

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'A' BENCH  
MUMBAI**

**BEFORE: SHRI MAHAVIR SINGH, VICE PRESIDENT  
&  
SHRI M.BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.2965/Mum/2019  
(Assessment Year :2010-11)**

M/s. Shree Ahuja Properties & Developers Gr. Floor, Rajpipla, Opp. Standard Chartered Bank, Santacruz(W) Mumbai – 400 054 Maharashtra	Vs.	Dy. CIT, Central Circle- 6(2), Mumbai
<b>PAN/GIR No. ABEFS2387M</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

**ITA No.2972/Mum/2019  
(Assessment Year :2009-10)**

**ITA No.2973/Mum/2019  
(Assessment Year :2010-11)**

**&**

**ITA No.2974/Mum/2019  
(Assessment Year :2011-12)**

M/s. Ahuja Housing Projects Pvt. Ltd., Gr. Floor, Rajpipla, Opp. Standard Chartered Bank, Santacruz(W) Mumbai – 400 054 Maharashtra	Vs.	Dy. CIT, Central Circle- 6(2), Mumbai
<b>PAN/GIR No. AADCA8289M</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Shri Vijay Mehta
Revenue by	Shri Rajeev Harit & Shri Brajendra Kumar
<b>Date of Hearing</b>	<b>01/07/2021</b>
<b>Date of Pronouncement</b>	<b>14/07/2021</b>

**आदेश / ORDER****PER M. BALAGANESH (A.M):****ITA No.2965/Mum/2019 A.Y.2010-11**

This appeal in ITA No.2965/Mum/2019 for A.Y.2010-11 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-54, Mumbai in appeal No.CIT(A)-54/IT-10385/DCCC-6(2)/2017-18 dated 02/02/2019 (Id. CIT(A) in short) against the order of assessment passed u/s.153C r.w.s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 29/12/2017 by the Id. Dy. Commissioner of Income Tax, Central Circle 6(2), Mumbai (hereinafter referred to as Id. AO).

2. The issues raised in ground No. 1 & 2 are only with regard to the aspect as to whether the on-money received by the assessee would be chargeable to tax in the year of receipt or in the year of completion of the project. The ground No.3 raised by the assessee is with regard to the issue of determination of profit element on the on-money receipts which has to be brought to tax.

3. We have heard rival submissions and perused the materials available on record. We find that there was a search and seizure action u/s.132 of the Act in Ahuja Group and their associates and at the residence of their Directors on 25/06/2015. During the course of search, it transpired that parallel book of accounts of Ahuja Group were maintained and analysis of data found during the course of search was confronted to the promoter of the group who admitted on

the fact of receiving on-money in various construction and development projects undertaken by the group. Accordingly, a sum of Rs.53,10,000/- was earmarked for A.Y.2010-11 representing on-money receipts during the year. The issues under consideration are as under:-

(a) whether the said on-money is fully taxable at 100% or only profit element of such on-money could be brought to tax, and if so, what would be such profit element?

(b) whether the said profit element of on-money would be chargeable to tax in the year of receipt or in the year of completion of project ?

3.1. It is not in dispute that assessee group is engaged in the business of construction and had undertaken various construction projects thereon. We find that the Id. AO had brought to tax the entire on-money receipts (net) as income of the assessee u/s.68 of the Act for the year under consideration. We find that the Id. CIT(A) had held that the entire on-money receipts could not be brought to tax in as much as the assessee could have spent some expenses for the purpose of business outside the books and hence, only the profit element embedded thereon could be brought to tax thereof. The Id. CIT(A) accordingly estimated the profit element at 25% of on-money receipts and directed the Id. AO to tax the same.

4. Aggrieved by this direction, both assessee as well as the Revenue had preferred appeals before us. The revenue appeal had already been dismissed due to low tax effect in ITA No.2893/Mum/2019 vide order dated 21/08/2019. The issue raised in assessee's appeal has been the subject matter of adjudication by the Co-ordinate Bench of this Tribunal in the case of sister concern of the

assessee in the case of Tulip Land and Developers Pvt. Ltd., vs. Dy. CIT in ITA No.2980/Mum/2019 dated 10/02/2021 wherein the profit element was determined at 12% of on-money to be brought to tax. The relevant operative portion of the said judgment is reproduced hereunder:-

*“8. We have heard the rival submissions of both the parties and perused the material on record. The undisputed facts are that the assessee is found to have received on money from the buyer of flats/properties on the basis of documents which have been found during the course of search and the on money received by the assessee in two years A.Y. 2014-15 & 2015-16 of Rs.32,50,000/- and Rs.1,50,00,000/- respectively. However, we find that in the assessment the AO has added Rs.2,15,00,000/- which is a typographical error and correct amount is Rs.1,50,00,000/-. We have also cross verified this from the order of settlement commission and submissions before the Ld. CIT(A) who has partly allowed the appeal of the assessee by sustaining the addition equal to 25% of the on money received by the assessee. The Ld. A.R. has argued before the Bench that since in the sister concerns cases on money has been brought to tax @ 12% by the settlement commission, therefore the same rate should be applied to assess the on money in the hands of the assessee also. We find the arguments of the assessee quite convincing and cogent and are inclined to set aside the order of Ld. CIT(A) on this issue and direct the AO to assess the same by applying 12% on Rs.1,50,00,000/- and that too in the year when the regular income of the assessee is assessed to tax as per the regular method of accounting. In deciding so we find support from the decision of the ACIT vs. ISA Enterprises (supra) wherein it has been held that income has to be assessed on the basis of method of accounting followed by the assessee. The operative part is reproduced as under:*

*“7. We have heard the rival submissions and perused the relevant materials on record. We give the reasons for our decision in the succeeding paragraphs.*

*Having gone through the return of income filed by ISAE for the AY 2008-09 to AY 2014-15, we find that it is following the project completion method. It filed its return of income for the AY 2014-15 on 04.04.2015 declaring total income of Rs.4,45,00,710/-. The above income has been accepted without any variation by ACIT-20(1), Mumbai in the assessment dated 28.12.2016 completed u/s 143(3) of the Act.*

*Now it would be apposite to discuss the cited two decisions. In the case of M/s Jalaram Jagruti Development Pvt. Ltd. (supra), the issue before the Hon'ble Bombay High Court was the following:*

*"Whether on the facts and in the circumstances of the case, the Hon'ble*

*Tribunal in law, was right in holding that receipts of Rs.3,46,250/- recorded in the documents seized during the course of search were reflected in the books of accounts and could be taxed only in the year in which the project was completed?"*

*The Hon'ble High Court held that:*

*"The finding of fact recorded by the Tribunal is that the receipts in question had direct nexus with the project of the assessee and that the said cash receipts have been offered to tax in the AY 2008-09, since the assessee was following the project completion method. Once the cash in question has already been assessed to tax, the question of taxing the same assessment year in question AY 2005-06 does not arise."*

*7.1 In M/s M/s Guruprerana Enterprises (supra) the following questions of law were raised before the Hon'ble Bombay High Court:*

*a) "Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in deleting the addition holding that the assessee has not actually received any cash receipts and the declaration made by the partner of the firm was towards total sale receipts and not towards income for the year?"*

*b) Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in deleting the addition holding that the project completion method was applicable on account receipts of Rs.5 crores even though the assessee had not accounted the receipts in the regular books of accounts?"*

*c) Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the addition of Rs.5 crores itself had failed to follow the norms of accounting standard regarding disclosure of receipts as per the AS-7 and as per [section 145](#) of the I.T. Act, 1961?"*

