

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES "B", BANGALORE**

Before Shri George George K, JM & Shri B.R.Baskaran, AM

ITA No.170/Bang/2018: Asst.Year 2012-2013

ITA No.171/Bang/2018: Asst.Year 2013-2014

ITA No.172/Bang/2018: Asst.Year 2014-2015

M/s.Monarch 54, Brigade Road Bengaluru - 560 001. PAN : AADFM5933D.	v.	The Income Tax Officer Ward 1(2)(1) Bangalore.
(Appellant)		(Respondent)

Appellant by : Sri.Sandeep, CA

Respondent by : Sri.Nischal B, Addl.CIT-DR

Date of Hearing : 04.01.2022	Date of Pronouncement : 04.01.2022
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ORDER

Per Bench :

These appeals at the instance of the assessee are directed against three orders of the CIT(A), all dated 27.10.2017. The relevant assessment years are 2012-2013, 2013-2014 and 2014-2015. Common issues are raised in these appeals, hence, they were heard together and are being disposed of by this consolidated order.

2. The assessee has raised grounds relating to validity of assessment as well as on merits.

3. The brief facts of the case are as follows:

The assessee is a partnership firm, engaged in the business of development of immovable properties. According to the assessee, it was following project completion method for revenue recognition. During the assessment years 2012-2013, 2013-2014 and 2014-2015, the assessee did not hand over

any built units to any buyer. Further, the assessee valued the work in progress by adding the margins and claimed other expenses as deduction. A survey operation was conducted in the premises of the assessee. During the course of survey, the partner of the assessee agreed to estimate the income at 12% of the advances received during the assessment years 2012-2013 to 2014-2015. Thereafter, the assessments were completed for assessment years 2012-2013 to 2014-2015 u/s 143(3) r.w.s. 147 of the I.T.Act by estimating the income at 12% of the advances received during the respective assessment years.

4. Aggrieved by the orders of the assessment for assessment years 2012-2013 to 2014-2015, the assessee filed appeals before the first appellate authority. Before the first appellate authority, the assessee raised grounds with regard to validity of reassessment and determination of income at 12% of the advances. It was contended that there is no estoppels against the assessee. It was submitted that the determination of income at 12% of the advances is not as per any recognized method of accounting. Therefore, the same should not be accepted. The CIT(A), however, rejected the contentions of the assessee and dismissed the appeals.

5. Aggrieved by the orders of Ld CIT(A) for assessment years 2012-13 to 2014-15, the assessee has filed these appeals before the Tribunal. The Learned AR submitted that the assessee determined the income from the project under "Project Completion method" in AY 2017-18. However, in the

return of income, the assessee deducted the income assessed in AY 2012-13 to 2014-15 from the income determined under “Project completion method” and accordingly offered only differential income in AY 2017-18. However, the AO did accept the same and accordingly assessed entire income after disallowing the deduction claimed by the assessee. The assessee challenged the same by filing appeal before Ld CIT(A). However, subsequently, the assessee settled the dispute under Vivad Se Vishwas Scheme. Copies of the assessment order for assessment year 2017-2018, Form No.1, Form No.2, Form No.3 under Vivad Se Vishwas Scheme for assessment year 2017-2018 are placed on record. Further, the learned AR by placing reliance on the order of the ITAT in assessee’s sister concern [M/s.Monarch Plaza Comforts Pvt. Ltd. v. ACIT (ITA No.1644 and 1645/Bang/2018 – order dated 23.03.2021)] submitted that estimation of income on advances received for the relevant assessment year is not as per any recognized accounting standard and the same cannot be adopted as an income for the relevant assessment years.

6. The learned Departmental Representative submitted that the matter needs to be examined by the A.O. to determine whether income assessed for assessment years 2012-2013 to 2014-2015 are again assessed in assessment year 2017-2018 on the basis of project completion method.

7. We have heard rival submissions and perused the material on record. It is the claim of the assessee that the income that is assessed for assessment years 2012-2013 to

2014-2015 are again assessed by the A.O. for assessment year 2017-2018 under project completion method. According to the assessee, the case for assessment year 2017-2018 has been settled under Vivad Se Vishwas Scheme. Therefore, according to him, there cannot be double taxation on the same income. The issue raised needs to be examined by the A.O. Accordingly, we restore the case for assessment years 2012-2013 to 2014-2015 to the files of the A.O. The A.O. is directed to verify whether the income assessed for assessment years 2012-2013, 2013-2014 and 2014-2015 are again assessed in assessment year 2017-2018 under project completion method. If the contention of the assessee is correct, then the determination of income at 12% of the advances received for assessment years 2012-2013 to 2014-2015 are to be deleted. The assessee has also raised grounds with regard to validity of reassessment. Since we have restored the issue on merits to the files of the A.O., we refrain from adjudicating the issue of validity of reopening of assessment. It is ordered accordingly.

8. In the result, the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on this 04th day of January, 2022.

Sd/-
(B.R.Baskaran)
ACCOUNTANT MEMBER

Sd/-
(George George K)
JUDICIAL MEMBER

Bangalore; Dated : 04th January, 2022.

Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-1, Bengaluru.
4. The Pr.CIT-1, Bengaluru.
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore