

आयकर अपीलीय अधिकरण “जी” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing through Video Conferencing Mode)

आयकर अपील सं./ I.T.A. No.1692/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2013-14)

&

आयकर अपील सं./ I.T.A. No.1693/Mum/2019
(निर्धारण वर्ष / Assessment Year: 2014-15)

Sanghavi Land Developers Pvt. Ltd. 98/2, K.R.Mahatre Marfg Reay Road (W) Mumbai – 400 010	बनाम / Vs.	ACIT-8(1)(2) Aaykar Bhawan M.K.Marg Mumbai-400 020
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAFCS-7731-J		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Shri Satish Mody-Ld. AR
Revenue by	:	Shri T.S. Khalsa- Ld. Sr.DR

सुनवाई की तारीख/ Date of Hearing	:	14/01/2021
घोषणा की तारीख / Date of Pronouncement	:	14/01/2021

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeals by assessee for Assessment Years 2013-14 & 2014-15 contest separate orders of Ld. first appellate authority. Both the appeals are being disposed-off by way of this common order for the sake of convenience & brevity.

2.1 The appeal for AY 2013-14 contest the action of Ld. Commissioner of Income Tax (Appeals)-14, Mumbai order dated

16/10/2018 qua confirmation of disallowance u/s 14A for Rs.31.17 Lacs. The assessee being resident corporate assessee is stated to be engaged in construction business.

2.2 In an assessment framed u/s 143(3) on 31/03/2016, it transpired that the assessee earned certain exempt income during the year. Accordingly, Ld. AO, invoking the provisions of Sec. 14A r.w.r. 8D(2), computed aggregate disallowance of Rs.31.17 Lacs which comprised-off of interest disallowance u/r 8D(2)(ii) for Rs.29.08 Lacs and expense disallowance u/r 8D(2)(iii) for Rs.2.08 Lacs. The Ld. CIT(A) confirmed the same since the assessee's plea that interest free funds available with the assessee were more than investments made by the assessee, was rejected. Aggrieved, the assessee is in further appeal before us.

2.3 The Ld. AR pleaded to restrict the disallowance to the extent of exempt income earned by the assessee during the year, with which we concur. It has also been submitted that the assessee has already offered certain suo-moto disallowance in its computation of income. Accordingly, Ld. AO is directed to restrict the disallowance to the extent of exempt income earned by the assessee. The credit of suo-moto disallowance as already offered in the computation of income shall be provided. We order so. The appeal stand partly allowed.

3.1 In AY 2014-15, the assessee is aggrieved by capitalization of expenditure of Rs.76.26 Lacs to closing work-in-progress as on 31/03/2014. In an assessment u/s 143(3) as framed on 29/12/2016, it transpired that the assessee offered rental income, interest income, car parking charges, society formation charges, and

discount received etc. under Business income. The assessee was carrying out certain projects and accordingly, capitalized related expenditure as work-in-progress. However, expenses aggregating to Rs.76.26 Lacs which were in the nature of labor charges, electricity expenses, painting work, purchase of hardware items, purchase of metals etc. were debited to Profit & Loss Account. Keeping in view the fact that stated expenditure was related to ongoing projects, Ld. AO opined that the same should have been capitalized. The assessee did not file any reply to explain its stand. Consequently, the expenditure was disallowed and added to work-in-progress.

3.2 Before Ld. CIT(A), the assessee drew attention to the fact that these expenses were already capitalized by the assessee and the action of Ld. AO would result into double capitalization of the expenditure. However, since the assessee failed to substantiate the same, the action of Ld. AO was confirmed. Aggrieved, the assessee is in further appeal before us.

3.3 Upon careful consideration of factual matrix, it is evident that the assessee has failed to clarify its position before both the authorities. The requisite details could not be adduced. For proper adjudication, the correct facts need to be appreciated first. The submissions of Ld. AR are that the action of Ld. AO would result into double capitalization of same expenditure. From Ld. AR's submissions, it appears that the stated expenditure was suo-moto disallowed by the assessee and already capitalized in work-in-progress. Therefore, we deem it fit to restore the matter back to the file of Ld. AO for fresh adjudication with a direction to the assessee

to place on record correct factual matrix and substantiate its stand. Consequently, the appeal stand allowed for statistical purposes.

4. ITA No. 1692/Mum/2019 stand partly allowed whereas ITA No.1693/Mum/2019 stand allowed for statistical purposes.

Order pronounced on 14th January, 2021.

Sd/-
(Mahavir Singh)
उपाध्यक्ष / **Vice President**

Sd/-
(Manoj Kumar Aggarwal)
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 14/01/2021
Sr.PS, Jaisy Varghese

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
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/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.