

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD ' A ' BENCH, HYDERABAD.**

**BEFORE SHRI A. MOHAN ALANKAMONY, ACCOUNTANT
MEMBER
AND SHRI S.S. GODARA, JUDICIAL MEMBER
(THROUGH VIDEO CONFERENCE)**

ITA Nos.945 & 946/Hyd/2016
(Assessment Year : 2011-12)

Asst. Commissioner of Income Tax,
Central Circle 2(4), Hyderabad.Appellant.

Vs.

1. M/s. Idealistic Infrabuild (P) Ltd. Hyderabad.
PAN AACCI0552N
2. M/s. Tycoon Infratech P. Ltd., Hyderabad.
PAN AADCT 1539R.Respondents.

ITA No.1536/Hyd/2016
(Assessment Year : 2012-13)

Asst. Commissioner of Income Tax,
Central Circle 2(4), Hyderabad.Appellant.

Vs.

M/s. Infraways Engineering Co. Pvt. Ltd., Hyderabad.
PAN AACCI 0049LRespondent.

Appellants By : Shri B. Sunil Kumar (D.R.)
Respondent By : Shri B. Shanti Kumar.

Date of Hearing : 25.10.2021.
Date of Pronouncement : 28.10.2021.

O R D E R**Per Shri S.S. Godara, J.M.** :

These three Revenue's appeals pertaining to as many assessees M/s. Idealistic Infrabuild (P) Ltd., M/s. Tycoon Infratech P. Ltd. and Infraways Engineering Co. Pvt. Ltd. for Assessment Year 2011-12 in former twin appeals and A.Y. 2012-13 in last appeal, involve the following details :

Sl.No.	ITA No., Appellant Name & Asst. Year.	Case No. & Proceedings under section.
1.	945/Hyd/2016 M/s. Idealistic Infrabuild (P) Ltd. 2011-12.	0096/2014-15 under section 143(3) of the Act. Dt.24.3.2016
2.	946/Hyd/2016 M/s. Tycoon Infratech P. Ltd. 2011-12	0095/2014-15 Dt.24.03.2016 under section 143(3) of the Act.
3.	1586/Hyd/2016 M/s. Infraways Engineering Co. Pvt. Ltd. 2012-13	0040/2015-16 Dt.24.08.2016 under section 143(3) of the Act.

Heard both department and assessee(s) sides through them; their representatives. Case files perused.

2. It emerges at the outset that the Revenue's identical sole substantive grievance raised in all the three instant appeals seeks to reverse the CIT(A)'s findings deleting protective disallowance of Rs.1,68,55,680; Rs.2,18,23,660 and Rs.4,23,44,046; respectively representing expenditure on Dummugudem project for the sole reason that the same was bogus in nature and incurred on cash basis.

3. We note with the able assistance of both the learned representatives that the department had made identical substantive disallowance(s) in case of M/s. Gayathri Projects wherein the CIT(A) granted part relief thereby confirming the same to that @ 12.5% only as upheld in Revenue's batch of appeals ITA 1412/Hyd/2016 & five other cases for Assessment Years 2008-09 to 2013-14 decided on 24.4.2021 reading as under :

" 2. It transpires at the outset that the Revenue has raised its identical twin substantive grounds seeking to challenge correctness of the CIT(A)'s action inter alia restricting disallowance of assessee's certain identical expenditure claim pertaining to Dummugudem Project to the tune of Rs.15.82 crores (in lead case ITA No.943/Hyd/2016) to the extent of 12.5% and in deleting unexplained credits addition of Rs.20,50,99,560/- (involving varying sum in all these six assessment years); respectively. We advert to its foregoing former substantive grievance and notice that the CIT(A)'s detailed lower appellate discussion deleting the impugned addition under challenge reads as follows:

“8.0 Addition on account of expenditure incurred in cash, for payments made on Dummugudem Project – Rs.15,82,00,000/-:

8.1 While finalizing the assessment order, the AO had observed that the appellant had drawn an amount of Rs.15.82 cr. From various bank accounts, during the period 02-04-2009 to 30-03-2010, in the denominations ranging from 7 lakhs to 9 lakhs on each occasion, with the description of purpose as 'Dummugudem Tail Pond, PK-8 labour advance'. As per the AO, these amounts were not explained during survey proceedings and were not supported by bills/vouchers and no TDS was made on such amounts. During the asst. proceedings, only self-made Vouchers were shown to have been produced and some of the amounts were also used for payment as expenses against public policy such as penalty, gratuitous payments etc. For the said reasons the AO disallowed the entire a mounts of Rs. 15,83,00,000/-, treating it as unexplained expenses.