*The Hon'ble High Court held as under:*

*"Counsel for the parties state that the income which is disputed in the present proceedings has been offered to tax on the basis of the project completion method during the assessment year 2009-10 and the same has been accepted by the revenue. In these circumstances, we see no reason to entertain the proposed question of law as the entire exercise would be academic. In the above view, the questions (a) to (c) as proposed cannot be entertained."*

*8. We have mentioned earlier that the return of income for A.Y. 2014- 15 filed by the assessee declaring total income of Rs.4,45,00,710/- has been accepted by the ACIT-20(1), Mumbai u/s 143(3) of the Act. Therefore, we follow the decisions of the Hon'ble Bombay High Court mentioned at para 7 here-in-above and uphold the order of the Ld. CIT(A)."*

9. Similar ratio has been laid down in the various other decisions as referred to by the Ld. A.R. during the hearing and stated hereinabove. We are therefore inclined to hold that on money received by the assessee would only be taxable as per the regular method of accounting of the assessee. In the present case the assessee is following project completion method and therefore this income has to be assessed along with the regular income of the assessee in the year of completion of the project.

10. The second issue raised by the assessee is against the order of Ld. CIT(A) sustaining the addition equal to 25% of the on money received.

11. The facts of the case are already narrated while dealing with the ground No.1. The only issue involved here is whether at what rate of the on money should be brought to tax. The Ld. Counsel, at the outset, submitted that since in the cases of group concerns the settlement commission has already accepted that on money is to be assessed at the rate of 12%. We therefore find merit in the contentions of the assessee's counsel that following the settlement commission's order the same should be applied in the case of the assessee also. The case of the assessee is supported by the following decisions:

1. ACIT vs. Om Construction ITA No.6234/M/2012 A.Y. 2006-07 & ors.
2. ACIT vs. Shankar Developers ITA No.6235/M/2012 A.Y. 2003-04 & ors.

In the case of ACIT vs. Om Construction ITA No.6234/M/2012 A.Y. 2006-07 & ors. (supra) the co-ordinate bench of the Tribunal held that where the settlement commission has assessed the income at 12% then a different view can not be taken from that one taken by the settlement commission. The operative part is reproduced as under:

“6. We have already noticed that the Hon'ble Settlement Commission has accepted the contentions of the assessee that it has incurred expenses outside the books of accounts and further the impounded materials also show that many expenses have not been accounted for. Under these set of facts, the Hon'ble Settlement Commission has accepted the contention of the assessee that only net profit should be estimated on the amounts received outside the books of account. Accordingly, the Hon'ble Settlement Commission has estimated the net profit at 12% of thereon. The assessments of AY 2005-06 and also the year before us, viz., AY 2006-07 have been taken up for scrutiny only on the basis of survey operations and hence the facts prevailing in both the cases are identical in nature. Hence, we do not find it necessary to take a different view from that one taken by the Hon'ble Settlement Commission. Accordingly, we are of the view that the Ld CIT(A) was justified in estimating the profit at 12% (it is stated that the rate of profit was wrongly mentioned as 17% in the order of Ld CIT(A).

7. During the course of hearing, the Ld D.R submitted that there is a reference of 35% in the Settlement Commission's order. However, on a perusal of the said order, we notice that the assessee has given a working of the profit of the project by considering the value of scrap sales and adhoc disclosure in order to substantiate the offer of 12%. Hence, in our

*view, the said reference of 35% is not relevant here. 8. In view of the foregoing discussions, we do not find any reason to interfere with the order passed by Ld CIT(A).”*

*12. Similarly in the case of ACIT vs. Shankar Developers ITA No.6235/M/2012 A.Y. 2003-04 & ors. the co-ordinate bench of the Tribunal has held as under:*

*“13. We heard the parties and perused the record. We notice that the assessing officer has determined the on-money receipts as per the disclosure made by the assessee before the Settlement Commission. There is no dispute that the Settlement Commission has agreed with the contentions of the assessee that the entire amount of on-money receipts cannot be considered as income of the assessee. Accordingly the Settlement Commission has estimated the income from on-money receipts @ 17% in AY 2005-06. Since the assessing officer has estimated the on-money receipts as per the disclosure made before Settlement Commission, we are of the view that the Ld CIT(A) was justified in estimating the income from the on-money receipts @ 17% for this year also by following the order passed by the Settlement Commission. Accordingly we confirm the order passed by Ld CIT(A). Accordingly we reject the appeal filed by the revenue.”*

*13. Following the above decisions, we are inclined to held that the Ld. CIT(A) is not correct in not following the order of settlement commission wherein a rate of 12% has been applied on the on money to assess income embedded therein. Accordingly, we modify the finding of Ld. CIT(A) and direct the AO to assess the on money @ 12% as per the system of accounting followed by the assessee as has been decided by us in ground No.1.*

*14. In the result, the appeal of the assessee is allowed.*

4.1. Respectfully following the aforesaid decision of this Tribunal in the case of group concern of the assessee, the grounds raised by the assessee are partly allowed.

**5. In the result, appeal of the assessee in ITA No.2965/Mum/2019 is partly allowed.**

**ITA No.2972/Mum/2019 A.Y.2009-10**

6. This appeal in ITA No.2972/Mum/2019 for A.Y.2009-10 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-54,

Mumbai in appeal No.CIT(A)-54/IT-122/DCCC-6(2)/2016-17 dated 11/02/2019 (Id. CIT(A) in short) against the order of assessment passed u/s. 143(3) r.w.s. 147 of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 26/12/2016 by the Id. Dy. Commissioner of Income Tax, Central Circle 6(2), Mumbai (hereinafter referred to as Id. AO).

7. The ground Nos. 1 & 2 raised by the assessee challenging the validity of reopening of assessment was stated to be not pressed by the Id. AR at the time of hearing. The same is reckoned as a statement made from Bar and accordingly, the ground Nos. 1 & 2 raised by the assessee are dismissed as not pressed.

8. The assessee raised the following grounds 3 & 4 before us.

*“Without prejudice to the above, on merits:*

**B. Addition of Rs.20.48.291/- as income earned from on money, inflation of expenses and accommodation entries may be deleted**

3. *The Ld. CIT(A) erred in confirming the addition of Rs.20,48,291/- being 25% of on money plus accommodation entries plus inflation of expenses aggregating to Rs.81,93,163/- without appreciating the fact that the AO has failed to give details of on money, bifurcation of inflation of expenses & accommodation entries as per seized records and correlation of the same with the expenses claimed in the profit and loss account / entries in the books of account and hence, the addition confirmed @25% of inflation of expenses is without any justification and liable to be deleted.*

4. *Without prejudice to the above and without accepting and admitting, the Ld. CIT(A) failed to appreciate that as per parallel books of account, the group had incurred overall huge loss and income from on money / inflation of expense was treated as part of unaccounted turnover and estimated income thereof @ 12% in other group entities before the Hon'ble Settlement Commission and the Settlement Commission accepted the same @12% and hence, the income from on money / inflation of expenses / accommodation entries may be estimated @12% as against estimated @25% by the Ld. CIT(A) and accordingly, relief may be given to the appellant.*

*The Appellant craves leave to add, alter, amend all or any of the above grounds of appeal.”*

9. We have heard rival submissions and perused the materials available on record. We find that the aforesaid grounds have already been adjudicated by this Tribunal in ITA Nos. 2977/Mum/2019 and 2978/Mum/2019 for A.Yrs 2013-14 and 2014-15 in the case of M/s. Bhalachandra Trading P. Ltd., (sister concern of the assessee) vs. DCIT dated 25/02/2021 wherein it was held as under:-

*“2. The first identical issue to be decided is as to whether the ld. CIT(A) was justified in confirming the addition of Rs.5,34,819/- as income from inflation of expenses in the facts and circumstances of the case for the A.Y.2013-14.*

