

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, MUMBAI**

**BEFORE SHRI BASKARAN B R, AM &
SHRI AMIT SHUKLA, JM**

आयकरअपीलसं./ I.T.A. No. 554/Mum/2023
(निर्धारणवर्ष / Assessment Year: 2013-14)

Mumbai Shelter Housing Development P.Ltd 103, Kalpaka CHS Ltd, Building No. 01, Road No. 16, Siddharth Nagar No. 04, Goregaon (W), Mumbai- 400067	बनाम/ Vs.	DCIT CC-1(3), ITO 10(2)(4), Room No. 213, 2 nd Floor, Aayakar Bhavan, M.K.Road, Mumbai - 400020
स्थायीलेखासं ./जीआइआरसं ./PAN No.		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Venugopal C. Nair
प्रत्यर्थीकीओरसे/ Respondent by	:	Ms. Mahita Nair, Sr. AR
सुनवाईकीतारीख/ Date of Hearing	:	10.03.2023
घोषणाकीतारीख / Date of Pronouncement	:	10.03.2023

आदेश / O R D E R

Per Amit Shukla, Judicial Member:

The aforesaid appeal has been filed by the assessee against the impugned order dated 17.02.2023, passed by Ld.CIT (A)-47

Mumbai, for the quantum of assessment passed u/s. 143(3) for the AY 2013-14. The assessee has raised following grounds of appeal:-

1. The Learned CIT(A) erred in facts and circumstances of the case and in law confirming additions when the AO had not furnished reply to the remand report sought from him. Without Prejudice to the above

2.The Learned CIT(A) erred in facts and circumstances of the case and in law confirming the action of the AO making addition from loose papers found in survey. Without Prejudice to the above.

3. The Learned CIT(A) erred in facts and circumstances of the case and in law confirming action of the AO making addition of receipts of cash based on statement recorded on oath not appreciating statement cannot be recorded in oath during survey and that such statements have no evidentiary value and that the statement was retracted. Without Prejudice to the above.

4. The Learned CIT(A) and circumstances of the case and in law confirming the action of the AO making addition of entire receipts of cash and not restricting to NP ratio as per decision of jurisdictional High Court. Without Prejudice to the above

5. The Learned CIT(A) erred in facts and circumstances of the case and in law confirming the action of the AO making addition of entire receipts of cash ignoring evidences furnished to AO that these are already accounted.

6. The Learned CIT(A)erred in facts and circumstances of the case and in law in confirming action of AO confirming additions of credit

seen in balance sheet u/s 68 ignoring various documents furnished during assessment stage and those furnished during appellate proceedings with a request for admission of additional evidence under rule 46A

7. Reasons given by CIT(A) in confirming order of Assessing Officer are wrong, insufficient and contrary to facts and evidence on record and in law.

Appellant craves leave to amend, alter modify or omit any of the aforesaid grounds of appeals as occasion may arise or demand.

2. At the outset, Ld. Counsel submitted that here in this case Assessee had file voluminous documents and submissions on which remand report was called for by the Ld. CIT(A), however, the Ld.CIT(A), in para 6 has noted that Assessing Officer has not given any reply an accordingly, he decide the appeal on the basis of the assessment order and the submissions made by the Assessee. However, no where the Ld. CIT (A) has considered those documents and has simply confirmed the assessment order. Thus, in the interest of the justice all the grounds should be restored back to the file of the Ld. CIT (A) to consider the additional evidences and decide the issue on merits and after giving opportunity to the assessee. On the other hand, Ld. DR relied upon order of the CIT (A) and submitted that the issue on merits.

3. After considering the impugned order and the material placed on record, we find that, the addition has been made on account of on-money of Rs. 2,02,71,400/-; and disallowance on account unsecured loans of Rs. 2,60,00000/-. Before the CIT(A) Assessee has filed the documents which were placed before the Assessing Officer, but had also filed petition for additional evidence under rule 46A giving various confirmation from the parties and documents relating to various creditors. However, the CIT(A) without getting the remand report from the Assessing Officer, has decided the issue sans these evidences. Apart from that, the submissions which are made on the issue on-money have also not been properly considered.

4. Therefore, in the interest of justice, we feel that matter should be restored back to the file Ld. CIT(A) to considered both the additions afresh taking to consideration the additional evidences and seek remand report from the Assessing Officer on these documents and decide afresh in accordance with the law after giving due opportunity to the assessee to substantiate its case.

5. **Accordingly, appeal of the Assessee is allowed for statistical purposes.**

Orders pronounced in the open court on 10th March, 2023.

Sd/-

(Baskaran B R)
Accountant Member

Sd/-

(Amit Shukla)
Judicial Member

मुंबई Mumbai;दिनांक Dated : 10.03.2023

Mrs.Urmila

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./ Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai