

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A", HYDERABAD

BEFORE
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No. 173/Hyd/2022
(निर्धारण वर्ष / Assessment Year: 2007-08)

Kapil Property Developers Limited,
(Formerly known Veda Constructions),
Hanumakonda
[PAN No. AACCV1119N]

Vs. Deputy Commissioner of
Income Tax,
Central Circle-2(3),
Hyderabad

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Smt. S. Sandhya, AR

राजस्व द्वारा/Revenue by: Ms. Reema Yadav, DR

सुनवाई की तारीख/Date of hearing: 19/10/2022

घोषणा की तारीख/Pronouncement on: 27/10/2022

आदेश / ORDER

PER K. NARASIMHA CHARY, JM:

Aggrieved by the order dated 31/12/2021 passed by the learned Commissioner of Income Tax(Appeals)-12, Hyderabad ("Ld.CIT(A)") in the case of M/s. Kapil Property Developers Limited (earlier known as Veda Constructions Ltd) ("the assessee") for the assessment year 2007-08, assessee preferred this appeal.

2. Brief facts of the case are that the assessee is in the business of acquiring land and developing the land for plotting and subsequent sale. For the assessment year 2007-08 the assessee filed the return of income on 7/11/2007 declaring a loss of Rs. 5,45,187/- and by order dated 30/12/2009 section 143(3) of the Income Tax Act, 1961 (for short "the Act") the income of the assessee was determined at Rs. 5,20,100/-. Assessee filed appeal against this order. When matters stood thus, Ld. CIT-VI, Hyderabad passed an order under section 263 of the Act directing the learned Assessing Officer to redo the assessment, holding the assessment order to be prejudicial to the interest of Revenue. Pursuant to such an order learned Assessing Officer passed an order dated 28/3/2013 under section 143(3) read with section 263 of the Act determining the income of the assessee at Rs. 5,69,100/-. Assessee filed appeal against this order also.

3. It could be culled out from the impugned order that in the hearing of the appeal against the order passed under section 143(3) read with section 263 of the Act, the assessee submitted that inasmuch as the original order under section 143(3) of the Act was set aside by the Ld. CIT-VI under section 263 of the Act, appeal against the same does not survive and, therefore, proceeded with the appeal against the order under section 143(3) read with section 263 of the Act.

4. Though there are several grounds and additions involved in this matter, insofar as this appeal is concerned the grievance of the assessee is confined to the addition of Rs. 3,20,051/- treating said sum as income from other sources and Rs. 80,46,778/- on account of reduction of the land development expenses. At the time of arguments, Ld. AR submitted that

the assessee is not pressing the ground in respect of the addition of Rs. 3,20,051/- and proceeded with the augments in respect of the addition of Rs. 80,46,778/-.

5. Ld. AR submitted that the persons to whom the payment of Rs. 54,50,525/- was made are not to be found, and their addresses could be culled out only from the sale deeds executed by them in favour of the assessee. Since it is natural in the business of the assessee to make such payments, the same cannot be doubted. So also the case in respect of the payment of Rs. 35.75 lakhs.

6. Per contra, Ld. DR submitted that inasmuch as there is no evidence whatsoever in support of the claim of the assessee, the authorities below have no option but to disallow such claim and therefore, there are no grounds to interfere with such considered findings.

7. We have gone through the record in the light of the submissions made on either side. Insofar as this addition of Rs. 80,46,778/- is concerned, learned Assessing Officer reduced the land development expenses to the extent of Rs. 80,46,778/- on the ground that the payment to the extent of Rs. 54,50,525/- to two persons towards land levelling and cleaning of disputes remains unproved; and the payment of Rs. 35,75,279/- as marketing executive salary, incentives etc., to 313 persons is not probable because the commercial activity of the assessee has not commenced and not even a single plot was sold or booked for sale during the year.

8. Before the Ld. CIT(A) also no iota of evidence was adduced by the assessee in support of the payments of Rs. 54,50,525/- said to have been

paid by the assessee and no confirmation letters are forthcoming. In respect of payment of Rs. 35.75 lakhs to 313 marketing executives also Ld. CIT(A) did not believe the version of the assessee because the commercial operations of the assessee have not yet commenced and no plot was sold or booked for sale despite having such a large number of marketing executives. In this scenario, Ld. CIT(A) further observed that the land and development expenses have been claimed as expressed and not take into the work in progress account. In the circumstances Ld. CIT(A) upheld the findings of the learned Assessing Officer.

9. Before us also no evidence is produced in support of the claim of the assessee. It could be seen from the assessment order, basing on the PAN details, an attempt to verify the claim of the assessee was made, but such persons were not to be found in such address. Subsequently on the orders has been furnished by the assessee, the Income Tax Inspector was deputed to cause enquiries at the address is given by the assessee, but such addresses were found to be incorrect. In the circumstances, there is no course open to the learned Assessing Officer to verify the alleged expenditure to the tune of Rs. 54,50,525/-. So also in respect of the other expense of Rs. 35,75,279/- said to have been paid to the marketing executive towards salary incentives etc., no occasion for such payments seems to be probable because admittedly the commercial activity of the assessee had not commenced and not even a single plot was sold or book for sale during the relevant assessment year.

10. All the circumstances would go to show that there is no possibility to verify the expenses and therefore it cannot be said that the authorities below went wrong in reducing such expenses. We accordingly find that the

grounds of appeal are devoid of merits and the appeal is liable to be dismissed.

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

Order pronounced in the open court on this the 27th day of October, 2022.

Sd/-
(RAMA KANTA PANDA)
ACCOUNTANT MEMBER

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 27/10/2022

TNMM

Copy forwarded to:

1. Kapil Property Developers Limited (Formerly known as Veda Constructions) H.No. 1-7-1382/2, Advocates Colony, Hanumakonda.
2. The Deputy Commissioner of Income Tax, Central Circle-2(3), Hyderabad.
3. CIT(A)-12, Hyderabad.
4. Pr.CIT-3, Hyderabad.
5. DR, ITAT, Hyderabad.
6. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD