

**IN THE INCOME TAX APPELLATE TRIBUNAL  
'B' BENCH : BANGALORE**

**BEFORE SHRI. CHANDRA POOJARI, ACCOUNTANT MEMBER  
AND  
SMT. BEENA PILLAI, JUDICIAL MEMBER**

<b>ITA No. 52/Bang/2019</b>
<b>Assessment Year : 2012-13</b>

M/s. Metrik Infraprojects Pvt. Ltd., Solus, Floor – 11, No. 2, 1 <sup>st</sup> Cross, J C Road, Bangalore – 560 027. PAN: AAGCM8605C	<b>Vs.</b>	The Assistant Commissioner of Income Tax, Circle – 4 (1)(2), Bangalore.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee by	:	Shri S.V. Ravishankar, Advocate
Revenue by	:	Shri Priyadarshi Mishra, Addl. CIT (DR)

Date of Hearing	:	24-03-2022
Date of Pronouncement	:	31-03-2022

**ORDER**

**PER BEENA PILLAI, JUDICIAL MEMBER**

Present appeal has been filed by assessee against the order dated 24.08.2018 passed by the Ld.CIT(A)-4, Bangalore for Assessment Year 2012-13 on following grounds of appeal.

*“1. The order of the learned CIT(A) confirming the disallowance of loss of Rs. 1,65,61,719/- in so far as it is against the Appellant is opposed to law, weight of evidence, probabilities, facts and circumstances of the case.*

*2. The appellant denies itself liable to an income of Rs. 22,46,399/- against the declared loss of Rs. 1,43,15,320/-, on the facts and circumstances of the case.*

*3. The learned CIT(A) was not justified in law and on facts, in appreciating that the appellant has complied with the*

*provisions of AS 7 as prescribed and that the expenses recognised was in conformity of the accounting standards prescribed, on the facts and circumstances of the case.*

*4. The authorities below were not justified in appreciating that the appellant has followed the accrual basis of accounting in the computation of business income, on the facts and circumstances of the case.*

*5. The learned CIT(A) was not justified in law and on facts in appreciating that the appellant has recognised the revenue in the following years upon receipt and that the same were revenue neutral, on the facts and circumstances of the case.*

*6. The learned CIT(A) was not justified in law and on facts in appreciating that the AO has made a disallowance on a wrong appreciation of the accounting standards and the assessment order ought to have been set aside as bad in law, on the facts and circumstances of the case.*

*7. The Learned CIT(A) was not justified in appreciating that the order of assessment has been passed in violation of the principles of natural justice, i.e. without considering the submissions of the appellant and in undue haste and hence the whole process has been vitiated and for these reasons the order passed ought to have been set aside, on the facts and circumstances of the case.*

*8. The appellant denies the liability to pay interest under section 234B and section 234D of the Act in view of the fact that there is no liability to additional tax as determined by the learned assessing officer. Without prejudice the rate, period and on what quantum the interest has been levied are not discernable from the order and hence deserves to be cancelled on the facts and circumstances of the case.*

*9. The Appellant craves leave to add, alter, substitute and delete any or all of the grounds of appeal urged above.*

*10. For the above and other grounds to be urged during the hearing of the appeal the Appellant prays that the appeal be allowed in the interest of equity and justice.”*

## **2. Brief facts of the case are as under:**

The assessee is a company engaged in construction business, development, sales, management and operation of housing

projects and other related activities. For your under consideration assessee filed return of income declaring a loss of ₹ 1,43,15,320/-. The case was selected for scrutiny and statutory notices were issued to assessee in response to which representative of assessee appeared before the Ld.AO and file requisite details is called for. The Ld.AO recomputed the income in the hands of assessee as under:

A	(Loss) returned by the Appellant		(1,43,15,320)
B	Add: Business expenditure (other than project costs) not allowed as expenditure	1,43,15,320	
C	Add: Interest income not set off against business loss	22,46,399	
D	<b>Total disallowance (B+C)</b>	<b>1,65,61,719</b>	
E	Net additions		1,65,61,719
	<b>Assessed income (A+F)</b>		<b>22,46,399</b>

**3.** The Ld.AO was of the opinion that assessee followed percentage completion method for construction contracts and that revenue was to be recognised upon the project reaching the threshold limit which in the present case was not achieved on the date of the balance sheet. The Ld.AO disallowed the business loss claimed by the assessee. The expenses claimed were set off in proportion of the completion that was recognised in the subsequent years by the Ld.AO.

Aggrieved by the order of Ld.AO, the assessee preferred appeal before the Ld.CIT(A).

**4.** The Ld. CIT(A) after considering the submissions filed by assessee observed and held as under:

*reproduce para 7 at page 6-8 of the CIT(A) order*

7. The AO has made the impugned disallowance on the premise that the assessee has claimed the contract expenses as deduction without offering the corresponding revenue to tax. This according to the AO is in direct contravention of the provisions of the Accounting Standards. The assessee on the other hand has harped on the fact that it is bound by law to prepare its books of accounts in accordance with the provisions of the Accounting Standards, more specifically AS-7 which deals with Construction Contracts. It is the contention of the assessee that in the initial stages of the contract, it is not required to recognise revenue from the project.

It is nobody's case that the assessee is not required to maintain its books of accounts in accordance with the provisions of the Accounting Standards issued by ICAI. What is pertinent to note is what is prescribed in the relevant Accounting Standard with respect to recognition of contract revenues. In this background, it would be appropriate to place in perspective the relevant provisions of AS-7 which deal with recognition of revenue in case of construction contracts:

*"Recognition of Contract Revenue and Expenses*

*21. When the outcome of a construction contract can be estimated reliably, contract revenue and contract costs associated with the construction contract should be recognised as revenue and expenses respectively by reference to the stage of completion of the contract activity at the reporting date. An expected loss on the construction contract should be recognised as an expense immediately in accordance with paragraph 35.*

*31. When the outcome of a construction contract cannot be estimated reliably:*

*(a) revenue should be recognised only to the extent of contract costs incurred of which recovery is probable; and*

*(b) contract costs should be recognised as an expense in the period in which they are incurred.*

*An expected loss on the construction contract should be recognised as an expense immediately in accordance with paragraph 35.*

*32. During the early stages of a contract it is often the case that the outcome of the contract cannot be estimated reliably. Nevertheless, it may be probable that the enterprise will recover the contract costs incurred. Therefore, contract revenue is recognised only to the extent of costs incurred that are expected to be recovered. As the outcome of the contract cannot be estimated reliably, no profit is recognised. However, even though the outcome of the contract cannot be estimated reliably, it may be probable that total contract costs will exceed total contract revenue. In such cases, any expected excess of total contract costs over total contract revenue for the contract is recognised as an expense immediately in accordance with paragraph 35.*"

In background of the aforecited provisions, it is to be appreciated that the AS prescribes recognition of the revenue with reference to the stage of completion of the contract activity. Even in the early stages of the contract where the contract revenue cannot be estimated reliably, the AS prescribes recognition of the revenue to the extent of costs incurred. The AS does not provide any leeway for not recognising the revenue in the early stages of the contract. The accounting treatment adopted by the assessee in this regard is not only contrary to the provisions of the AS but also against the fundamental accounting principle of Matching Concept. Apart from submitting that the books of accounting are to be prepared in accordance with the



provisions of the AS prescribed by ICAI, the assessee has neither adduced the relevant provisions of the AS to back the accounting treatment adopted, nor demonstrated how the fundamental accounting principle of Matching Concept has been satisfied. In these circumstances, the AO's action to disallow the expenditure claimed by the assessee is upheld. The assessee's grounds of appeal are therefore disallowed.

Aggrieved by the order of the Ld. CIT(A), assessee filed appeal before the *Tribunal*.

At the outset Ld.AR submitted that against assessee corporate insolvency resolution process has been passed and a moratorium have been drawn.

The Ld.DR submitted that the issue may be remanded to the Ld.AO under such circumstances.

We have perused submissions advanced by both sides based on the records placed before us.

**5.** The assessee submitted before the authorities below that, during the year under consideration the project has not reached the threshold limit wherein, income could have been offered. It is submitted that it is from assessment year 2013-14, that revenue has been recognized, as minimum threshold was achieved.

We note that the Ld.AO proceeded on the premise that assessee claimed the expenses without offering corresponding revenue to tax. The Ld.AO applied accounting standard 7, whereas assessee followed accounting standard 9.

**6.** In our view the Ld.AO needs to verify the submissions of assessee in accordance with law and to consider the claim for year under consideration in the light of evidences / documents filed by assessee.

Accordingly we remand this issue back to the Ld.AO to re-adjudicate the issue in accordance with law by granting proper opportunity of being heard to assessee.

**Accordingly grounds raised by assessee stands allowed for statistical purposes.**

**In the result appeal filed by assessee stands allowed for statistical purposes.**

**Order pronounced in the open court on 31<sup>st</sup> March, 2022.**

Sd/-  
(CHANDRA POOJARI)  
Accountant Member

Sd/-  
(BEENA PILLAI)  
Judicial Member

Bangalore,  
Dated, the 31<sup>st</sup> March, 2022.  
/MS /

**Copy to:**

- |               |                        |
|---------------|------------------------|
| 1. Appellant  | 4. CIT(A)              |
| 2. Respondent | 5. DR, ITAT, Bangalore |
| 3. CIT        | 6. Guard file          |

By order

Assistant Registrar,  
ITAT, Bangalore