

**IN THE INCOME TAX APPELLATE TRIBUNAL
“SMC” BENCH, AHMEDABAD**

**BEFORE SHRI PRAMOD KUMAR, VICE PRESIDENT &
Ms. MADHUMITA ROY, JUDICIAL MEMBER**

I.T.A. No.108/Ahd/2015
(Assessment Year : 2008-09)

Safal Engineers and Associates, Vs. Asst. CIT (OSD),
Top Floor, Sathik Avenue, Circle – 9,
Fun Republic, Satellite Road, Ahmedabad.
Ahmedabad – 380015.

[PAN No. AANFS 3214 K]

(Appellant)

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(Respondent)

Appellant by : Shri P. M. Mehta, A.R.
Respondent by : Shri Shiv Sewak, Sr. D.R.

Date of Hearing 02.01.2019
Date of Pronouncement 01.04.2019

ORDER

PER Ms. MADHUMITA ROY - JM:

The instant appeal filed by the assessee is against the order dated 07.10.2014 passed by the Commissioner of Income Tax (Appeals)-XVI, Ahmedabad under section 143(3) of the Income Tax Act, 1961 (hereinafter referred as to “The Act”) arising out of the order dated 06.12.2010 passed by the ACIT(OSD), Circle – 9, Ahmedabad for the Assessment Year 2008-09.

2. The assessee engaged in the business of construction, developing and supervision activity filed its return of income declaring total income at Rs.1,48,425/- through electronic media on 25.09.2008 which was processed u/s 143(1) of the Act. Upon scrutiny notice u/s 143(2) of the Act dated 20.08.2009 followed by another notice dated 31.05.2010 has been served upon the assessee. It appears from the Profit and Loss

account that the assessee debited an amount of Rs.14,46,273/- on 31.03.2007 as following pending expenditure on provision basis:

Bricks Purchase	Rs.1,50,400/-
Carting Purchase	Rs.1,73,270/-
Cement Purchase	Rs.2,75,604/-
Electrical goods	Rs.95,954/-
General Purchase	Rs.19,247/-
Greet/Kaptchi Purchase	Rs.50,286/-
Hardware & Paints	Rs.13,172/-
Labour payment	Rs.5,22,832/-
Sand purchase	Rs.16,860/-
Service tax of labour	Rs.721/-
Steel purchase	Rs.38,366/-
Water charges	Rs.34,760/-
General expenses	Rs.8,979/-
Other expenses	Rs.45,822/-
	Rs.14,46,273/-

Such expenditure were incurred for driveway, paver and curbing, compound wall, painting, gates etc which was explained by the assessee by a letter dated 03.12.2010. The Learned AO was of the view that since the assessee has booked/claimed these expenditure on provision basis the same cannot be said as expenditure already incurred. As the expenditure is not incurred and only provision for the same is made, the expenditure is not allowable as business expenditure. Ultimately, on that premise the assessment was finalized by making disallowance of Rs.14,46,273/- and the same was added to the total income of the assessee which was in turn affirmed by the Learned CIT(A). Hence, the instant appeal before us.

3. At the time of hearing of the instant appeal, the Learned Advocate appearing for the assessee submitted before us that the authorities below has grossly erred in disallowing expenditure claimed by the assessee on provision basis without appreciating the fact that the same had been incurred wholly and exclusively for business purpose and also that the corresponding income generated by way of such expenditure has been

offered to tax and thus the expenditure incurred need to be allowed in the current year only and not the subsequent year i.e. A.Y. 2009-10 as directed by the Learned CIT(A). The Learned AR relied upon the judgment passed by the Hon'ble Supreme Court in the matter of CIT-vs-Bilahari Investment Pvt. Ltd. reported in [2008] 299 ITR 1 (SC), J.K. Industries Ltd and another-vs-Union of India and others reported in [2008] 297 ITR 176 (SC) and also in the matter passed by the Hon'ble Supreme Court in the matter of CIT-vs-Woodward Governor India Pvt. Ltd. reported in [2009] 312 ITR 254 (SC). The Learned Departmental representative, however, relied upon the order passed by the authorities below.

