

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'D' : NEW DELHI)**

**BEFORE SHRI KULDIP SINGH, JUDICIAL MEMBER
and
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**ITA No.1652/Del./2016
(ASSESSMENT YEAR : 2011-12)**

DCIT, Circle 1 (1), vs. M/s. ICI C&C JV,
Gurgaon. 2nd Floor, Block – 2,
Vatika Business Park, Sector 49,
Sohna Road,
Gurgaon.

(PAN : AAAAI4184N)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY : None

REVENUE BY : Smt. Naina Soin Kapil, Senior DR

Date of Hearing : 26.08.2019

Date of Order : 11.09.2019

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER :

Appellant, DCIT, Circle 1(1), Gurgaon (hereinafter referred to as the 'Revenue') by filing the present appeal sought to set aside the impugned order dated 25.01.2016 passed by the Commissioner of Income - tax (Appeals)-1, Gurgaon qua the assessment year 2011-12 on the grounds inter alia that :-

“On the facts and circumstances of the case, Ld. CIT (A) has erred in deleting the addition of Rs.2,60,01,522/- made by the Assessing Officer by adopting Percentage of Completion Method (POCM) as per AS-7..”

2. Briefly stated the facts necessary for adjudication of the issue at hand are : Assessee is a joint venture company engaged in installation and civil construction of transmission lines in the state of U.P. and work contract had been awarded to it by Isolux Ingeneria S.A.-MAN-JV who has received work contract from UP Power Transmission Company Ltd.. Assessing Officer (AO) made addition of Rs.2,60,01,522/- by applying AS – 7 whereas assessee has taken percentage of completion method based on percentage of total budgeted cost that was actually incurred by end of the given year. AO proceeded to conclude that the calculation of revenue recognition by percentage completion method, the budgeted revenue is taken as Rs.60,70,48,846/- and calculated revenue as per AS – 7 as under :-

<i>Budgeted cost</i>	<i>Rs.56,78,47959/-</i>
<i>Cumulative Actual Cost</i>	<i>Rs.6,72,53,820/-</i>
<i>Cumulative Actual Cost to be considered for AS-7</i>	<i>Rs.6,72,53,820/-</i>
<i>%age completion</i>	<i>Rs.6,72,53,820/- / 5,67,48,47,959 x 100 = 11.84%</i>
<i>Revenue as per AS-7</i>	<i>11.84% of 60,70,48,846/- = Rs.7,18,96,629/-</i>

3. So, declining the contentions raised by the assessee that contract value has been reduced from Rs.82 crores to Rs.60 crores, AO taken the contract revenue as Rs.9,78,98,151/- instead of Rs.7,18,96,629/- taken by the assessee and made addition of Rs.2,60,01,522/-.

4. Assessee carried the matter by way of an appeal before the Id. CIT (A) who has deleted the addition by allowing the appeal. Feeling aggrieved, the Revenue has come up before the Tribunal by way of filing the present appeal.

5. Assessee has not preferred to put in appearance despite issuance of the notice and consequently, we proceeded to decide the present appeal with the assistance of the Id. DR as well as on the basis of documents available on the file.

6. We have heard the Id. Departmental Representative for the revenue to the appeal, gone through the documents relied upon and orders passed by the revenue authorities below in the light of the facts and circumstances of the case.

7. From the grounds raised by the Revenue, order passed by the lower Revenue authorities, arguments addressed and facts & circumstances of the case, the short question arises for determination in this case is :-

“as to whether budgeted revenue of the project has been reduced from Rs.82.68 crores to Rs.60.70 crores?”

8. Undisputedly, original value of the contract was Rs.82.68 crores. Before AO, the assessee has not produced any evidence whatsoever to prove the fact that the original value of the contract was reduced from Rs.82.68 crores to Rs.60.70 crores. Perusal of the impugned order passed by the Id. CIT (A) does not disclose if evidence to prove this fact

was brought on record who has rather proceeded to delete the addition on the ground that in such eventuality, *“the AO has option to go with one set of figure i.e. either original budgeted revenue and original budgeted cost or revised budgeted revenue or revised budgeted cost and the AO was not justified in picking and choosing the original budgeted revenue and revised budgeted cost to apply AS-7.”*

9. However, we are convinced that in case the budgeted revenue of the project has been reduced from Rs.82.68 crores to Rs.60.70 crores then addition made by AO is not sustainable. In these circumstances, we are of the considered view that the issue is required to be verified by the AO and assessee shall produce the necessary evidence in this regard in the form of communication or some supplementary contract etc. In case, original budgeted revenue is verified to be reduced from Rs.82.68 crores to Rs.60.,70 crores then no addition is sustainable, otherwise assessment order passed by the AO shall prevail. Consequently, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced in open court on this 11th day of September, 2019.

**Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

**sd/-
(KULDIP SINGH)
JUDICIAL MEMBER**

**Dated the 11th day of September, 2019
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-1, Gurgaon.
- 5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.