



ITA No.4991/Mum/2018  
A.Y.2014-15  
Master Homes

**आयकर अपीलीय अधिकरण “एक-सदस्य मजमल” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“SMC” BENCH, MUMBAI**

**मजनीय श्री महावीर सिंह, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI MAHAVIR SINGH, JM AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आकरअपील सं./ I.T.A. No.4991/Mum/2018  
(निर्धारण वर्ष / Assessment Year:2014-15)

<b>M/s. Master Homes</b> Office No.12-13, Sai Dharamdas Market 1 <sup>st</sup> Floor, Nehru Chowk Ulhasnagar-421 002.	<b>बनाम/ Vs.</b>	<b>Income tax Officer-2(2)-Kalyan</b> 2 <sup>nd</sup> Floor, Mohan Plaza Wayale Nagar Khadakpada Kalyan West-421 301.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. <b>AAOFM-1002-G</b>		
(पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Revenue by</b>	:	Shri Akhtar H. Ansari-Ld.DR
<b>Assessee by</b>	:	Shri Neha Paranjpe-Ld. AR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	16/09/2019
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	16/09/2019

**आदेश / O R D E R**

**Per Bench: -**

1. Aforesaid appeal by assessee for Assessment Year [AY] 2014-15 contest the order of Ld. Commissioner of Income-Tax (Appeals)-3, Thane,



[in short referred to as 'CIT(A)'], Appeal No.10556-THN/16-17 dated 01/06/2018 on following grounds of appeal: -

- “1. The Ld. Commissioner of Income Tax (Appeals)-III, Thane [here in after referred to as " Ld CIT (A)"] erred in passing the order date 01-06-2018 has retained entire addition of Rs. 1801000/-. Income assessed by Ld. I.T.O. 2(2) at kalyan by taking F.M.V. of sale value in place of actual sale value & addition made by I.T.O. 2(2) at kalyan @ 1801000/- is retained & confirmed. The appellant firm is Builders & Developers.
2. Ld. C.I.T.(A-III) Thane not accepted reliance of Hon'ble Tribunal Mumbai in the case of M/S. John Power India Pvt. Ltd. V/s. DCIT ITA 7545/MUM/2014. & confirmed the addition of Ld. I.T.O. 2(2) kalyan @ Rs. 1801000/-.
3. Ld. C.I.T.(A-III) Thane erred in not considering that difference in actual sale value & F.M.V. is even less than 10%.
4. An appeal fee payable @ Rs. 10000/- is paid challan is submitted herewith.
5. Additions made by Ld. I.T.O. & confirmed by Ld. C.I.T.(A-III) Thane @ 1801000/- is not justified may kindly be deleted.”

2.1 Facts on record would reveal that the assessee being resident firm stated to be engaged as builders & developers was assessed u/s 143(3) on 21/12/2016 wherein the assessee was saddled with addition of Rs.18.01 Lacs.

2.2 During assessment proceedings, it transpired that the assessee entered into sale transaction of immovable properties in the shape of various shops, the details of which have already been extracted at para-5 of the quantum assessment order. It was noted that sale consideration of some of the shop was less than market value / stamp duty value. The learned A.O., invoking the provisions of Section 43CA, added the differential amount i.e. Rs.18.01 Lacs to the income of the assessee.

3. The learned first appellate authority upheld the stand of Ld.AO, against which the assessee is under appeal before us. The plea raised by



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the assessee, during appellate proceedings, that the matter of valuation should have been referred to DVO was rejected since the said plea was not raised before learned AO.

4. We have heard and considered the rival submissions.
5. On the given facts and circumstances, it transpires that the additions have been made merely by invoking the provisions of Section 43CA whereas the assessee has submitted that the value reflected in the books was actual sale consideration and nothing more was received over and above the reflected values. Therefore, after due consideration, the matter stand remitted back to the file of learned AO for adjudication de novo, *inter-alia*, after referring the matter of valuation to DVO.
6. The appeal stands partly allowed for statistical purposes.

*Order pronounced in the open court on 16<sup>th</sup> September, 2019.*

**Sd/-**

**(Mahavir Singh)**

न्यायिक सदस्य / **Judicial Member**

**Sd/-**

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 16/09/2019  
Sr.PS:-Jaisy Varghese

**आदेश की प्रतिलिपि ढ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent



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3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायकपंजीकार (Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**