8.2 The appellant objected. for such addition and it has been submitted that the disallowance of Rs.15.82 cr. also forms part of total Expenditure On Dumugudem Project, which has been put at Rs.37.07 cr., against which the AO made separate disallowance of Rs.32.81 cr., which are agitated separately. On the issue of withdrawal of Rs.15.82 cr., and treatment of the entire amount as unexplained expenditure by the AO, the submissions of the appellant run as under:

- (i) the amount of Rs.15.82 cr. cannot be treated as unexplained expenses, as the source for the said amounts are explainable through books, which in turn received from Gayatri Ratna JV, routed through banking channels,
- (ii) No finding by AO in asst. order, to show that work related to the above expenditure, was not executed and on contrary, RA bills released by EE, NSC Division, Miryalaguda, show the total value the work done at Rs.34.10 cr.
- (iii) AO failed to consider the fact that an amount of Rs.10.09 cr. were paid to M/s.Mohan Projects Contractors Pvt Ltd (MPCPL), a subcontractor and the same were accounted in their books and assessed to tax.
- (iv) The observations of the AO as regards unverifiable nature of vouchers in sweeping, with the specific reference made to only few bills/vouchers.
- (v) The disallowance of expenses of Rs.15.82 cr results in abnormal profits on project which is not practical or feasible in the line of business.

Accordingly, it was contended by the assessee that with the work done is not disputed, expenditure not disproved and sources for same explained, the disallowance is uncalled for.

8.3 Perused the submissions of the appellant and the brief observations of the AO in asst. order. As could be made out from the facts of the case, the appellant shown to have drawn reasonably huge amounts in cash, from various bank accounts, with the intention of meeting the expenses related to

Dummugudem Project. Since the amounts were drawn in cash and the expenses not supported by reasonable details, the AO was of the opinion that the claim of entire amount as expenses is not allowable. In this regard it may be pertinent to mention that an amount of Rs.10.09 crores were shown to be given as 'advance to M/s.Mohan Projects Constructions Pvt Ltd (MPCPL) which is one of the sub-contractors, who are assessed to tax and what has been claimed as direct expense in hands of the assessee company is only Rs.5.73 cr. It was also submitted that out of Rs.15.82 cr., only an amount of Rs.9.38 cr. was directly met through assessee and Rs.3.66 cr. were incurred through M/s.MPCPL who submitted bills for said a unt of Rs.10.09 cr. given as advance. Further, with the amounts of Rs.32.80 cr shown as the expenses for Dummugudem Project, been disallowed by the AO separately, I am of the considered opinion that there is no need to treat the amounts of Rs.15.82 cr. as income separately, on the ground of disallowance of expenses related to Dummugudem Project. Accordingly, the addition of Rs.15.82 cr. held to be unsustainable as separate addition, with the said amounts merged with disallowance of Rs.32.82 cr., related to Dummugudem, which has been disallowed on same issue. Thus, this ground to this extent is treated as Partly Allowed”.

2.1. Learned CIT-DR vehemently contended during the course of hearing that the CIT(A) has erred in law and on facts in deleting the impugned cash expenditure additions. Her case is that the assessee had failed to prove its cash expenditure regarding Dummugudem Project during the course of assessment. She fails to dispute that the Assessing Officer's assessment order dt.31-03-2013 had already disallowed the assessee's entire expenditure pertaining to the very project to the tune of Rs.32,18,13,943/- as bogus under a separate head. The CIT(A) therefore has rightly held it to be an instance of the double addition apart from all other factual and legal aspects. We therefore find no merit in the Revenue's instant former substantive grievance in all these appeals in view of the foregoing clinching reason(s). This identical former substantive ground in the instant six appeals stand declined therefore.”

We adopt the above detailed reasoning mutatis mutandis to uphold the identical CIT(A)'s action under challenge herein in the very terms. The Revenue fails in its sole substantive ground therefore.

No other ground has been pressed before us.

3. These Revenue's three appeals are dismissed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 28th Oct., 2021.

Sd/-

Sd/-

(A.MOHAN ALANKAMONY)
Accountant Member

(S.S. GODARA)
Judicial Member

Hyderabad, Dt.28.10.2021.

* Reddy gp

Copy to :

1.	i) M/s. Idealistic Infrabuild (P) Ltd., 6-3-1090/C/1, Flat No.102, Lovely Homes, Rajbhavan Road, Hyderabad. ii) M/s. Tycoon Infratech Pvt. Ltd., 6-3-1090/C/1, Flat No.102, Lovely Homes, Rajbhavan Road, Hyderabad. iii) M/s. Infraways Engineering Company Pvt. Ltd., 6-3-1090/C/A/1, Flat No.401/7, Lovely Mansion, Rajbhavan Road, Hyderabad.
2.	ACIT, Central Circle 2(4), Hyderabad. / DCIT, Central Circle 2(4), Hyderabad.
3.	Pr. C I T (Central), Hyderabad.
4.	CIT(Appeals)-12, Hyderabad.
5.	DR, ITAT, Hyderabad.
6.	Guard File.

By Order

Sr. Pvt. Secretary, ITAT, Hyderabad.