

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC-C” BENCH : BANGALORE**

**BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT**

ITA No.1637/Bang/2019
Assessment year : 2015-16

M/s. Century Galaxy Developers Limited, No.2, Diamond District, Airport Road, Kodihally, Bengaluru – 560 017. <b>PAN : AAACC 9836 F</b>	Vs.	The Deputy Commissioner of Income Tax, Circle – 2(1)(1), Bengaluru.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri. S. Ramasubramaniam, CA
Revenue by	:	Shri. Ganesh R. Ghali, Advocate Standing Counsel to Department

Date of hearing	:	14.11.2019
Date of Pronouncement	:	27.11.2019

**ORDER**

This is an appeal by the Assessee against the order dated 29.05.2019 of CIT(A) - 2, Bengaluru, relating to Assessment Year 2015-16.

2. The assessee is a company engaged in the business of maintenance of apartments. The assessee is assessed to Income Tax by the learned Deputy Commissioner of Income-tax, Circle - 2(1)(1), Bangalore (hereinafter referred to as Assessing Officer). For the assessment year 2015-16 the assessee had filed a return of income declaring a loss of 3,14,33,156/- after claiming a depreciation of Rs. 3,61,48,291/- on building. The assessee owns a residential apartment complex at Kodihally Village,

Bangalore Airport Road, Varthur, Hobli, Bangalore South. As per the scheme framed by the assessee, the apartments owned by it were allotted to various shareholders/allottees. As per the scheme, the user rights vests with the shareholders of the assessee. The legal ownership continues to vest with the assessee. Various common areas in the apartment complex belongs to the assessee and they are not allotted to any shareholder.

3. The assessee had been claiming depreciation right from the assessment year 2003-04 onwards. The assessing officer has been disallowing the depreciation on the ground that the shareholder/allottees are the owners of the apartment and not the assessee. The matter was taken up in appeal wherein the appellate authorities including the Hon'ble Karnataka High Court held that the assessee is not entitled to depreciation. On a special petition filed before the Hon'ble Supreme Court, the matter was restored to High Court. The appeal is pending before High Court.

4. The CIT(A), in upholding the action of the AO, followed the decision of the ITAT in assessee's own case for Assessment Year 2003-04. I am of the view that in the light of the decisions of the Tribunal, which were upheld by the Hon'ble Karnataka High Court, the order of the CIT(A) does not require any interference at this stage.

5. Accordingly, the appeal of the assessee is dismissed.

6. In the result, the appeal by the Assessee is dismissed.

*Order pronounced in the open court on this 27<sup>th</sup> day of November, 2019.*

Sd/-  
**(N. V. VASUDEVAN)**  
**Vice President**

Bangalore.  
Dated: 27<sup>th</sup> November, 2019.  
/NS/\*

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|---------------|---------------|
| 1. Appellants | 2. Respondent |
| 3. CIT        | 4. CIT(A)     |
| 5. DR         | 6. Guard file |

By order

Assistant Registrar,  
ITAT, Bangalore.