

IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, MUMBAI

BEFORE SHRI ABY T. VARKEY, JM AND SHRI S. RIFAUR RAHMAN, AM

आयकर अपील सं/ I.T.A. No.3574/Mum/2018

(निर्धारण वर्ष / Assessment Years: 2014-15)

Credence Property Developers Pvt. Ltd. 702, Natraj M. V. Road, Junction W.E. Highway, Andheri (E), Mumbai- 400069.	बनाम/ Vs.	DCIT, Central Circle-2(4) ITO Old CGO Building, Mumbai.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AABCC9387Q		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by:	Shri Yogesh Joijode
Revenue by:	Ms. Hiren Bhatt (Sr. AR)

सुनवाई की तारीख / Date of Hearing: 01/11/2022

घोषणा की तारीख /Date of Pronouncement: 22/11/2022

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee against the order of the Ld. Commissioner of Income Tax (Appeals)-48, Mumbai dated 27.04.2018 for the assessment year 2014-15.

2. The only ground raised by the assessee is against the action of the Ld. CIT(A) in not allowing the TDS credit of Rs.1,68,318/- on the ground that the assessee has not disclosed income from its construction activities.

3. Brief facts are that the assessee had filed its return of income for AY. 2014-15 declaring Nil income. The assessee was denied credit of TDS of Rs.1,68,318/- as no income was shown by the assessee. The AO in the assessment order computed the loss from business to the tune of Rs.1,73,63,857/- and total income at Nil. Aggrieved, the



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assessee preferred an appeal before the Ld. CIT(A) claiming TDS credit of Rs.1,68,318/-. The Ld. CIT(A) dismissed the appeal of the assessee. Aggrieved, the assessee is before us.

4. We have heard both the parties and perused the records. The assessee did not disclose any income in its return of income. It is noted that the assessee had received Rs.1,63,92,300/- from M/s. Windser Refractioneries Pvt. Ltd. which was against the sale of commercial property and the said party had deducted TDS of Rs.1,68,318/- during AY. 2014-15. Since the project was not complete, the assessee had shown the same as advance under the head "Other Current Liabilities" and no income was offered to tax. Further it was brought to our notice that sale agreement with the said customer was registered on 28.04.2017 and the assessee got completion certificate in respect of property in question i.e. Unit 501, 5th Floor, Wing B of Project Central Park on CTS 484, 484 (1 to 7) only on 03.03.2020 (refer page no. 10 of PB) and the agreement between the assessee and M/s. Windser Refractioneries Pvt. Ltd. is found placed at page no. 12 to 21 of PB, wherein the C.S. No./CTS No. 484,484/1 to 7 has been found mentioned. According to the Ld. AR, the assessee was following the *project completion method* and has offered the income in AY. 2020-21 (since completion certificate was dated 03.03.2020). And therefore, the assessee's limited prayer before us, [*which has been raised by filing of additional ground of appeal vide letter dated 21.10.2022*] is that the TDS credit of Rs.1,68,318/- may be granted to the assessee for AY



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2020-21, which amount was deducted by M/s Windser Refractioneries Pvt. Ltd. when it paid the assessee advance sale consideration of Rs.1,63,92,300/- in AY 2014-15 [for purchase of property] has now been shown in the sales and offered as income in AY 2020-21. We find substance in the additional ground/submission of the Ld. AR and so, we set aside the order of the Ld. CIT(A) and remand the issue back to the file of the AO with a direction to grant TDS credit of Rs.1,68,318/- provided the assessee has shown an amount of Rs.1,63,92,300/- received from M/s. Windser Refractioneries Pvt. Ltd. as sales in AY 2020-21 as business income as discussed (supra). Thus, the appeal of the assessee is allowed for statistical purposes.

7. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 22/11/2022.

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(ABY T. VARKEY)
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated :22/11/2022.
Vijay Pal Singh, (Sr. PS)

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-



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4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai