

**आयकरअपीलीयअधिकरण,इंदौरन्यायपीठ,इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER**  
**AND**  
**SHRIB.M. BIYANI, ACCOUNTANT MEMBER**

**ITA No.171/Ind/2020**  
**Assessment Year: 2011-12**

M/s. Bansal Extraction & Exports (P) Ltd.,Bhopal	<b><u>बनम/</u></b> Vs.	DCIT(Central)-1 Bhopal
(Appellant / Assessee)		(Respondent / Revenue)
<b>PAN: AADCB7521M</b>		
Assesseeby	Shri Anil Khabya, AR	
Revenue by	Shri P.K. Mishra, CIT-DR	
Date of Hearing	09.11.2022	
Date of Pronouncement	03.02.2023	

**आदेश/O R D E R**

**Per B.M. Biyani, A.M:**

Feeling aggrieved by appeal-order dated 27.02.2020 passed by learned Commissioner of Income-Tax (Appeals), Bhopal [**“Ld. CIT(A)”**], which in turn arise out of assessment-order dated 27.03.2014 passed by learned DCIT, Central, Bhopal [**“Ld. AO”**]u/s 153A read with section 143(3) concerning the assessment-year [**“AY”**] 2011-12, the assessee has filed this appeal on following solitary ground:

- “(1) That the Ld. CIT(A) erred in maintaining addition of Rs. 38,48,342/- made by the AO u/s 69B of Act on account of alleged excess cost of construction of plant and machinery relying on report of VO (P&M).
- (2) That the Ld. CIT(A) erred in using the report of VO(P&M) as binding without addressing several objections raised by assessee.
- (3) That the Ld. CIT(A) erred in not giving directions to AO to compute depreciation on extra cost of construction added by him as per report of VO(P&M).”

2. Heard the learned representatives of both sides and case records perused.

3. Briefly stated the facts are such that a search u/s 132 was conducted upon assessee in June, 2011 and the case of assessee for AY 2011-12 under consideration was assessed u/s 153A/143(3) vide a consolidated assessment-order dated 27.03.2014 wherein the Ld. AO made an addition of Rs. 3,73,47,796/- on account of undisclosed investment in plant and machinery u/s 69B. Being aggrieved, the assessee went in first-appeal to Ld. CIT(A) wherein the Ld. CIT(A) deleted the addition to the extent of Rs. 3,34,99,454/- and upheld the remaining addition of Rs. 38,48,342/-. Still aggrieved, the assessee has come in this appeal before us.

4. Ld. AR representing the assessee made a very simple and crispy submission on the issue. He submitted that during the course of assessment-proceeding, the Ld. AO made a reference to Departmental Valuation Officer (DVO) u/s 142A read with section 131(1)(d) for estimation of the value of investment in plant and machinery, whereupon the DVO estimated value at Rs. 17,82,71,000/-. Thereafter, the Ld. AO worked out the difference of two figures, viz. (i) investment of Rs. 14,39,23,204/- declared by assessee in books of account and (ii) value of Rs. 17,82,71,000/- estimated by DVO; and accordingly made an addition of Rs. 3,73,47,796/- treating the difference as undisclosed investment u/s 69B. Thereafter, during first-appellate proceeding, the Ld. CIT(A) reduced the difference by Rs. 3,34,99,454/- on account of certain infirmities committed by Ld. AO, whereupon the difference scaled down to Rs. 38,48,342/-. Accordingly, Ld. CIT(A) sustained the addition to the extent of Rs. 38,48,342/-. Ld. AR submitted that at present the difference is just Rs. 38,48,342/-, which constitutes approx. 2.67% of the investment of Rs. 14,39,23,204/- declared by assessee in books of account. Ld. AR submitted that the valuation is a mechanical-cum-estimation exercise done by the DVO which can never yield 100% exact-accurate value and hence the difference of just 2.67% is an

acceptable range. The Ld. AR gainfully relied upon the decision in **CIT Vs. M/s Abeeson Hotels Pvt. Ltd. Indore (2004) 2 ITJ 71 (MP)** wherein the Hon'ble jurisdictional High Court of Madhya Pradesh has accepted the difference of 10% in valuation as reasonable. Ld. AR has placed a copy of the decision in the Paper-Book and drawing our attention to following paragraphs of the decision prayed to give the benefit of the decision to the assessee:

*“5.The question is substance that arose before the Taxing Authorities was in regard to valuation of assessee’s properties. It was found that there is some variation between the valuation made by assessee and what is made by DVO. As far as assessee’s valuation was concerned. It was valued at Rs.1,41,79,527/-, whereas the valuation made by DVO was at Rs.1,58,38,500/-. In the opinion of Tribunal, 10% difference usually occurs in two valuers and hence, the valuation shown by assessee was accepted. The revenue has now come up in appeal against this finding.*

*6. We find no merit in the challenge laid by the Revenue. In fact, what is held by the Tribunal cannot be faulted with. The 10% difference in the valuation made by the two valuers cannot be said to be either unreasonable without any basis. It usually occurs and hence, if the authorities accepted the valuation of the assessee so far as the property in question is concerned, the reasoning cannot be regarded as entirely, illegal, or without jurisdiction.”*

5. Ld. DR supported the orders of lower authorities and prayed that the assessee is not able to explain the difference of Rs. 38,48,342/-; hence the same is rightly assessed by revenue-authorities u/s 69B. Ld. DR prayed to uphold the addition.

6. We have considered rival submission of both sides. On a careful consideration of the aforesaid decision of Hon'ble Jurisdictional High Court

we observe that the decision has ruled that the difference between two valuations made by different valuers upto 10% is reasonable. Thus, the decision dealt with a case of difference in two valuations done by different valuers whereas the present-appeal deals with a situation of difference in the investment declared by assessee in books of account and the valuation done by a valuer. Thus, there is a slight difference in the facts. But if we carefully and holistically read paragraph No. 6 of the decision, there is a clear acceptance given by Hon'ble High Court that the difference usually occurs in valuation. This is perhaps so because, as urged by Ld. AR, valuation is a mechanical-cum-estimation exercise done by the valuer and it can never yield 100% exact-accurate valuation. Therefore, in our considered view there should not be any hesitation in accepting difference upto 10% as reasonable even in present case. The Ld. DR could not contradict the applicability of decision. Thus, we are inclined to accept the submission of Ld. AR that 2.67% difference in valuation in present-case is reasonable. Taking such a view, we delete the addition of Rs. 38,48,342/- sustained at lower level. The ground raised by assessee is allowed.

**7. Resultantly, this appeal of assessee is allowed.**

<i>Order pronounced as per Rule 34 of I.T.A.T. Rules, 1963 on 03/02/2023.</i>
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<i>Order pronounced in the open court on ...../...../2022.</i>
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Sd/-

(CHANDRA MOHAN GARG)  
JUDICIAL MEMBER

Sd/-

(B.M. BIYANI)  
ACCOUNTANT MEMBER

**Indore**

दिनांक/Dated : 03.02.2023

Patel/Sr. PS

- Copies to:*
- (1) The appellant*
  - (2) The respondent*
  - (3) CIT*
  - (4) CIT(A)*
  - (5) Departmental Representative*
  - (6) Guard File*

*By order*

*Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore*

1.	Date of taking dictation	1.2.23
2.	Date of typing & draft order placed before the Dictating Member	1.2.23
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	1.2.23
4.	Date on which the approved draft is placed before other Member	
5.	Date on which the fair order is placed before the Dictating Member for pronouncement	
6.	Date on which the file goes to the Bench Clerk	
7.	Date on which the file goes to the Head Clerk	
8.	Date on which the file goes to the Assistant Registrar for signature on the order	
9.	Date of dispatch of the Order	