



IN THE INCOME TAX APPELLATE TRIBUNAL "SMC", BENCH MUMBAI

BEFORE SHRI R.C.SHARMA, AM

&

SHRI C.N. PRASAD, JM

ITA No.1919/Mum/2018

(Assessment Year :2008-09)

M/s. Megha Porperty Developers Pvt. Ltd., 701-A, Niranjn Building 99, Marine Drive Mumbai – 400 002	Vs.	Income Tax Officer, Ward 4(2)(4) Room No.647, Aayakar Bhavan, M.K. Road
<b>PAN / GIR No.AAFFM5593B</b>		
<b>Appellant)</b>	<b>..</b>	<b>Respondent)</b>

Assessee by	Ms. Priyanka Jain
Revenue by	Ms. N. Hemalatha
<b>Date of Hearing</b>	<b>31/05/2018</b>
<b>Date of Pronouncement</b>	<b>28/06/2018</b>

**आदेश / ORDER**

**PER R.C.SHARMA (A.M):**

This is an appeal filed by the assessee against the order of CIT(A)-9, Mumbai dated 06/06/2016 for A.Y.2008-09 in the matter of order passed u/s.143(3) r.w.s. 147 of the Income Tax Act, 1961.

2. In this appeal assessee is aggrieved by the action of CIT(A) upholding reopening of assessment u/s.147. Assessee is also aggrieved for disallowance of expenditure of Rs.6,47,483/-.

3. Rival contentions have been heard and record perused.

4. Facts in brief are that assessee is engaged in the business of real estate development. On the basis of audit objection, AO reopened assessment by issue of notice u/s.148. During the course of re-

assessment proceedings, AO disallowed expenditure u/s. 37(1). Expenditure so incurred was necessary for business and assessee has submitted a brief note on each payment. Assessee has incurred society formation expenses. After selling of Flats it is statutory liability of assessee to form society as per MOFA, act. Therefore, assessee paid Rs.1,23,000/- to Mr. Ramraja D Sasane towards his fees for collecting information details of all the promoter members of the society and filling and following the procedure with the registrar for registering the name of the society and their after formation of Madhri Co-Op Housing Society, (Ledger account of Society formation expenses, Visiting Card of Consultant, Bills and PAN card are placed at Page No.56-59). Hence, expenses was wholly and exclusively for the business purpose. Assessee has also incurred transport expenditure of Rs.60,350/-. The AO observed that assessee has not filed details of transportation expenditure so incurred. We found that assessee has filed vouchers for the payment of transportation charges. Out of the expenditure so paid, we found that no supporting document was filed in respect of tempo charges of Rs.350/-, accordingly, we restrict the disallowance to the extent of Rs.350/-. Assessee has also incurred expenditure of Rs.1,12,349/- on account of medical insurance. Out of which Rs.48,078/- was on account of medical insurance premium, Rs.8,955/- on account of car insurance of Tata Indigo and Rs.13,124/- on account of insurance of Maruti Balleno. Assessee has also paid fire insurance premium for insurance of building amounting to

Rs.13,928/- and also fire insurance of building at Madhuri amounting to Rs.18,099/- and Rs.10,165/- on account of insurance premium. From the record, we found that Expenses were incurred for insuring the business fixed assets and unsold premises.

- a) *Rs.48,078/- is paid to New India insurance company.*
- b) *Rs.13,124/- insurance premium for Car Maruti Baleno paid to New India Insurance Company.*
- c) *Rs.8,955/- Insurance premium for Car Tata Indigo Rs. 13926/ - Insurance premium for fire and special perils for project Madhuri, Airoli to Bajaj Alianz General Insurance.*
- d) *Rs,18,099/ -Insurance premium paid to TATA AIG for Madhuri Project, Airoli*

5. So far as legal and professional expenditure are incurred, we found that same was paid to Advocates and Consultants to preserve the assets of the company and therefore, allowable u/s.37(1). From the record we found that the assessee company has deducted 10% tax and challans for same was produced before AO and placed at Pg. No. 72 of Paper book for four parties:-

Sr. No.	Party name	Amount in Rs.	TDS 10%	Cess
1	Kanga & Co.	25000	2500	75
2	K.S. Salian	24000	2400	72
3	Shaymkumar	30000	3000	90
4	Y.L Datar	20000	2000	60
Total		99000	9900	297

6. Thus, TDS has been deducted and paid by Tax challans for the above mentioned parties on 1<sup>st</sup> March,2008 of Rs.10,197/- (9900+297) which is before due date of filing return.

7. In view of the above, we do not find any justification for the disallowance of expenditure except expenses paid on account of tempo charges which was not supported by any vouchers. So far as reopening is concerned, we found that there was sufficient reason before the AO to believe that income has escaped income, accordingly, there is no infirmity in the reopening of assessment.

**8. In the result, appeal of assessee is allowed in part.**

Order pronounced in the open court on this 28/06/2018

**Sd/-**  
**(C.N. PRASAD)**  
JUDICIAL MEMBER

**Sd/-**  
**(R.C.SHARMA)**  
ACCOUNTANT MEMBER

Mumbai; Dated 28/06/2018

Karuna 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,

सत्यापित प्रति //True Copy//

(Asstt. Registrar)  
ITAT, Mumbai