

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' B ' Bench, Hyderabad**

**Before Shri K. Narasimha Chary, Judicial Member
AND
Shri Bhagirath Mal Biyani, Accountant Member**

**ITA No 339/Hyd/2019
Assessment Year: 2014-15**

Vijaya Durga Estates (P) Ltd, Hyderabad PAN: AABCV1662P (Appellant)	Vs.	Income Tax Officer Ward 17(4) Hyderabad (Respondent)
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Assessee by: Sri A.V. Raghuram
Revenue by: Sri, Rajendra Kumar, CIT(DR)

Date of hearing: 21/03/2022
Date of pronouncement: 28/03/2022

ORDER

Per K. Narsimha Chary, J.M

Aggrieved by the order dated 16.11.2018, passed by the Pr.CIT-5, Hyderabad ("learned PCIT") in the case of M/s. Vijaya Durga Estates (P) Ltd, ("the assessee") for the A.Y 2014-15, u/s 263 of the Income Tax Act, 1961 ("the Act), the assessee preferred this appeal.

2. Brief facts of the case necessary for the disposal of this appeal are that the assessee company has been carrying on business of real estates. They did not file the return of income for

the A.Y 2014-15 thereby necessitating the issuance of notice u/s 148 of the Act. Learned Assessing Officer by order dated 29.12.2016 concluded the assessment in the absence of the assessee by going through the record available before him and in that process made an addition by making disallowance of Rs.11,03,671/- claimed towards administrative expenses and Rs. 3,19,668/- claimed towards depreciation.

3. Learned PCIT on a perusal of the record noticed certain discrepancies, and by issuing notice u/s 263 of the Act and called for certain materials from the assessee. From the material produced by the assessee, learned PCIT found out three aspects namely, the discrepancy in respect of the total area of land, quantum sale consideration received by the assessee and the value of the closing stock and observed that these aspects missed the attention of the Learned Assessing Officer and the Learned Assessing Officer should have gone through the material before him to make sufficient inquiries on these aspects.

4. On this premise, learned PCIT reached a conclusion that the assessment order is erroneous insofar as it is prejudicial to the interest of the Revenue and therefore, the assessment order requires to be set aside with a direction to the Learned Assessing Officer to conduct an assessment after verifying the records on these three aspects.

5. Assessee is therefore, aggrieved by the action of the PCIT and filed this appeal stating that there was no error in the

assessment order much less prejudicial to the interest of the Revenue and as a matter of fact, learned Assessing Officer applied his mind to the material available on record on all these aspects. According to the learned AR, learned PCIT failed to appreciate these facts before reaching a conclusion that the matter requires re-assessment.

6. Per contra, it the submission of the Revenue that the assessment order is very cryptic and it does not deal with any of these aspects, let alone in greater details. Learned PCIT referred to the material produced by the assessee themselves to reach his findings on these three aspects and the assessee failed miserably to substantiate their stand on any of these aspects. According to the learned DR record speaks for itself and the discrepancy is evident on the face of record justifying the action of the learned PCIT.

7. We have gone through the record in the light of the submissions made on either side. It is a fact that the assessee is engaged in the business of real estate, during the year sold certain plots of land, shown some sale consideration in their books and also valued the balance land in the work in progress. Learned PCIT on verifying the books of account of the assessee found the sale consideration received by the assessee was Rs.5,04,75,000/- whereas in the P&L A/c the sale of consideration was mentioned as Rs.3,98,70,000/-. On a reading of the assessment order, we find that initially, the sale consideration was mentioned by the assessee as Rs.2,87,85,000/- but on being inquired, the assessee

corrected the same as Rs.3,98,70,000/- which the learned Assessing Officer accepted without verifying the books of account. Even before us also this discrepancy is not explained satisfactorily.

8. Nextly, learned PCIT in his notice u/s 263 of the Act itself mentioned that the Hon'ble High Court by order dated 9.7.2014 in writ No.911 of 2013 decided an extent of 30.33 guntas of land out of 81.31 guntas in favour of M/s. U.T. Telecom (P) Ltd. Ld. PCIT found that assessee showing the balance left was only at Ac. 36.11 guntas is mismatching, inasmuch as the assessee had shown an extent of 36.13 guntas as work in progress and valuing it at Rs.7,15,90,180/-. However, according to the record submitted by the assessee before learned PCIT, the total comes to 89.59 guntas because by adding 36.13 guntas to the sold out land of 59.06 guntas, it does not become Ac. 81.31 guntas as shown by the assessee. This discrepancy remain unresolved by the assessee before the Learned Assessing Officer nor did the Learned Assessing Officer give any specific finding with reference to any particular material on record. On this aspect, it goes without saying that the order of the Learned Assessing Officer is the result of not conducting any inquiry on this aspect.

9. The third discrepancy found out by the learned PCIT is that the assessee values Ac 81.31 guntas at Rs.29.85 crores which comes to Rs. 91,256.00 per gunta. On this calculation, the balance extent of Ac. 36.13 guntas as stated by the assessee had to be valued to Rs.13,25,95,695/- but the assessee calculated the same at Rs.7,15,90,180/- which was accepted by the Learned

Assessing Officer without raising any eyebrow. On the simple arithmetic, no explanation is forthcoming from the assessee.

10. It is, therefore, clear from the foregoing discussion that the Learned Assessing Officer failed to conduct any inquiry whatsoever, on the aspects which are apparent from the books of account submitted by the assessee and certainly these aspects have a bearing on the Revenue implications. In that way, the assessment order is not only erroneous but also prejudicial to the interest of the Revenue, thereby satisfying the twin conditions required u/s 263 of the Act. We do not find any illegality or irregularity in assumption of jurisdiction by learned PCIT to take a different view. On this premise, we decline to interfere with the impugned order and upheld the same.

11. In the result, appeal of the assessee is dismissed.

Order pronounced in the Open Court on this the 28th of March, 2022.

Sd/-
(BHAGIRATH MAL BIYANI)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad, dated 28th March, 2022.
Vinodan/sps

Copy to:

S.No	Addresses
1	m/S. Vijaya Durga Estates (P) Ltd, 4-1-6/1 Block Assessee Eden Bagh Road, Ramkoti, Hyderabad 500001
2	Income Tax Officer Ward 17(4), Hyderabad
3	Pr.CIT-5, Hyderabad
4	Add. CIT -Range-17, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order