

आयकर अपीलीय अधिकरण "A" न्यायपीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, MUMBAI

श्री महावीर सिंह, न्यायिक सदस्य एवं श्री एम बालगणेश, लेखा सदस्य के समक्ष ।

BEFORE SRI MAHAVIR SINGH, JM AND SRI M BALAGANESH, AM

आयकर अपील सं./ ITA No. 4480/Mum/2018

(निर्धारण वर्ष / Assessment Year 2013-14)

आयकर अपील सं./ ITA No. 4481/Mum/2018

(निर्धारण वर्ष / Assessment Year 2011-12)

Adarsh Kaul C/o VAV Airconditioning Unit No.2, IT Park, Techniplex-II, Junction of Veer Savarkar Flyover, S.V. Road, Goregaon Mumbai-400 062	बनाम/ Vs.	The Asst. Commissioner of Income Tax, pratyaksha Kar Bhavan, Bandra Kurla Complex, Mumbai-400 051
(अपीलार्थी / Appellant)		(प्रत्यर्थी/ Respondent)
स्थायी लेखा सं./PAN No. AHRPK7595A		

अपीलार्थी की ओर से / Appellant by	:	Shri M.N. Nandgaonkar, AR
प्रत्यर्थी की ओर से / Respondent by	:	Shri S. Michael Jerald, DR

सुनवाई की तारीख / Date of hearing:	12.12.2019
घोषणा की तारीख / Date of pronouncement:	12.12.2019

आदेश / ORDER

महावीर सिंह, न्यायिक सदस्य/

PER MAHAVIR SINGH, JM:

These appeals by assessee are arising out of common of the Commissioner of Income Tax (Appeals)]-42, Mumbai [in short CIT(A)], in Appeal Nos. CIT(A)-42/IT-285/14-15, CIT(A)-42/IT-69/16-17 even dated 30.05.2018. The Assessments were framed by the Asst. Commissioner of Income Tax, Central Circle-31(1), Mumbai (in short ACIT/ AO) for the A.Ys. 2013-14 & 2011-12



vide order dated 21.03.2016 & 27.03.2014 under section 143(3) of the Income-tax Act, 1961 (hereinafter 'the Act').

2. The first common issue in these appeals of assessee is against the order of CIT(A) confirming the action of the AO in making addition on account of revaluing closing work-in-progress and estimating the profit rate at the rate of 2%. For this, assessee has raised the following grounds No. 1 in AYS 2011-12 and 2013-14: -

"for AY 2013-14

1. On the facts and in the circumstances of the case & in law the learned Assessing Officer has erred in increasing and the CIT(A) has erred in confirming the increase in the value of closing WIP (closing stock) by Rs. 6,33,857/- on account of estimated additional profit of 2% on the value of closing WIP as declared by the appellant.

for AY 2011-12

1. On the facts and in the circumstances of the case and in law the learned Assessing Officer has erred in increasing and the CIT(A) has erred in confirming the increase in the value of closing WIP (closing stock) by ₹18,89,246/- on account of estimated



*additional profit on the value of closing
WIP as declared by the appellant."*

3. At the outset, the learned Counsel for the assessee filed copy of Tribunal's order in assessee's own case for AY 2009-10, wherein Tribunal in ITA No. 4144/Mum/2016 & 2811/Mum/2013 for AY 2009-10 vide order dated 24.05.2019 has considered the identical issue as this being a recurring issue Tribunal deleted the addition made by AO on estimating closing work-in-progress by observing in Para 8 as under: -

"8. We have heard rival contentions and gone through the facts and circumstances of the case. We noted that the AO has not recorded any adverse finding in regard to correctness and completeness of the books of account of the assessee even though the assessee has filed complete details in respect of closing work in progress. During the course of assessment proceedings even job wise breakup of closing work in progress was submitted by the assessee. The assessee also before the AO and even before CIT(A) and even now before us contended that the assessee is following the method of valuing his closing stock i.e. work in progress consistently from year to year basis by ascertaining and accumulating the direct cost and other identifiable



expenses and adding the same to realizable profit as on 31st March of every year having due regard to the progress of the relevant job. The assessee has filed the detailed working relating to opening work in progress and subsequent bills raised in respect of opening WIP or closing WIP during the appellant proceedings before CIT(A). We noted that despite assessee's details filed before AO, the AO could not pointed out any mistake in the books of accounts or any discrepancy and no books of accounts were ever rejected by the AO while applying the profit rate to the work in progress. Even otherwise, we noted that the assessee is following the method of accounting consistently and it is followed consistently year after year by ascertaining and accumulating the direct cost such as material cost, labour and other identifiable expenses directly relating to a particular ongoing job as on the last day of the accounting year. We also noted that the work in progress followed at cost + net profit so as to bring the contract revenue for the period lying with the requirement of accounting standard AS 7 as prescribed by ICAI and



adopted by assessee as per section 145 of the Act. In such circumstances, we are of the view that the AO and CIT(A) has wrongly made adhoc addition, which we delete. This issue of assessee's appeal is allowed in term of the above.;"

4. When this was confronted to the learned Sr. Departmental Representative, he could not point out any factual difference in facts. As the issue is squarely covered by Tribunal's decision in assessee's own case in earlier year, we direct the AO to delete the addition and accordingly, this issue is allowed in favour of assessee in both the years.

5. One more issue in assessee's appeal in ITA No. 4481/Mum/2018 for AY 2011-12 is as regards to the order of CIT(A) confirming the action of the AO in making addition of alleged difference in the total turnover declared and as per information available in AIR Data base. For this, assessee has raised the following ground No.2: -

"2. On the facts and in the circumstances of the case and in law the learned Assessing Officer has erred in adding and the CIT(A) has erred in confirming the addition of ₹1,54,244/- on account of alleged difference in the turnover of the appellant and the information as per AIR."



6. We have heard rival contentions and gone through the facts and circumstances of the case. The learned Counsel for the assessee stated that the assessee is ready for filing of reconciliation for the alleged difference in the total turnover of the assessee as declared in the books of account and the total turnover depicted in AIR information. On this, the learned Sr. Departmental Representative has not objected. Hence, this issue is remitted back to the file of the AO, with direction to AO, to verify the reconciliation and delete. Accordingly, this issue is remanded back to the file of the Assessing Officer.

7. In the result, the appeal of the assessee in ITA No. 4480/Mum/2018 is allowed and appeal of assessee in ITA No. 4481/Mum/2018 is partly allowed.

Order pronounced in the open court on 12.12.2019

Sd/-

(एम बालगणेश / M BALAGANESH)

(लेखा सदस्य / ACCOUNTANT MEMBER)

मुंबई, दिनांक/ Mumbai, Dated: 12.12.2019

सुदीप सरकार, व.निजी सचिव / Sudip Sarkar, Sr.PS

Sd/-

(महावीर सिंह /MAHAVIR SINGH)

(न्यायिक सदस्य/ JUDICIAL MEMBER)

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

/सहायक पंजीकार (Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai