

**IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH "A", PUNE**

**BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND  
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**

Sl. No.	ITA/C.O. No.	Name of Appellant	Name of Respondent	Asst. Year
1	822/PUN/2019	M/s. Karan Sanran Associates, Unit 501, 5 <sup>th</sup> Floor, Karan Tej Bonita, CTS No.1187/16, Ghole Road, Shivajinagar, Pune- 411005. PAN : AAAAK6230H	DCIT, Central Circle-2 (4), Pune.	2016-17
2	847/PUN/2019	DCIT, Central Circle-2 (4), Pune.	M/s. Karan Sanran Associates, Unit 501, 5 <sup>th</sup> Floor, Karan Tej Bonita, CTS No.1187/16, Ghole Road, Shivajinagar, Pune- 411005. PAN : AAAAK6230H	2016-17
3	20/PUN/2022	M/s. Karan Sanran Associates, Unit 501, 5 <sup>th</sup> Floor, Karan Tej Bonita, CTS No.1187/16, Ghole Road, Shivajinagar, Pune- 411005. PAN : AAAAK6230H	DCIT, Central Circle-2 (4), Pune.	2016-17

Assessee by : Shri S. N. Puranik  
Revenue by : Shri Hitendra B. Ninawe  
Date of hearing : 26.08.2022  
Date of pronouncement : 30.08.2022

**आदेश / ORDER**

**PER INTURI RAMA RAO, AM:**

These are the cross appeals filed by the assessee as well as by the Revenue directed against the order of Id. Commissioner of Income Tax (Appeals)- 12, Pune [‘the CIT(A)’] dated 29.03.2019 for the assessment year 2016-17. The assessee also filed Cross Objection being C.O. No.20/PUN/2022 in appeal of the Revenue.

2. Briefly, the facts of the case are that the appellant is AOP engaged in the business of promoters and builders. The original return of income for the assessment year 2016-17 was filed on 17.10.2016 declaring total income of Rs.6,87,27,830/-. Against the said return of income, the assessment was completed by the Dy. Commissioner of Income Tax, (Central) Circle-2(4), Pune (‘the Assessing Officer’) vide order dated 28.12.2017 passed u/s 143(3) of the Income Tax Act, 1961 (‘the Act’) at total income of Rs.13,16,78,930/-.

While doing so, the Assessing Officer made addition of Rs.2,06,07,431/- invoking the provisions of section 43CA on the ground that the sale consideration received in respect of sold flats less than the value adopted for the purpose of stamp duty. The Assessing Officer also made addition of Rs.4,23,43,671/- being the amount difference between the income under the project completion

method and percentage of completion method in respect of revenue derived from execution of housing project. The factual background leading to the above addition on account of change of method of recognition of income, with which, we are concerned here is as under :-

There was search and seizure action in the case of group of company called Anshul group on 28.03.2016. The assessee also belongs to the same group. During the course of such search and seizure action, a statement from one Mr. Deepak Jagtap was recorded on 30.03.2016, during the course of which, it appears that he had admitted that profits shall be recognized from the execution of housing project following the percentage of completion method as against the project completion method. He had admitted difference in the profit on account of change of method amounting to Rs.4,23,43,671/-. Based on this statement, the Assessing Officer brought to tax a sum of Rs.4,23,43,671/-.

3. Being aggrieved by the above assessment order, an appeal was preferred before the Id. CIT(A) who vide impugned order confirmed the addition u/s 43AC, however, deleted the addition on account of difference in method of recognition of income of Rs.4,23,43,671/-.

4. Being aggrieved by the decision of the Id. CIT(A), the Revenue is in appeal challenging the correctness of the finding of the Id. CIT(A) deleting the addition on account of change of method

of recognition of Rs.4,23,43,671/-. We find that identical issue in the group was dealt by us in the case of DCIT vs. M/s. Anshul Siddhi Promoters & Builders in IT(SS)A No.90/PUN/2019 for A.Y. 2016-17 order dated 23.08.2022, wherein, after recording the submissions of the rival parties, this Tribunal remitted the matter to the file of the Assessing Officer for the purpose of assessment of correct income derived from execution under project completion method by holding as under :-

*“9. We have heard the rival contentions and perused material on record. The issue in the present appeal relates to whether or not the AO was justified in changing the method of recognizing income which has been regularly followed by the assessee. The assessee is a real estate builder. The assessee had been submitting that it has been following regularly, project completion method for the purpose of recognition of income, earned from housing projects. During the course of search and seizure operations, it is found that majority of the projects had been completed but no income was offered to tax. When the partner of the assessee firm was confronted with this information, he gave a statement admitting the additional income of Rs.15,98,69,802/- on account of change in method of accounting i.e. from project completion method to percentage completion method. However, this statement was retracted subsequently.*

*10. It would be suffice to say that there is no evidentiary value for the statement given u/s 132(4) for the reason that the addition on account of change of method of accounting is a purely legal one and moreover, having found that the assessee has been regularly following the project completion method, which is also a recognized method, it is not open to the Department to reject such method because according to the AO, the percentage completion method was preferable to project completion method. Once the assessee chosen a particular method of accounting and accepted by the Department in earlier years, the same should not lightly to be substituted, unless the Department is able to show that the same distorts the profits for a particular year. The choice of method of accounting is always left to the assessee as held by the Hon'ble Apex Court in the case of United Commercial Bank Vs CIT, 240 ITR 355 (SC). Thus, the CIT(A) had rightly applied the correct position of law to the facts of the present case and rightly held that it is not open to the AO to disturb the method of accounting and make addition.*

*11. However, the AO had no occasion to examine the correctness of amount of taxable profits offered under project completion method nor the CIT(A) had examined the issue of correct taxable income under project completion method. Therefore, we remit the matter back to the file of AO with a direction to assess the correct income derived from the execution of housing project under project completion method, in accordance with law after affording reasonable opportunity of hearing to the assessee.*

*12. In view of our above decision restoring the issue back to the file of AO, the Cross Objection filed by the assessee becomes infructuous.”*

5. Since the identical facts and issues involved in the facts of the present case and on parity of the same reasoning given (supra), we remit this matter to the file of the Assessing Officer with direction to compute the correct assessable income under project completion method.

6. In the result, the appeal filed by the Revenue in ITA No.847/PUN/2019 stands partly allowed for statistical purposes.

7. Now, come to the assessee's appeal in ITA No.822/PUN/2019 for A.Y. 2016-17. The assessee challenges the addition u/s 43CA made by the Assessing Officer as confirmed by the ld. CIT(A). It is submitted before us that the Assessing Officer made addition of Rs.16,19,816/- invoking the provisions of section 43CA and on appeal, the addition was confirmed by the ld. CIT(A). Now, it is submitted before us that the addition made on account of difference between the sale consideration received and the value adopted for the stamp duty in respect of Flat No.C1104 cannot be made in the

year under consideration, inasmuch as, the transfer of the said flat had taken place during the previous year relevant to the assessment year 2021-22 and the difference of amount between the sale consideration received and value adopted for the stamp duty was offered to tax in the return of income filed for the assessment year 2021-22. In support of this, he has filed following additional evidences :-

- “(i) Agreement executed dated 27.07.2015.
- (ii) Letter of Possession given dated 15.09.2020.
- (iii) Computation of Total Income for A.Y. 2021-22 offering difference as per section 43CA, in Return for A.Y. 2021-22 also Acknowledgement of Return.
- (iv) Copy of Audited Final Account’s for A.Y. 2021-22, List/Details of Sale of Flats during F.Y. 2020-21 i.e. A.Y. 2021-22.

8. The assessee also filed addition ground of appeal, which reads as under :-

*“1. CIT(A) have erred in making Addition of Rs.16,19,816/- u/s 43CA, as actually Transfer of Flat is not in A.Y. 2016-17 But in A.Y. 2021-22. Appellant prays for deletion of said addition.”*

9. We find that the additional evidence filed most crucial to decide whether the provisions of section 43CA can be invoked in respect of Flat No.C1104 and, accordingly, this additional ground of appeal/additional evidence requiring to be remitted to the file of the Assessing Officer to consider the additional evidence and decide the

applicability of provisions of section 43CA in respect of Flat No.C1104 alone.

10. In the result, the appeal filed by the assessee in ITA No.822/PUN/2019 for A.Y. 2016-17 stands partly allowed for statistical purposes.

11. The Cross objection filed by the assessee in appeal of the Revenue becomes infructuous. Hence, the C.O. No.20/PUN/2022 for A.Y. 2016-17 stands dismissed.

12. To sum up, the appeal filed by the Revenue as well as the cross appeal filed by the assessee stands partly allowed for statistical purposes. The Cross Objection filed by the assessee stands dismissed, as above indicated terms.

Order pronounced on this 30<sup>th</sup> day of August, 2022.

**Sd/-**  
**(PARTHA SARATHI CHAUDHURY)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(INTURI RAMA RAO)**  
**ACCOUNTANT MEMBER**

पुणे / Pune; दिनांक / Dated : 30<sup>th</sup> August, 2022.

*Sujeet*

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-12, Pune.
4. The Pr. CIT Central, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "A" बेंच, पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.