

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**

Before Sh. Kul Bharat, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 1704/Del/2017 : Asstt. Year : 2012-13

M/s Mukund Iron & Structure Pvt. Ltd. 1/7227, Shivaji Park, Main Babur Pur Road, Shahdara, New Delhi-110032	Vs	Income Tax Officer, Ward-17(2), New Delhi-110001
(APPELLANT)		(RESPONDENT)
PAN No. AAECM9145M		

**Assessee by : Sh. Salil Kapoor, Adv. &
Sh. Utkarsa Kr. Gupta, Adv.
Revenue by : Sh. Jeetender Chand, Sr. DR**

Date of Hearing: 25.10 .2022	Date of Pronouncement: 31.10.2022
-------------------------------------	--

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order of Id. CIT(A)-33, New Delhi dated 13.01.2017.

2. Following grounds have been raised by the assessee:

"1. The Ld. CIT(A) has grossly erred on facts and in law in upholding the assessment order U/s 143(3) assessing the income at Rs. 2,55,55,880/- against the returned loss of Rs.5,94,475/- and the additions sustained by the Ld. CIT(A) are illegal, bad in law and without jurisdiction.

2. That the Ld. CIT(A) has grossly erred on facts and in law while upholding the assessment order whereby the A.O. has made an addition of Rs. 2,70,90,300 as Long term capital gain on account of an understatement of Sale consideration of land.

3. That the Ld. CIT(A) grossly erred in not considering that the total sale consideration of Rs. 3,81,00,000/- is higher than the stamp duty value

adopted by the Registrar (Rs. 3,34,63,800/-) and hence Sec 50C cannot be invoked against the assessee.

4. That the Ld. CIT(A) has grossly erred on facts and in law while upholding the assessment order whereby the A.O. has wrongly invoked Section 50C of the Income Tax Act 1961.

5. That the Ld. CIT(A) grossly erred in not considering that the Assessee has challenged the valuation adopted by the A.O. under Section 50C(2) of the Income Tax Act and CIT(A) erred in ignoring the same.

6. That the Ld CIT(A) has erred in ignoring that there is not much difference between values adopted by the DVO and the values declared by the assessee and hence no addition should be made.

7. Without prejudice to the ground no. 6, the addition should be restricted to the values adopted and assessed by the DVO.

8. That the Ld CIT(A) has grossly erred in ignoring the report of the DVO while passing the order even though the AO himself admits that the report shall be considered when the same is submitted .

9. That the Ld. CIT(A) grossly erred in ignoring that the Sale transaction in question is a transaction of Slump Sale assessable u/s 50B of the Income Tax Act. Hence the addition made by the AO of Rs 2,70,90,300 should be deleted.

10. That the Ld. CIT(A) grossly erred in ignoring the Assessee has suffered a Business Loss of Rs. 2,08,00,408/- on sale of Plant & Machinery in case the total value of land and buildings in the present sale transaction is taken to be Rs. 3,34,50,300/- as held by the AO.

11. That the various observations made by the AO in the impugned order and upheld by the Ld. CIT(A) are illegal, bad in law and contrary to facts on record.

12. That the AO has ignored vital evidence while passing the assessment order.

13. That the documents, explanations filed by the Assessee and the material available on record has not been properly considered and judicially interpreted and have been wrongly ignored."

3. During the course of assessment proceedings, the AO observed that the assessee has sold land building and machines during the year. Based on the request of the assessee, the AO referred the matter to the Valuation Officer as per the provisions of Section 50C of the Income Tax Act, 1961 and completed the assessment on the basis of report of the Sub-Registrar, Kalapur. Subsequently, the valuation report has been received from DVO-I/Mum/CGT/2015-16/276 dated 21.12.2015 wherein he has considered valuation of land and building as under:

- i) Valuation of land Rs.68,60,079/-
- ii) Valuation of building Rs.24,95,350/-

4. We find that the Id. CIT(A) passed the order on 13.01.2017 much after the receipt of the valuation report from the DVO on 21.12.2015 without giving due cognizance to the valuation report and hence, we remit the matter back to the file of the Id. CIT(A) to pass a speaking order after considering the report of the DVO.

5. In the result, the appeal of the assessee is allowed for statistical purpose.

Order Pronounced in the Open Court on 31/10/2022.

Sd/-

(Kul Bharat)
Judicial Member

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 31/10/2022

Subodh Kumar, Sr. PS

Copy forwarded to:

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

ASSISTANT REGISTRAR