

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

Before Shri R.K. Panda, Accountant Member
AND
Shri Laliet Kumar, Judicial Member

ITA No.597/Hyd/2022		
Assessment Year: 2017-18		
M/s.Sabitha Anand Hospital, Hyderabad PAN:ABWFS9326E (Appellant)	Vs.	Dy. C. I. T. Central Circle 3(3) Hyderabad (Respondent)
Assessee by:	Shri A.V. Raghuram, Advocate	
Revenue by:	Shri Kumar Aditya, DR	
Date of hearing:	02/03/2023	
Date of pronouncement:	17/03/2023	

ORDER

Per R.K. Panda, A.M

This appeal filed by the assessee is directed against the order dated 7.9.2022 of the learned CIT (A)-11, Hyderabad, relating to A.Y.2017-18.

2. Facts of the case, in brief, are that the assessee is a partnership firm engaged in the business of running a hospital in the name of M/s. Sabitha Anand Hospitals. It filed its original return of income on 28.10.2017 declaring total income of Rs.10,70,540/-. A survey u/s 133A of the Act was conducted in the case of the assessee on 27.9.2016. Consequent to the survey operation, the assessee filed a revised computation of income of

Rs.18,70,540/- wherein he declared additional income of Rs.8.00 lakhs and accordingly paid the tax on the revised income.

3. The case was selected for scrutiny and statutory notices u/s 143(2) and 142(1) were issued from time to time to which the A.R. of the assessee appeared and filed certain details. Since the assessee was constructing a building both for hospital and residential purposes, the Assessing Officer referred the matter to the valuation cell for determination of the valuation of the cost of hospital and residential building.

4. During the course of the assessment proceedings, the Assessing Officer noted that the Valuer in his valuation report has valued the cost of the hospital building at Rs.1,76,55,000/-. Since the assessee has not filed any valuation report, the Assessing Officer asked the assessee to file its objection, if any, for making addition of the entire cost of Rs.1,76,55,000. The assessee in response to the query raised by the Assessing Officer filed the valuation report of a valuer (not a govt. valuer) showing the cost of construction of the hospital building at Rs.1,10,45,797/-. It was submitted that the difference is only Rs.66,09,203/- and not Rs.1,76,55,000/- as proposed. Since the assessee did not file any other objection except stating that due to COVID 19, they were unable to get the valuation done by the Govt. Valuer, therefore, the valuation was done by Satya Constructions. The Assessing Officer, therefore, inferred that the assessee failed to establish the actual cost of construction of the hospital building which involved huge amount of Rs.66,09,203/- as per the valuation report of the DVO. Since the assessee did not file any objection to the report of the DVO and failed to establish the source of income for the

investment in the hospital building, the Assessing Officer made addition of Rs.66,09,203/- u/s 69 of the I.T. Act and treating the same as unexplained investment.

5. Before the CIT (A), the assessee made elaborate arguments. It was submitted that the valuation done by the DVO is faulty. It was argued that the assessee being the Managing Partner of the firm is a well-known person and obtained construction materials at a discount of 30 to 35% of the general market rate. Further, the DVO has adopted different method for calculating the cost per sq. meter in respect of the Hospital building and Residential building. It was argued that the hospital building is of inferior quality as compared to that of the residential building and therefore, the cost of construction of the hospital building should have been lesser than the cost of construction of the residential property or at least should have been at par. However, the DVO has valued the Hospital Building at a higher value per sq. meter as compared to the house property. The assessee also argued that the assessee has utilized inferior quality of material which is not at par with the specification of the material as per govt. standard for which the DVO himself gave a deduction of 10%. Further, it was argued that the construction of the building started in financial year 2010-11 to 2014-15 and therefore, addition should have been made in the respective years proportionately. However, the DVO has valued the building in financial year 2016-17 and the Assessing Officer has also erroneously made the addition of the entire amount in one year which is not correct. The applicability of the amended provision of section 115BBE was also challenged before the CIT (A).

5.1 However, the learned CIT(A) was not satisfied with the arguments advanced by the assessee and upheld the action of the Assessing Officer by observing as under:

“6 Decision: In the instant case, the assessment proceedings u/s. 143(3) of the Act were completed by making an addition of unexplained investment u/s. 69 of the Act of Rs.66,09,203/-, being the difference between cost of construction of hospital building valued by the Valuation Officer of the Department and the cost of construction valued by the builder, thereby assessing total income of the appellant at Rs.84,79,743/-.

Going into the facts of the case, a survey operation u/s 133A of the IT Act was conducted in the case of the appellant firm on 27.09.2016. The appellant had filed its return of income on 28.10.2017 admitting income of Rs.10,70,540/-. During the assessment proceedings, the appellant filed a revised computation of income for a total income of Rs. 18,70,570/- including the additional income of Rs.8,00,000/- admitted during the Survey operation.

The appellant firm constructed a building for hospital as well as residential purposes. The issue disputed in the current appeal proceedings is the addition made pertaining to the cost of construction of the hospital building. During the assessment proceedings, the Assessing Officer had referred to the Valuation Officer of the Income Tax Department for valuation of the hospital cum residential building constructed by the appellant. Subsequently, the Valuation Officer submitted valuation report 30.03.2021, as per which the hospital building was valued at Rs. 1,76,55,000/-.

Further, during the assessment proceedings, the appellant submitted a valuation certificate issued by one M/s. Sathya Construction, as per which cost of construction of hospital building was valued at Rs. 1,10,45,797/-. The Assessing Officer treated the difference in the cost of construction of hospital building as per the Valuation Officer of the Department and that of the one submitted by the appellant, i.e., amount of Rs. 66,09,203/- as unexplained investment u/s. 69 of the IT Act.

During the appeal proceedings, the appellant filed written submission in response to the hearing notices issued. The appellant raised its contentions with respect to the valuation report of the DVO in its submissions. The appellant claimed that the managing partner of the appellant firm is a well-known person and obtained construction material at a discount of 30-35% of the general market cost. However, the appellant did not furnish any details of the material purchased and what kind of discount it got or how much amount of discount etc. There was no comparative data submitted regarding the market prices and the purchase price made by the appellant, nor any bank entries substantiating the proper trail of such claim was submitted. Further, the appellant did not submit any books of account or any invoices, bills etc. evidencing the discounts as claimed by the appellant. In view of lack of

any relevant documentary evidence, the claim of the appellant that the construction material was purchased at a discounted price because of the status of its partner being self-serving and imaginary is not acceptable and rejected accordingly.

Further, the appellant contended that there is a difference in the cost per square mtr adopted by the DVO in respect of residential building and hospital building and contended that the cost should have been similar, which also debunks the appellant's claim that the material was purchased at discounted rate, if that would, have been the case, the valuation of the residential building by both the persons would not have been almost the same.

In view of the fact that the cost of construction valued by the DVO as well as the appellant's valuer in respect of residential building are similar and the appellant did not raise any objection against the valuation of the residential building by the DVO. Therefore, there is basis to indicate any bias of the DVO or the incorrectness of the method adopted by the DVO. It is important to note that the usage and the requirement of the hospital and residential building are vastly dissimilar and the commercial and specialized complexes require a different sort of construction and it is always expensive than the residential construction. The DVO has taken into consideration, the specialization required for the hospital building and arrived at the value of hospital building. The appellant did not file any specific objection to the valuation report by the DVO and only has merely submitted case laws without highlighting any material defect in the valuation, therefore appellant's contention is rejected.

Further, the DVO in its report, observed that the inferior quality of material was used and specification of material used was not at par with the Govt. Standard and accordingly gave a deduction of 10% of the total value of construction. The appellant's claim that the DVO adopted full value as per the rate approved by competent authority' is therefore incorrect.

In view of the discussion in preceding paragraphs, the appellants contentions with respect the valuation report of the DVO are not acceptable and accordingly 2, 3 and 4 are dismissed and the addition made by the Assessing Officer is hereby confirmed.

During the course of appeal proceedings, the appellant raised two additional grounds and contended that the hospital cum residential building was constructed over a period of time from FY 2010-11 to FY 2014-15 and made in the said years therefore the addition should have been proportionately. However, the appellant did not submit any books of account or any other documentary evidences in support the appellant's claim of incurring the expenditure over and above what was accounted in the books toward the building under consideration in different years. In absence of such material evidences, the unaccounted portion of cost of construction of the building can only be taxed in the year of completion of the building. The Assessing Officer determined this unaccounted income in the year under consideration and there is no

evidence on record contrary to the stand of the Assessing Officer. Further, the DVO in its valuation report, has also mentioned that the completion of building was in August 2016. In view of the above, the action of the Assessing Officer in determining the unexplained investment of Rs.66,09,203/- in the AY 2017-18 is held correct. Accordingly, the additional ground no. 1 and 2 are dismissed.

With regards to ground no. 5, 6 and 7, the appellant questioned the applicability of amended provisions of Section 115BBE of the IT Act as amended by the Taxation Laws (Second Amendment) Act 2016 for the present year under consideration. The amended provisions of the Sec. 115BBE came in to force with effect from 01.04.2017 and the same is reproduced as under:

"115BBE. (1) Where the total income of an assessee,

- (a) includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D and reflected in the return of income furnished under section 139; or
- (b) determined by the Assessing Officer includes any income referred to (b) in section 68, section 69, section 69A, section 69B, section 69C or section 69D, if such income is not covered under clause (a),

the income-tax payable shall be the aggregate of

(i) the amount of income-tax calculated on the income referred to in clause (a) and clause (b), at the rate of sixty per cent; and

ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (i).

The amended provisions of the Sec. 115BBE of the IT Act are applicable w.e.f. 01.04.2017 and therefore are applicable to AY 2017-18. In the instant case, the addition was determined u/s. 69 of the Act and the provisions of the section 115BBE are squarely applicable and therefore the income added u/s. 69 of the Act is rightly taxed at 60% in accordance with the Sec. 115BBE. The appellant in this ground, did not object to the addition made u/s. 69 or applicability of Sec. 115BBE of the Act. The contention of the appellant is regarding applicability of amended provisions of Sec. 115BBE for AY 2017-18 and has submitted various case laws contending that the applicability in such a scenario would be from the date of Hon'ble Presidential assent which was 15.12.2016 according to the appellant.

The above law has been laid by the Parliament and has its applicability for A.Y. 2017-18 onwards and the same has not been held otherwise by any of the Hon'ble Courts till date. This section was amended during the demonetization period and with the intent to curb the black money and also make the unaccounted income liable for higher amount of taxation. This has been consciously laid out law with its applicability from A.Y. 2017-18.

It is important to note that as per the provisions of Section 271AAB of the IT Act, the words or after the date on which the Taxation Laws (Second Amendment) Bill, 2016 receives the assent of the President' are explicitly included in the section for applicability of penalty as per this section. Relevant portion of the section 27 1AAB is as under.

271AAB. (1) The Assessing Officer 20-21/or the Commissioner Appeals) may, notwithstanding anything contained in any other provisions of this Act, direct that, in a, Case where search has been initiated under section 132 on or after the 1st day of July, 2012 but before the date on which the Taxation Laws (Second Amendment) Bi11, 2016 receives the assent of the President, the assessee shall pay by way of penalty, in addition to tax, if any, payable by him,-

(1A) The Assessing Officer 20-21/or the Commissioner (Appeals)) may, notwithstanding anything contained in any other provisions of this Act, direct that, in a case where search has been initiated under section 132 on or after the date on which the Taxation Laws (Second Amendment) Bill, 2016 receives the assent of the President, the assessee shall pay by way of penalty, in addition to tax, if any payable by him,-

Whereas in the Section 115BBE, nothing was mentioned with regard to the date of assent by the Hon'ble President. If the intent of the Parliament was to make the provisions of this section applicable from the date of assent of the Hon'ble' President, as contended by the appellant, it would have been specifically included in the section itself, which is not the case with Section 115BBE of the Act and therefore the applicability of section 115BBE would be from AY 2017-18.