4. We have heard the respective parties and perused the relevant materials available on record. It appears from the records that during the current assessment year the assessee has carried out development of project called "SAKET-II" along with other projects. The assessee is also entitled to income from such project which has not been disputed by the Learned AO. Factually in terms of the agreement entered into by and between the appellant and land owners the assessee is entitled to development charges directly from the members and the land price were received by the landlords from the members on execution of the sale deed. Such development charges has been credited in the profit and loss account. Apart from that the assessee also received a percentage of consideration for the land received by landlord as development income for which the assessee has to develop the plots incurring expenditure. The project development by appellant was completed substantially during the current assessment year subject to certain minor expenditure of development of land. The appellant has recognized entire amount of development charges received and/or receivable from members as income in annual accounts. However, certain minor expenditure including material purchase and labour was to incur in subsequent financial year. The appellant has made provisions for such expenditure to the tune of Rs.14,46,273/- on the basis of actual expenditure incurred in subsequent year before finalization of the accounts for current year on the ground of

matching concept, the appellant, therefore has claimed such expenditure against income offered in the current assessment year. The entire income arising from the project has been offered in current year. All the expenditure incurred or required to be incurred can be claimed in current year otherwise the same may not be allowed in subsequent year on the ground that no income arising from such expenditure has been shown in the year as the case made out by the appellant before us. Furthermore, the entire expenditure has been incurred for business purpose and income arising out of such project has already been offered to tax, which is allowable as revenue expenditure u/s 37(1) of the Act and therefore disallowance made by the authorities is not justified. It is true that the appellant has completed his entire scheme as per their commitment to buyers of plots and estimated expenditure which had to be incurred by the appellant in discharging a liability, mercantile system of accounting incidental to business is allowable as deduction which proposition was also placed by the appellant before the Learned CIT(A) relying upon the judgment passed by the Apex court in the case of Calcutta Company Ltd.-vs-Commissioner of Income Tax, West Bengal reported in 37 ITR 001. We have further carefully considered the judgments relied upon by the Learned AR. The observation made by the Hon'ble Supreme Court in the matter of Commissioner of Income Tax-vs-Bilahari Investment Pvt. Ltd. reported in [2008] 299 ITR 1 (SC) (supra) as is follows:

"82. Matching Concept is based on the accounting period concept. The paramount object of running a business is to earn profit. In order to ascertain the profit made by the business during a period, it is necessary that "revenues" of the period should be matched with the costs (expenses) of that period. In other words, income made by the business during a period can be measured only with the revenue earned during a period is compared with the expenditure incurred for earning that revenue. However, in cases of mergers and acquisitions, companies sometimes undertake to defer revenue expenditure over future years which brings in the concept of Deferred Tax Accounting. Therefore, today it cannot be said that the concept of accrual is limited to one year.

83. It is a principle of recognizing costs (expenses) against revenues or against the relevant time period in order to determine the periodic income. This principle is an important component of accrual basis of accounting. As stated above, the

object of AS 22 is to reconcile the matching principle with the Fair Valuation Principles. It may be noted that recognition, measurement and disclosure of various items of income, expenses, assets and liabilities is done only by Accounting Standards and not by provisions of the [Companies Act.](#)"

In the case of J.K. Industries Ltd and another the Hon'ble Supreme Court has emphasized that the accounting standards as framed and followed by the auditors should be respected, since they provide harmonization of concepts and accounting principles and ensure discipline. The accounting methods followed continuously by the assessee for given period of time would ensure revenue neutrality and reflect true and correct income or profits. We find that there can be no computation of profit and gains until expenditure which is necessary for the purpose of earning their receipts is deducted therefrom whether the expenditure is actually incurred or the liability in respect thereof has accrued even though it may have to be discharged at some future date. We, therefore find no reason for such disallowance. In this particular case, the expenses incurred for development of plotting scheme at SAKET-II which was completed during the year and thus the same has debited to profit and loss account in the current year as liability as pending expenses. In that view of the matter the sum represented the estimated expenditure which had to be incurred by the appellant in discharging a liability is allowable expenditure. Hence, disallowance is deleted.

5. In the result, assessee's appeal is allowed.

This Order pronounced in Open Court on

01/04/2019

Sd/-
(PRAMOD KUMAR)
VICE PRESIDENT

Sd/-
(Ms. MADHUMITA ROY)
JUDICIAL MEMBER

Ahmedabad; Dated 01/04/2019
Priti Yadav, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-XVI, Ahmedabad.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad