

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
'B' BENCH, CHENNAI

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND  
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: **1110/CHNY/2018**

निर्धारण वर्ष /Assessment Year: 2008-09

**The DCIT,**  
Corporate Circle – 4(1),  
Chennai.

(अपीलार्थी/Appellant)

**M/s. MPL Cars Pvt. Ltd.,**  
v. No.20, Thanikachalam Road,  
T. Nagar,  
Chennai – 600 017.

**PAN: AACCM 3044R**  
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by  
प्रत्यर्थी की ओर से/Respondent by

: Shri T. Vasanthan, CIT  
: None

सुनवाई की तारीख/Date of Hearing

: 30.03.2022

घोषणा की तारीख/Date of Pronouncement

: 30.03.2022

**आदेश /O R D E R**

**PER MAHAVIR SINGH, VP:**

This appeal by the Revenue is arising out of the order of the learned Commissioner of Income Tax (Appeals)-8, Chennai in order No.97/14-15 dated 19.01.2018. The assessment was framed by the ACIT, Company Circle-IV(3), Chennai for the assessment year 2008-09 u/s. 143(3) r.w.s.147 of the Income Tax Act, 1961 (hereinafter 'the Act'), vide order dated 24.03.2014.

2. The only issue in this appeal of Revenue is against the order of CIT(A) deleting the disallowance of expenditure claimed by assessee in computation of short term capital gain arising out of sale of IT Park-1.

3. The brief facts are that the AO during the course of assessment proceedings noticed that the assessee for constructing IT Park-1, engaged a Product Engineer Shri P.K. Ramesh and in consideration of the services rendered, one floor in IT park was allotted to him on 03.04.2007. The entire project was completed and sold in 2008. The assessee based on the cost of construction of the portion allotted to Shri P.K. Ramesh, the total cost of construction for IT Part-1 is extrapolated by Rs.36,47,37,992/- as against the total cost claimed by the assessee at Rs.51,94,21,284/-. According to AO, this excess expenditure of Rs.15,46,83,292/- is to be disallowed while computing short term capital gain arising out of sale of IT Park-1. Hence, he disallowed the same. Aggrieved assessee preferred appeal before CIT(A). The assessee before CIT(A) filed written submissions dated 27.08.2014 explaining the entire details of payments to project engineer, agreement entered into, actual cost adopted and extrapolated cost considered. But the CIT(A) without considering the details by criptic order vide para 7 has deleted the addition, as under:-

“7. It is noted from the records that the Assessing Officer has not disputed the books of accounts maintained by the assessee alongwith all the primary

vouchers of accounting. The Assessing Officer has also not rejected the books of accounts maintained. The Assessing Officer has also not been able to bring out any serious flaws in the accounting exercise by the assessee. Extrapolation of the cost of construction at a cost at which a portion of the property is handed over cannot be supported. The income brought to taxation by the assessee is not based on any sound logic or judicious reasoning. The objections filed by the assessee vide its letter dated 27.8.2014 are accepted and the addition of Rs.15,46,83,292/- is deleted.”

4. Now, before us none is present from assessee's side despite this matter fixed for hearing on 20 occasions. Even the RPAD notices could not be served and returned back with a remark either "no such company" or "left". We have noted the RPAD address, which is the same address as given in Form No.36 or in the order of CIT(A). Hence, qua assessee we are hearing this appeal ex-parte.

5. The Id.CIT-DR Shri T. Vasanthan, only requested that the order of CIT(A) is non-speaking order and no facts are discussed or issue is discussed by CIT(A) and hence, requested for setting aside the order of CIT(A) and remanding the matter back to his file for passing a speaking order.

6. After hearing Id.CIT-DR, we noted that actually the CIT(A) has not recorded his finding how this expenditure is allowable. Hence,

we set aside the order of CIT(A) and remand the matter back to his file for fresh adjudication.

7. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced in the open court on 30<sup>th</sup> March, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

**(MANOJ KUMAR AGGARWAL)**

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

**(MAHAVIR SINGH)**

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 30<sup>th</sup> March, 2022

**RSR**

आदेश की प्रतिलिपि अग्रहित/Copy to:

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|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त /CIT    | 5. विभागीय प्रतिनिधि/DR  | 6. गार्ड फाईल/GF.            |