Further, the appellant has not submitted any direct judgement concurring with the appellant's view and in view of the same, it is held that the case laws submitted are not relevant to the case of the appellant and therefore, the contention of the appellant is rejected and the ground no. 5, o and 7 are dismissed accordingly."

6. Aggrieved with such order of the learned CIT (A), the assessee is in appeal before the Tribunal by raising the following grounds:

"1. On the facts and in the circumstances of the case, the order of Id. Commissioner of Income Tax (Appeals)-11, Hyderabad, is erroneous and unsustainable on facts and in law.

2. The Id. Commissioner (Appeals) erred in upholding the alleged addition in the previous year relevant to assessment year 2017-18 while the fact is that the construction of hospital building commenced during financial year 2010-11 and ended in financial year 2014-15. The finding of the Id. Commissioner (Appeals) that the construction concluded in August 2016 is baseless and unsustainable on facts.

3. *Without prejudice to the above ground no.2, the Id. Commissioner (Appeals) erred in sustaining the addition of Rs.66,09,203 in its entirety in the assessment year under consideration. The finding of the Id. Commissioner (Appeals) that in the absence of books of accounts, the alleged unaccounted investment in cost of construction of building can only be taxed in the year of completion of the building is incorrect and is unsustainable.*

4. *Without prejudice to the grounds 2 & 3 above, the Id. Commissioner (Appeals) erred in rejecting the reliefs as pointed out by the Appellant and which ought to have been granted by the DVO while arriving at the cost of construction of the hospital building.*

5. *The learned Commissioner (Appeals) erred in dismissing the grounds raised by ne Appellant with respect applying special rate of tax at 60 percent and Surcharge at 25 percent on the addition of Rs.66,09,203 made under section 69A of the Act.*

6. *The Commissioner (Appeals) failed to appreciate that the amendment 6DrOught in by Taxation laws (Second Amendment) Act, 2016, to the provisions of section 115BBE as amended by Finance Act, 2016, are substantive and therefore cannot be made applicable prior to the date on which it received ascent of Hon'ble President of India on 15.12.2016. The reasons given by the Id. Commissioner (Appeals) are incorrect and unsustainable in law.*

For these and other grounds that may be urged, it is prayed that the appeal may be allowed as prayed for."

7. The learned Counsel for the assessee strongly challenged the order of the CIT (A) in confirming the addition made by the Assessing Officer. The learned Counsel for the assessee referring to page 12 to 13 of the paper book drew the attention of the Bench to the payment of Rs.43,020/- vide receipt dated 5.3.2009 for building permission fee. Referring to Page 14 of the Paper Book, he drew the attention of the Bench to the plan showing the construction of nursing home which was approved by the GHMC on 30.05.2009. Referring to page 15 to 20 of the paper book, he drew the attention of the Bench to the letter permitting the construction of Nursing Home by GHMC Vikarabad. Referring to page 21 to 22 of the Paper Book, he drew the attention of the Bench to the photograph and invitation showing the inauguration

of the hospital which was held on 16.12.2010. Referring to page 23 to 28 of the Paper Book, he drew the attention of the Bench to the property Tax Receipts for different years starting from 1.10.2012 onwards. Referring to the summon issued by the Assessing Officer u/s 131 of the Act on 15.10.2016 and the questionnaire issued to the assessee, copy of which is placed at 21 to 26 of the paper book, he drew the attention of the Bench to the question No.2 according to which the assessee has stated to have constructed the hospital building during the period 2010-11 to 2014-15. Referring to the report of the DVO, copy of which is placed at pages 56 to 65 of the paper book, he drew the attention of the Bench to clause 6.5 according to which the assessee has stated the period of construction to be during the year 2009 to 2016. Referring to the Annexure-1 of report of the DVO he submitted that the DVO himself has mentioned that the period of construction started during May, 2009 and the period of completion is August, 2016. Referring to Annexure-II of report of the DVO he submitted that the DVO have also referred to the period of construction as May 2009 and completion as August, 2016. He accordingly submitted that when the construction of the building started in May, 2009 i.e. financial year 2009-10 and completed in the month of August, 2016 i.e. financial year 2016-17, therefore, taking the entire difference in one A.Y instead of spreading it over the period of construction i.e. from financial year 2009-10 to 2016-17 is not correct.

8. The learned Counsel for the assessee further submitted that the DVO has adopted the rate per sq. meter for hospital at Rs.13,905 as against the rate of Rs.12,441/- adopted for the residential building despite the quality of construction of

the hospital building being inferior to the quality of the residential building. He submitted that when the assessee has purchased the cost of material at cheaper rate due to his personal contacts being a Doctor, therefore, the report of the DVO allowing only 10% discount on such material is not justified. Referring to various decisions he submitted that the Coordinate Benches of the Tribunal are granting supervision charges from 15% to 20% whereas DVO has allowed only 5% towards self-supervision charges which is unjustified. The learned Counsel for the assessee further submitted that the Assessing Officer has applied the rate of 60% u/s 115BBE of the Act which is not correct. He accordingly submitted that the addition made by the Assessing Officer and sustained by the CIT (A) be deleted and the grounds raised by the assessee should be allowed.

9. The learned DR, on the other hand, strongly supported the order of the CIT (A). Referring to the order of the CIT (A), he submitted that the CIT (A) has given justifiable reasons while sustaining the addition made by the Assessing Officer. He submitted that the assessee has not maintained any books of account for construction of the hospital building. Further, the assessee has also not filed any report of the Govt. Valuer and did not file the requisite details before the DVO so as to enable him to arrive at the correct cost of construction. Since the DVO in the instant case has valued the cost of construction of the property on the basis of the standard rate as prescribed, therefore, the same cannot be treated as faulty. Further, the CIT (A) has given justification for each and every issue raised by the assessee in the grounds of appeal and his argument. Therefore, the same should

be upheld and the grounds raised by the assessee should be dismissed.

10. We have heard the rival arguments made by both the sides, perused the orders of the AO and CIT (A)-NFAC and the paper book filed on behalf of the assessee. We have also considered the various decisions cited before us by both sides. We find the AO in the instant case made addition of Rs. .66,09,203/- being the difference between the cost of construction arrived at by the DVO at Rs.1,76,55,000/- and the cost of construction declared by the assessee at Rs. 1,10,45,797/- on the ground that the assessee failed to substantiate the source of such income for investment in the hospital building. We find the CIT (A) sustained the addition made by the Assessing Officer, the reasons of which have already been reproduced in the preceding paragraph. It is the submission of the learned Counsel for the assessee that the construction work of the hospital building started in the month of May, 2009 and completed in August, 2016 which is evidenced by the various documents filed in the paper book and as per the report of the DVO and therefore, the difference between the value adopted by the DVO and as per the Valuer cannot be added in the year under consideration and should have been spread over the period between financial year 2009-10 to financial year 2016-17. It is also his submission that the cost of construction rate adopted by the valuer for the hospital building at Rs.13,905/- per square meter is higher than the cost of construction rate adopted by the same DVO for the residential building. According to him, since the quality of construction of the residential building is higher than the quality of the construction of the hospital building and the quality of material used in the residential building is better than

the quality of material used for the hospital building, therefore, the rate per sq. meter for construction of the hospital building cannot exceed the rate per sq. meter for the residential building. It is also his submission that the discount at 10% towards purchase of material by the DVO against 30% claimed by the assessee is also on the lower side. Further, the self-supervision charges allowed by the DVO at 5% is much lower than the self-supervision charges allowed in various decisions starting from 15% to 20%. It is also his submission that the applicability of 60% tax rate u/s 115BBE is not justified.