*3. None appeared on behalf of the assessee. We have heard the ld. DR and perused the material available on record. We find that the search operation u/s.132 of the Act was conducted in the Ahuja group of cases on 25/06/2015 and certain loose papers and digital forms were found and seized. Pursuant to the said search, the assessee was issued notice u/s.153A of the Act for A.Y.2013-14 on 24/08/2016. The assessee filed return in response to notice u/s.153A of the Act on 29/12/2016 declaring income of Rs.2,11,77,461/-.*

*3.1. We find that the ld. AO had mentioned in the assessment order that parallel books of accounts maintained by the assessee evidenced booking of expenses in the form of cheque payment and receiving back cash for the same. The ld. AO even tabulated year wise inflation of expenses where cheque payments were made and cash was received back as under:-*

<i>Sr. No.</i>	<i>AY</i>	<i>Amount</i>
<i>1</i>	<i>2011-12</i>	<i>14,51,660</i>
<i>2</i>	<i>2012-13</i>	<i>8,00,000</i>
<i>3</i>	<i>2013-14</i>	<i>21,39,275</i>
<i>4</i>	<i>2014-15</i>	<i>79,37,000</i>

*3.2. The inflation of expenses for each of these years has been accepted by the assessee group and the assessee group concerns had approached the Hon'ble Income Tax Settlement Commission wherein 12% of this expenditure has been offered by them as income. We find that the ld. AO had sought to add a sum of Rs. 21,39,275/- towards inflation of expenses for the A.Y.2013-14. In response, the assessee stated that no addition towards inflation of expenses could be made on mere allegation of suspicion. However, on without prejudice basis, the assessee submitted that 8% of such*

*expenditure could be added as undisclosed income of the assessee. We find that the ld. AO had rebutted this plea of the assessee by stating that the fact of maintaining parallel books of accounts was accepted by the assessee's group even before the Hon'ble Income Tax Settlement Commission and 12% of the expenditure was offered as income. The ld. AO also observed that the fact of handing over of all the seized documents was also accepted by the assessee's group before the Hon'ble Income Tax Settlement Commission. Accordingly, the ld. AO sought to add the entire amount of Rs.21,39,275/- on account of inflation of expenses for A.Y.2013-14. We find that the assessee had pleaded on without prejudice basis before the ld. CIT(A) that additional income offered by the assessee's group before the Hon'ble Income Tax Settlement Commission at 12% of inflation of expenses has been accepted by the Settlement Commission vide its order dated 28/06/2018 and requested the ld. CIT(A) to follow the same in assessee's case also. This was made on the plea that the cash which was received back by the assessee after issuance of cheque payments was utilised for incurring various business related expenses. The ld. CIT(A) however, ignored this submission of the assessee and proceeded to make an adhoc disallowance at 25% of inflated expenses for the assessment year under consideration after accepting to the contentions of the assessee that cash received back was indeed utilised for certain business related expenses which were kept outside the books.*

*4. Aggrieved, the assessee is in appeal before us.*

*5. We find the facts prevailing in assessee's case and facts prevailing in assessee's group cases who had preferred application before the Hon'ble Income Tax Settlement Commission are identical. There is no dispute on this aspect. It is not in dispute that assessee had resorted to inflation of expenses by making certain cheque payments and receiving back cash in return. It is not in dispute that the said cash had already also been utilised for the purpose of meeting business related expenses by the assessee. In this background what is to be taxed is only the left over portion of the cash remaining with the assessee on this subject mentioned transaction, being the profit element, which has been already accepted by the Hon'ble Income Tax Settlement Commission at 12% vide its order dated 28/06/2018 in assessee's group company cases. We held that the ld. CIT(A) ought to have followed the same in view of identical facts in the assessee herein also. Accordingly, we direct the ld. AO to make an addition @12% of inflation of expenses for the relevant assessment year in line with the direction of the Hon'ble Income Tax Settlement Commission in assessee's group company cases. Accordingly, the ground No.1 raised by the assessee is partly allowed and ground No.2 raised by the assessee is allowed.*

*7. The last issue to be decided in appeal for A.Y.2014-15 is with regard to addition of Rs.55 lakhs towards on-money.*

*7.1. We have heard ld. DR and perused the materials available on record. We find that the ld. AO had proceeded to make an addition u/s.68 of the Act towards on-money received by the assessee for sale of flats. It was also submitted by the assessee before the ld. AO that there were certain*

*unaccounted business expenses made by the assessee out of the on-money received and hence, only profit element thereon could be added and not the entire on-money receipts. We find that the ld. AO ignoring the entire contentions of the assessee proceeded to tax the net on-money received of Rs.2,20,00,000/- in the A.Y.2014-15 by applying the provisions of Section 68 as unexplained cash credit. The ld. AO also observed that assessee has not provided the party-wise details of onmoney receipt. The details of on-money received and on-money reversal for various assessment years are tabulated as under:-*

Asst. Year	On Money Received	On Money Reverse	Net On Money
2009-10	5,70,67,250/-	22,50,000/-	5,48,17,250/-
2010-11	2,52,54,500/-	4,81,50,000/-	(2,28,95,500)/-
2011-12	Nil	1,21,17,250/-	(1,21,17,250)/-
2014-15	3,35,00,000/-	1,15,00,000/-	2,20,00,000/-
2015-16	38,80,000/-	65,00,000/-	(26,20,000)/-
TOTAL	11,97,01,750/-	8,05,17,250/-	3,91,84,500/-

*7.2. We find that the assessee's group concerns also had offered 12% of on-money receipts as its income before the Hon'ble Income Tax Settlement Commission. The ld. CIT(A) categorically admitted in his order that the said receipt represents on-money received on sale of flats from which certain expenses were also incurred by the assessee and hence, only the profit element thereof could be brought to tax and not the entire on-money receipts. We find that the ld. CIT(A) accordingly estimated the profit element to be at 25% and restricted the addition to Rs.55 lakhs as against Rs.2,20,00,000 made by the ld. AO. Against this finding of the ld. CIT(A), the revenue is not in appeal before us.*

*7.3. It is not in dispute that assessee had indeed received on-money for sale of flats to the tune of Rs.2,20,00,000/- during the year under consideration. It is not in dispute that the assessee had incurred certain business expenses out of such on-money which are kept outside the books of accounts. Hence, it will be just and fair that only the profit element embedded on any such undisclosed transaction could be brought to tax on an estimated basis. The assessee had already pleaded that onmoney transactions were offered by the assessee's group concerns @12% of on-money receipts before the Hon'ble Income Tax Settlement Commission and the same has been accepted by the Settlement Commission. Hence, the data and information was indeed available with the ld. CIT(A) to have some rational basis to make profit estimation in the hands of the assessee herein by following 12% thereof from the order of Hon'ble Income Tax Settlement Commission. Accordingly, we direct the ld. AO to add only 12% of on-money receipts as undisclosed income of the assessee for the year under consideration. Accordingly, the ground No.1 & 2 raised by the assessee is partly allowed.*

**9.1. Respectfully following the aforesaid decision, the ground Nos.3 & 4 are disposed of in view of the above mentioned directions.**

**10. In the result, appeal of the assessee in ITA No.2972/Mum/2019 is partly allowed.**

**ITA No.2973/Mum/2019 A.Y.2010-11**

11. This appeal in ITA No.2973/Mum/2019 for A.Y.2010-11 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-54, Mumbai in appeal No.CIT(A)-54/IT-10386/DCCC-6(2)/2017-18 dated 11/02/2019 (Id. CIT(A) in short) against the order of assessment passed u/s. 153C r.w.s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 20/12/2017 by the Id. Dy. Commissioner of Income Tax, Central Circle 6(2), Mumbai (hereinafter referred to as Id. AO).

12. The ground No.1 raised by the assessee is exactly identical to ground No.4 raised by the assessee for A.Y.2009-10 in ITA No.2972/Mum/2019. Hence, the decision rendered for A.Y.2009-10 for ground No.4 would apply with equal force for ground No.1 in A.Y.2010-11 except with variance in figures.

13. The ground No.2 raised by the assessee for this assessment year is similar to the ground No.3 raised by the assessee for A.Y.2009-10 in ITA No.2972/Mum/2019. Hence, the decision rendered for A.Y.2009-10 for ground No.3 would apply with equal force for ground No.2 in A.Y.2010-11 except with variance in figures.

14. The ground No.3 raised by the assessee is only with regard to determination of profit percentage at 12% as per the orders of the

Hon'ble Income Tax Settlement Commission, which fact is already considered in the aforesaid two grounds. Hence, the ground No.3 raised by the assessee is allowed.

**15. In the result, appeal of the assessee is partly allowed.**

**ITA No.2974/Mum/2019 A.Y.2011-12**

16. This appeal in ITA No.2974/Mum/2019 for A.Y.2011-12 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-54, Mumbai in appeal No.CIT(A)-54/IT-10387/DCCC-6(2)/2017-18 dated 11/02/2019 (Id. CIT(A) in short) against the order of assessment passed u/s. 153C r.w.s. 143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 20/12/2017 by the Id. Dy. Commissioner of Income Tax, Central Circle 6(2), Mumbai (hereinafter referred to as Id. AO).

17. The ground No.1 raised by the assessee is exactly identical to ground No.4 raised by the assessee for A.Y.2009-10 in ITA No.2972/Mum/2019. Hence, the decision rendered for A.Y.2009-10 for ground No.4 would apply with equal force for ground No.1 in A.Y.2011-12 except with variance in figures.

18. The ground No.2 raised by the assessee for this assessment year is similar to the ground No.3 raised by the assessee for A.Y.2009-10 in ITA No.2972/Mum/2019. Hence, the decision rendered for A.Y.2009-10 for ground No.3 would apply with equal force for ground No.2 in A.Y.2011-12 except with variance in figures.

19. The ground No.3 raised by the assessee is only with regard to determination of profit percentage at 12% as per the orders of the Hon'ble Income Tax Settlement Commission, which fact is already considered in the aforesaid two grounds. Hence, the ground No.3 raised by the assessee is allowed.

**20. In the result, appeal of the assessee is partly allowed.**

**TO SUM UP:-**

<b><u>ITA NO.</u></b>	<b><u>A.Y.</u></b>	<b><u>Assessee Name</u></b>	<b><u>Result</u></b>
<b>2965/Mum/2019</b>	<b>2010-11</b>	<b>Shree Ahuja Properties &amp; Developers</b>	<b>Appeal of the Assessee is partly allowed</b>
<b>2972/Mum/2019</b>	<b>2009-10</b>	<b>Shri Ahuja Housing Projects Pvt. Ltd.,</b>	<b>Appeal of the Assessee is partly allowed</b>
<b>2973/Mum/2019</b>	<b>2010-11</b>	<b>Shri Ahuja Housing Projects Pvt. Ltd.,</b>	<b>Appeal of the Assessee is partly allowed</b>
<b>2974/Mum/2019</b>	<b>2011-12</b>	<b>Shri Ahuja Housing Projects Pvt. Ltd.,</b>	<b>Appeal of the Assessee is partly allowed</b>

Order pronounced on 14/07/2021 by way of proper mentioning in the notice board.

**Sd/-**  
**(MAHAVIR SINGH)**  
VICE PRESIDENT

**Sd/-**  
**(M.BALAGANESH)**  
ACCOUNTANT MEMBER

Mumbai; Dated 14/07/2021  
KARUNA, sr.ps

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
ITAT, Mumbai