

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "G" MUMBAI

BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI PAVAN KUMAR GADALE (JUDICIAL MEMBER)

ITA No. 2919/MUM/2019
Assessment Year: 2012-13

Dy. CIT, Central Circle-6(3),
Room No. 1925, 19th floor, Air
India Building, Nariman Point,
Mumbai-400021.

Appellant

M/s Samridhi Dealers Pvt.
Ltd.,
Vs. 132, Utkalmoni Gopabandhu
Sarani Burra Bazar, Kolkata,
West Bengal-700 007.
PAN No. AAJCS 1840 E
Respondent

Revenue by : Dr. Kishor Dhule, CIT-DR
Assessee by : Mr. Vijay Mehta, AR

Date of Hearing : 21/02/2023
Date of pronouncement : 23/02/2023

ORDER

PER OM PRAKASH KANT, AM

This appeal by the Revenue is directed against order dated 28.02.2019 passed by the Ld. Commissioner of Income-tax(Appeals)-54, Mumbai (in short 'the Ld. CIT(A)'] for assessment year 2012-13, raising following grounds:

1. *"Whether on the facts and circumstances of the case and in law, the id. CIT(A) has erred in restricting the addition of on-money to the extent*



of Rs.9,93,282/- as against the addition of Rs.75,00,000/- made by the A.O. as unaccounted investment of the assessee within the meaning of Section 69 of the Income-tax Act, 1961.?

2. 2. "Whether on the facts and circumstances of the case and in law, the id. CIT(A) has erred in estimating the addition only to the extent of Rs.4,000/- per sq. ft. being the differential rate per square feet in the form of on-money paid by the assessee to Nish Developers Private Limited, taking the basis of some other flats booked by some other parties during the same period, disregarding the fact that corroborative evidences of on-money paid by the assessee of Rs. 75,00,000/- Crore for the year under consideration, in the form of data from pendrive found and seized from Shri Pravin Mishra, a key employee of M/s Nish Dealers Pvt. Ltd., found during the course of search?.
3. 3. "Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in not accepting the statement of Shri Gulabchand Jain as evidence even though no evidence has been brought on record or co-ercion particularly when the admittance of payment of Rs.1,14,00,000/- for the flat by Shri Gulabchand Corroborated the evidence found during the course of search in the case of M/s Nish Developers (P) Ltd.?"
4. "Whether on the facts and circumstances of the case and in law, the Id. CIT(A) took cognizance of and relied upon the statement of Shri Gulabchand of having paid on money to partly confirm the addition made by the AO and thereby dis-regarding specific evidence directly related to the case in favour of general evidence?"

2. At the outset, the Ld. Counsel of the assessee submitted that in the case, the Assessing Officer has made addition for the amount of Rs.75,00,000/- which has been further partly deleted by the Ld.



CIT(A). According to him, the tax effect involved in the appeal of the Revenue is below the monetary limit prescribed by the Central Board of Direct Taxes, New Delhi (CBDT) for filing appeal to the Income-tax Appellate Tribunal *vide* CBDT Circular no. 3/2018 dt. 11/07/2018, which has been further enhanced by way of CBDT Circular No. 17/2019 dated 08/08/2019.

3. The Ld. Departmental Representative also could not controvert but however he submitted that he wants to seek instruction from the respective Pr. Commissioner of Income-tax for withdrawal of the appeal.

4. We have heard rival submission of the parties on the issue-in-dispute. Undisputedly, the addition in the case has only being made at Rs.75,00,000/- which has also been further partly deleted. In the grounds raised also it is mentioned that the Ld. CIT(A) has restricted the addition to the extent of Rs.9,93,282/- as against the addition of Rs.75,00,000/- made by the Assessing Officer. Therefore, it is evident that the tax effect involved in the appeal is below the monetary limit of Rs.50,00,000/- prescribed for filing further appeal to the ITAT *vide* CBDT Circular no. 17/2019 dt. 08/08/2019 and therefore, the appeal of the Revenue is dismissed with liberty to file application for recalling in case subsequently it is found that the case falls under any of the exceptions provided to the said Circular (*supra*).



5. In the result, the appeal of the Revenue is dismissed.

**Order pronounced under Rule 34(4) of the ITAT Rules,
1963 on 23/02/2023.**

**Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 23/02/2023
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai