

IN THE INCOME TAX APPELLATE TRIBUNAL

DELHI BENCH "E", NEW DELHI

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER

AND

SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER

	I.T.A. No. 1209/DEL/2016		
	A.Y. : 2012-13		
ACIT, CIRCLE 10(2), NEW DELHI	VS.	GRIHA PRAVESH BUILDTECK PVT. LTD. A-410, ANSAL CHAMBER-1, BHIKAJI CAMA PLACE, NEW DELHI (PAN: AADCG6532D)	
<b>(ASSESSEE)</b>		<b>(RESPONDENT)</b>	

Revenue by : Ms. Rinku Singh, Sr. Dr.  
Assessee by : None

**ORDER**

**PER H.S. SIDHU : JM**

The Revenue has filed this Appeal against the impugned Order of the Ld. CIT(A)-4, New Delhi relevant to assessment year 2012-13.

2. The grounds raised in the appeal read as under:-

- i) The CIT(A) has erred in allowing the appeal of assessee as the base of valuation report of an

architect inquiry the finding of AO that too remanding back the matter.

- ii) The appellant craves leave, to add, alter or amend any ground of appeal raised above at the time of hearing.

3. The brief facts of the case are that assessee filed income tax return, declaring loss of Rs. 64,65,667/- on 19.9.2012. The case of the assessee was selected for scrutiny and notice under section 143(2) of the Income Tax Act, 1961 (hereinafter referred as Act) was issued on 6.8.2013. Again notice u/s. 142(1) of the Act alongwith questionnaire was issued on 21.5.2014. Due to change in the incumbency of jurisdiction a fresh notice u/s. 142(1) of the Act was issued on 9.12.2014. In response to notices, the AR appeared from time to time and filed the requisite details. Books of account were produced. During the year under consideration the assessee company was doing business as builders and property developers. The AO against the returned loss of Rs. 64,65,667/- has assessed the income of assessee at Rs. 8,11,12,730/-, after making disallowance of expenses of Rs. 16,53,396/- and Profit as per percentage of completion method (AS-7 of ICAI) amounting to Rs. 8,59,25,000/- vide his order dated 05.03.2015 passed u/s. 143(3) of the Income Tax Act, 1961. Against the assessment order dated 05.03.2015, assessee filed an appeal before the Ld. CIT(A), who

vide his impugned order dated 18.12.2015 has deleted the additions in dispute. Aggrieved with the order of the Ld. CIT(A), New Delhi the Revenue is in appeal before the Tribunal.

4. Ld. CIT(DR) relied upon the Order of the AO and reiterated the contentions raised in the grounds of appeal.

5. In this case, Notice of hearing to the assessee was sent by the Registered AD post, in spite of the same, assessee, nor its authorized representative appeared to prosecute the matter in dispute, nor filed any application for adjournment. Keeping in view the facts and circumstances of the present case and the issue involved in the present Appeal, we are of the view that no useful purpose would be served to issue notice again and again to the assessee, therefore, we are deciding the present appeal exparte qua assessee, after hearing the Ld. DR and perusing the records.

6. We have heard the Ld. DR and perused the records, especially the impugned order. With regard to addition of Rs.8,59,25,000/- is concerned, we find that the main issue is with reference to the estimated cost of project and consequential application of Accounting Standard-7 for recognition of the project revenue, project cost and project income. As estimated by the Assessing Officer the cost of the project should be at Rs 200 crores whereas the assessee estimate comes to Rs 305 crores. The AO's estimate is not based on any material on record whereas the

assessee has submitted a certificate from the Architect. During the year, significant construction has not taken place as it appears from the expenses incurred. Therefore, the claim of the AO that the project is complete and the assessee has allotted the flats to the buyers is not acceptable. Hence, the cost of the project as estimated by the architect appears to be correct. The flats were not handed over to the buyers as the assessee was not allowed to do so by NOIDA. The assessee could sell only 44% of the total project area and the assessee had entered into individual contracts with the buyers which are legally enforceable. The significant performance w.r.t. the remaining component of the project is pending and the revenue in respect of such individual contract cannot be recognized until the remaining components are completed. After considering the estimated cost of the project as per the architect, the assessee had only incurred 16.42% of the expenditure on the construction. Therefore, Ld. CIT(A) has rightly allowed the claim of the assessee and reject the estimate of cost of the project by the AO and accordingly deleted the addition of Rs, 8,59,25,000/-, which does not need any interference on our part, therefore, we uphold the action of the Ld. CIT(A) on the issue in dispute and reject the ground raised by the Revenue.

6.1 Further, we note that Assessing Officer has also disallowed the development expenses of Rs 4,00,000/-, commission expenses of Rs 9,50,000/-, and traveling expenses of Rs 3,03,396/-. As per the Assessing Officer these expenses are not allowable as these have not been estimated by the appellant in its project cost. Infact these expenses are not part of the project cost but are in the nature of overhead expenses. The Assessing Officer also has not declared these expenses to be unjustified or bogus and hence, Ld. CIT(A) has

rightly allowed these expenses totaling to Rs 16,53,396/- u/s 37(1) and deleted the addition in dispute and rightly directed the AO to allow the carry forward of losses of previous year amounting to Rs. 9,67,732/-, which does not need any interference on our part, therefore, we uphold the action of the Ld. CIT(A) on the issue in dispute and reject the ground raised by the Revenue.

7. In the result, the Revenue's Appeal stands dismissed

Order pronounced on 24/01/2019.

Sd/-

**[PRASHANT MAHARISHI]  
ACCOUNTANT MEMBER**

*Date 24/01/2019*

**SRBHATNAGAR**

Sd/-

**[H.S. SIDHU]  
JUDICIAL MEMBER**

**Copy forwarded to: -**

1. Assessee -
2. Respondent -
3. CIT
4. CIT (A)
5. DR, ITAT

TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches