

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

SHRI AMARJIT SINGH, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER

ITA No. 1754/MUM/2022  
(Assessment Year: 2014-15)

M/s Macrotech Developers Limited,  
(successor Sahajanand Hi-Tech  
Construction Private Limited (SHCPL),  
412, 4<sup>th</sup> Floor, 17G, Vardhman Chamber,  
Cawasji Patel Street, Fort,  
Mumbai – 400001  
[PAN: AABCL2713K]

..... Appellant

Deputy Commissioner of Income Tax-  
CC-7(3), Mumbai,  
Room No. 655, Aaykar Bhavan,  
M.K. Road, Mumbai - 400020

Vs

..... Respondent

Appearances

For the Respondent/Department : Shri Niraj Sheth  
For the Appellant/Assessee : Smt. Mahita Nair

Date of conclusion of hearing : 24.11.2022  
Date of pronouncement of order : 28.11.2022

**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. The present appeal arises out of the order, dated 26.05.2022, passed by the Ld. Commissioner of Income Tax (Appeals)-49, Mumbai [hereinafter referred to as 'the CIT(A)'] for the Assessment Year 2014-15, whereby the Ld. CIT(A) had partly allowed the appeal of the Assessee against the Assessment Order, dated 28.12.2016, passed under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').
2. Following grounds have been raise by the Appellllant/Assessee in the present appeal:

- 1) *“On the facts and circumstances of the case and in law, the learned Commissioner of Income-tax (Appeals)-49 [‘CIT(A)-49’] erred in upholding the disallowance made by learned assessing officer of consulting expenses of Rs 25,00,000 paid to Rajiv Saini & Associates.*
  - 2) *On the facts and circumstances of the case and in law, the learned CIT(A)-49 erred in upholding disallowance based on the order passed by Income Tax Settlement Commission (‘ITSC’) for A.Y. 2012-13 whereas the instant case is for A.Y. 2014-15.*
  - 3) *On the facts and circumstances of the case and in law, the learned CIT(A)-49 erred in upholding disallowing based on the order passed by Income Tax Settlement Commission (‘ITSC’), without appreciating the fact that the disallowance was based on non-submission of concrete evidence whereas in the instant case all the documentary evidence like copy of letter of appointment, copy of confirmation letter from Rajiv Saini & Associates, copy of invoice and copy of work order were duly submitted before the Hon’ble CIT(A)-49, Mumbai.*
  - 4) *The appellant craves leave to add, amend, alter or delete the said ground of appeal.*
3. All the above grounds relate to the solitary issue pertaining to the disallowance of INR 25,00,000/- made by the Assessing Officer and confirmed by the CIT(A) in respect of architectural services paid by the Appellant to Rajiv Saini & Associates during the relevant previous year.
4. The Ld. Authorised Representative for the Appellant appearing before us submitted that all the relevant document/material were placed before the CIT(A). However, the CIT(A), in complete disregard of the same, proceeded to confirm the addition made by the Assessing Officer by incorrectly placing reliance on the decisions of the Income Tax Settlement Commission for the Assessment Year 2012-13 rendered in different set of facts. In order to support this contention he relied upon the following documents placed in the paper-book - Copy of letter of appointment of Architect Rajiv Saini &

Associates (placed at page 157 to 156), Copy of invoice, work-order and entries made in the books of accounts (placed at page 167 to 188) and copy of confirmation letter received from Architect Rajiv Saini & Associate (placed at page 191).

5. Per contra, the Ld. Departmental Representative supported the order passed by the Assessing Officer and submitted that no such details were filed before the Assessing Officer. She further submitted that the additional evidence produced by the Appellant before the CIT(A) cannot be taken into consideration as remand report from the Assessing Officer was not called for by the CIT(A).
6. In rejoinder, the Ld. Authorised Representative submitted that the Revenue has not filed appeal/cross-objections on the ground of non-compliance of the provisions of Rule 46A of the Income Tax Rules, 1962 and therefore, the contention raised by the Departmental Representative is liable to be rejected.
7. We have considered the rival submissions and perused the material on record. We note that the Appellant had filed relevant supporting documents (*specified in paragraph 4 above*) before the CIT(A). However, the CIT(A) failed to consider the same and confirmed the disallowance made by the Assessing Officer by incorrectly placing reliance on the order passed by the Income Tax Settlement Commissioner pertaining to Assessment Year 2012-13. Since the CIT(A) has failed to consider the relevant documents, the order of CIT(A) is set aside and the issue is remanded back to the file of Assessing Officer for fresh adjudication after giving the Appellant a reasonable opportunity of being heard.

8. In view of the above, Ground No. 1 to 3 raised by the Appellant are allowed for statistical purposes.

In the result, the present appeal is allowed for statistical purposes.

Order pronounced on 28.11.2022.

*Sd/-*  
(Amarjit Singh)  
Accountant Member

*Sd/-*  
(Rahul Chaudhary)  
Judicial Member

मुंबई Mumbai; दिनांक Dated : 28.11.2022  
*Alindra, 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)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

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