

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B': NEW DELHI**

**BEFORE,
SHRI SAKTIJIT DEY, JUDICIAL MEMBER
AND
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.135/Del/2020
(ASSESSMENT YEAR 2013-14)**

Assistant Commissioner of Income Tax Central Circle-2 New Delhi	Vs.	M/s. Grihapravesh Buildteck Pvt. Ltd. 1 st Floor, Anand Tower Grihapravesh Arcade Plot No.GH-03A Sector-77, Noida-201 301 PAN-AADCG 6532D
(Appellant)		(Respondent)

Appellant by	Sh. Jagdish Singh, Senior Departmental Representative ("Sr. DR" for short)
Respondent by	None

ORDER

PER ANADEE NATH MISSHRA, AM:

(A) This appeal by Revenue is filed against the order of Learned Commissioner of Income Tax (Appeals)-22, New Delhi [Ld. CIT(A)", for short], dated 22/10/2019 for Assessment Year 2013-14.

Grounds taken in this appeal are as under:

"(i) That the order of the Ld. CIT(A) is not correct in law and on facts.

- (ii) On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition amounting to Rs.6,42,85,682/- made by the A.O. relying upon the decision of Hon'ble ITAT for the assessment year 2012-13 in the assessee own case.*
- (iii) The appellant craves for leave to add, amend any/all the ground of appeal before or during the course of hearing of the appeal."*

(B) In this case, the only issue in dispute is regarding the addition of Rs.6,43,85,682/-. The Assessing Officer ("AO" for short) was of the opinion that 8% of work in progress on 31/03/2013 should be assessed income for the year under consideration on the basis of percentage completion method; and accordingly made the aforesaid addition. Aggrieved, the assessee filed appeal in the office of the Ld. CIT(A), the Ld. CIT(A) deleted the aforesaid addition of Rs.6,43,85,682/-, vide aforesaid impugned appellate order dated 22/10/2019 by holding as under:

"6.7 I have carefully examined the finding of the AO, submissions of the Ld. AR. I have also perused the decision of Hon'ble ITAT, Delhi in the case of appellant and the Ld. CIT(A)-4, Delhi. From the above stated facts, it is clear that for recognizing revenue as per the guidance note, one of the prime condition is that no revenue should be booked until the expenditure incurred on construction and development cost reached to the level of 25% of the construction and development costs. According to the Ld. AR construction and development cost incurred by the appellant upto the year ending 31.03.2013 was only 14.03% of the total estimated construction and development cost. Since the construction and development cost

incurred by the appellant till 31.03.2013 was only 14.03% of the total estimated construction and development cost, no revenue could have been booked even as per the guidance note issued by ICAI. Further even as per guidance note issued by ICAI, no revenue was required to be booked by the appellant for the year under appeal as appellant has not transferred all significant risks of ownership to the buyer. Accordingly, the addition of Rs.6,42,85,682/- made by the AO is deleted and the ground nos.2 to 4 of appeal are decided in favour of the appellant.”

(B.1) The Ld. CIT(A), in deleting the aforesaid addition of Rs.6,42,85,682/-, followed the order of the Ld. CIT(A) for Asst. Year 2012-13 in which also, in similar facts and circumstances the identical issue was decided in favour of the assessee and the addition was deleted by the Ld. CIT(A). The matter for Asst. Year 2012-13 had come up in Income Tax Appellate Tribunal, (“ITAT”, for short) and Co-ordinate Bench of ITAT had decided the issue in favour of the assessee by dismissing appeal filed by Revenue. The Ld. CIT(A), in the aforesaid impugned appellate order dated 22/10/2019, also relied upon the decision of Co-ordinate Bench of ITAT, Delhi for Asst. Year 2012-13, vide order dated 24/01/2019, in which, the identical issue was decided in favour of the assessee and Revenue’s appeal against the order of the Ld. CIT(A) was dismissed.

(C) The present appeal before us, has been filed by the Revenue against the aforesaid impugned appellate order dated 22/10/2019. At the time of hearing before us, the assessee was represented by none. In the absence of any representation from the assessee's side, we heard the Learned Senior Departmental Representative ("Ld. Sr. DR" for short) for Revenue. He filed copy of order dated 24/01/2019 of Co-ordinate Bench of ITAT, Delhi in ITA No.1209/Del/2016 for Asst. Year 2012-13 in which, identical issue was decided in favour of the assessee and order of Ld. CIT(A) deleting similar addition was upheld and Revenue's appeal was dismissed in similar facts and circumstances. He submitted that the issue in dispute in the present appeal before us regarding the aforesaid amount of Rs. 6,42,85,682/- is squarely covered in favour of the assessee vide aforesaid order dated 24/01/2019 of Co-ordinate Bench of ITAT, Delhi passed in assessee's own case for Asst. Year 2012-13. The Ld. Sr. DR for Revenue did not bring any distinguishing facts and circumstances for Asst. Year 2013-14 to which, the present appeal before us pertains, or any legal submissions, to persuade us to take a view different from the view

taken in favour of the assessee on identical issue for Asst. Year 2012-13 by Co-ordinate Bench of ITAT, Delhi in aforesaid order dated 24/01/2019. In view of the foregoing, and respectfully following the order of Co-ordinate Bench of ITAT, Delhi in assessee's own case for Asst. Year 2012-13 in which, identical issue has been decided in favour of the assessee, we decide the issue in dispute in the present appeal before us regarding the aforesaid amount of Rs. 6,42,85,682/- also in favour of the assessee, as no case has been made by Ld. Sr. DR for Revenue to persuade us to take a view different from the view taken by the Ld. CIT(A) in Asst. Years 2012-13 and 2013-14 and in aforesaid order dated 24/01/2019 of Co-ordinate Bench of ITAT, Delhi for Asst. Year 2012-13 in assessee's own case. Accordingly, we decline to interfere with the impugned appellate order dated 22/10/2019 passed by the Ld. CIT(A); and we hereby dismiss the present appeal before us, filed by Revenue.

(D) In the result, this appeal is dismissed.

This order was already pronounced orally on 25th July, 2022 in Open Court, in the presence of Sr. DR for Revenue, after

conclusion of the hearing. Now this order in writing is signed today
on 26/07/2022.

Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER

Dated: 26/07/2022

Pk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-
(ANADEE NATH MISSHRA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW, DELHI