. in disallowing expenses and attributing the same to tax free project on ad-hoc manner. For this, assessee has raised following grounds:

The Ld. CIT(A) erred in law and in facts by confirming the ad-hoc disallowance of ₹27,90,045/- made by the A.O. by holding that transfer of expenses from tax free project to taxable projects cannot be ruled out.

3. Briefly stated facts are that the assessee is a builder and developer. During the year under consideration, the assessee has declared income from business and profession at ₹21,52,47,493/-. The A.O. during the course of assessment proceedings noticed that the assessee has claimed deduction under section 80IB(10) of the Act on the project Veena Saaz, Building No.5, further deduction on project Veena Santoor (A, B & C Blocks) and also Veena Santoor (D, E, F & G Blocks). The assessee has disclosed taxable profit from the project Veena Saaz, wherein the claim of deduction under section 80IB(10) of the Act was made at ₹9,44,14,389/-. However, the A.O. also was of the view that 50% of the total construction expenses of ₹55,80,093/- i.e. it comes to ₹27,90,045/- is relatable to the projects involving non-taxable income. Accordingly, he disallowed 50% of the expenses on ad-hoc basis. Aggrieved against disallowance of 50% of ad-hoc expenses, preferred appeal before CIT(A). CIT(A) without giving any reason, confirmed the action of the A.O. by stating that the A.O. has disallowed proportionately assigned/distributed expenses



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to the projects. Aggrieved against the action of the CIT(A), now assessee is in appeal before the Tribunal.

4. We have heard the rival contentions and gone through the facts and circumstances of the case. We find that the A.O. as well as CIT(A) has just simply disallowed the expenses by proportioning the expenses to the projects, which gives taxable income and non-taxable income. But we could not find any rationale or any reason for attributing such expenses to the project of non-taxable income. Hence, we delete the disallowance and allow the appeal of the assessee.

5. **In the result, the appeal filed by the assessee is allowed.**

Order pronounced in the open court on 18-06-2018.

आदेश की घोषणा खुले में दिनांक 18.06.2018 को की गई ।

Sd/-

Sd/-

(G MANJUNATHA)
ACCOUNTANT MEMBER

(MAHAVIR SINGH)
JUDICIAL MEMBER

Mumbai, Dated: 18-06-2018

Venu Gopal, Sr.PS

Copy of the Order forwarded to:

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

BY ORDER,

Assistant Registrar
ITAT, MUMBAI