

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad**

**Before Smt. P. Madhavi Devi, Judicial Member
AND
Shri S.Rifaur Rahman, Accountant Member**

ITA Nos.1039 & 1040/Hyd/2016
(Assessment Years: 2009-10 & 2010-11)

Smt. Tummala Veena Hyderabad PAN: ACCPT5857A (Appellant)	Vs	Income Tax Officer Ward 2(2) Hyderabad (Respondent)
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ITA Nos.1216/Hyd/2016
(Assessment Year: 2010-11)

Smt. Tummala Prasanth Kumar , Hyderabad PAN: ABTPT7368N (Appellant)	Vs	Income Tax Officer Ward 2(2) Hyderabad (Respondent)
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For Assessee :	Shri S. Rama Rao
For Revenue :	Shri R.S. Arvindakshan,DR

Date of Hearing:	01.11.2018
Date of Pronouncement:	09.11.2018

ORDER

Per Smt. P. Madhavi Devi, J.M.

All are the appeals of the respective assessees for the A.Ys 2009-10 & 2010-11 against the order of the CIT (A)-2, Hyderabad, dated 31.03.2018. Both the assessees are related and the issues are common, therefore, the appeals were heard together and are being disposed of by this common and consolidated order. For the sake of convenience, the grounds of

appeals raised by the appellant in Appeal No.1039/Hyd/2016 are reproduced hereunder:

“1 The order of the learned CIT (A) is erroneous to the extent it is prejudicial to the appellant.

2 The learned CIT (A) erred in confirming the addition of Rs.4,49,632/- made by the Assessing Officer by applying the provisions u/s 2(22)(e) of the I.T. Act.

3 The learned CIT (A) erred in holding that the provisions u/s 69B are applicable to the facts of the appellant's case and further erred in not properly considering the submissions made before him.

4 The learned CIT (A) ought to have deleted the entire addition made by the Assessing Officer u/s 69B of the I.T. Act when the books of account are not rejected.

5 Even on facts, the learned CIT (A) failed to consider that a part of the cost of the building was incurred by Goldage Hospitals Pvt.Ltd., the tenant and the said fact is evidenced by the balance sheet of the company.

6 The learned CIT (A) ought to have seen that the interiors, the cost of solar system, kitchen equipment, generator, electrical equipment etc. are accounted for in the books of the company and the total cost incurred by the company in construction of the building should have been directed to be reduced for arriving at the cost incurred by the appellant.

7) The CIT (A) ought to have seen that the tenant incurred expenditure of Rs.1,45,31,603j-. The learned CIT (A) ought to have considered the fact that Goldage Hospitals Pvt.Ltd., is the tenant and spent the amount ofRs.1,45,31,603j- and that the items acquired by the tenant were considered by the Valuation Cell for determining the cost of construction

8) The learned CIT (A) ought to have taken into consideration the additional income offered of Rs.80,00,000/- and treated the same as part of the cost of construction admitted by the appellant.

9) The learned CIT (A) ought to have seen that if the deduction towards self supervision; difference between CPWD rates and State Government rates; the amount admitted of Rs.80,00,000 j - and the amounts spent by the tenant were considered there would not be any addition to the income admitted and, therefore,

the learned CIT(A) ought to have deleted the entire addition after considering the above.

10) Without prejudice to the above, the learned CIT (A) ought to have directed the Assessing Officer to arrive at the difference and distribute such difference among all the assessment years in proportion to the expenditure incurred.

11) The learned CIT (A) ought to have considered the fact that the Assessing Officer made a mistake in arriving at the difference of Rs.67,38,990/-for the assessment year 2009-10.

12) Any other ground or grounds that may be urged at the time of hearing”.

2. At the time of hearing, the learned Counsel for the assessee submitted that the assessee had raised detailed objections before the CIT (A) and the CIT (A) reproduced the same in his order and thereafter, confirmed the assessment order. Against this, the assessee is in appeal before us.

3. The learned DR was also heard.

4. Having gone through the order of the CIT (A), we find that though the assessee have filed detailed objections on each of the issues before the CIT (A), but he has failed to dispose of the said objections by way of a speaking order and therefore, we do not have the benefit of the reasonings given by the CIT (A) for adjudicating the issues raised by both the assessee. In view of the same, we deem it fit and proper to set aside the orders of the CIT (A) and remand the issue to his file for reconsideration and disposal of the appeal on merits by way of a speaking order. Needless to mention that the assessee shall be given a fair opportunity of hearing.

5. In the result, assessee's appeals are treated as allowed for statistical purposes.

Order pronounced in the Open Court on 9th November, 2018.

Sd/-
(S.Rifaur Rahman)
Accountant Member

Sd/-
(P. Madhavi Devi)
Judicial Member

Hyderabad, dated 9th November, 2018.

Vinodan/sps

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- 2 Income Tax Officer Ward 2(2) Signature Towers, Kondapur, Hyderabad
- 3 CIT (A)-2 Hyderabad
- 4 Pr. CIT – 2 Hyderabad
- 5 The DR, ITAT Hyderabad
- 6 Guard File

By Order