11. We find some force in the above arguments of the learned Counsel for the assessee. A perusal of the report of the DVO dated 30.03.2021 shows that at Para 6.5, the construction work was stated to have taken place in phased manner during 2009 to 2016. Clause 6.5 of the same report reads as under:

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“6.5 Period of construction: As stated by the assessee, entire construction has taken place in phased/stage manner during year 2009-2016”.

12. Similarly, perusal of Annexure-I of the report of the DVO shows that the period of construction started in May, 2009 and completed in August, 2016, the details of which are as under:

Annexure 1

DETERMINATION OF REASONABLE COST OF CONSTRUCTION.

Assessee:-Dr. Methuku Anand M/s Sabitha Anand Hospitals H.No. 4-2-879/6/1, Pratapgiri bagh, Vikarabad - 501101.

Property:- M/s Sabitha Anand Hospitals H.No. 4-2-879/6/1, Pratapgiri bagh, Vikarabad -501101

Period of construction:- 1) Date of start- May 2009

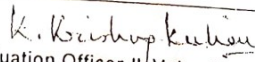
2) Date of completion-Aug 2016

S.No	Description of Item	Quantity	Rate	Unit	Amount	Remarks
1.0	Building Portion:RCC Framed Structure					
1.1.0	Ground floor					
1.1.1	Ground floor with floor height 3.30 m	405.475	13995.90	Sq.m	5674988	The rate is arrived on the basis of Plinth area rate approved by competent Authority.
1.2.0	First floor					
1.2.1	First floor with floor height 3.30 m	405.48	13995.90	Sqm	5674988	The rate is arrived on the basis of Plinth area rate approved by competent Authority.
1.3.0	Second Floor					
1.3.1	Second Floor with floor height 3.30 m	405.48	13995.90	Sqm	5674988	The rate is arrived on the basis of Plinth area rate approved by competent Authority.
	TOTAL	1216.43			17024964	
2.0	Services					
2.1	Internal water supply and Sanitary Installations	17024964	8.00%	%	1361997	
2.2	Internal electrical installations	17024964	10.00%	%	1702496	
2.3	External service connections	17024964	4.00%	%	680999	
	TOTAL			A	20770456	
	1. Deduct 10% for inferior quality of material used and specification of materials used are not at par with Govt. Standard. 2. 5% for self supervision		15.00%	%	17654888	

K. Vishayakrishna
Valuation Officer-II, Valuation cell,
Income Tax Department,
Hyderabad

13. Similarly, Annexure II of the report of the DVO is placed below:

Annexure-II						
DETERMINATION OF REASONABLE COST OF CONSTRUCTION.						
Assessee:-Dr. Methuku Anand, M/s Sabitha Anand Hospitals H.No. 4-2-879/6/1, Pratapgiri bagh, Vikarabad -501101.						
Property:- Residential Building, Pratapgiri bagh, Vikarabad -501101						
Period of construction:- 1) Date of start- May 2009 2) Date of completion-Aug 2016						
S.No	Description of Item	Quantity	Rate	Unit	Amount	Remarks
1.0	Building Portion:RCC Framed Structure					
1.1.0	Ground floor					
1.1.1	Ground floor with floor height 3.30 m	144.778	12441.00	Sq.m	1801183	The rate is arrived on the basis of Plinth area rate approved by competent Authority.
1.2.0	First floor					
1.2.1	First floor with floor height 3.30 m	144.78	12441.00	Sqm	1801183	The rate is arrived on the basis of Plinth area rate approved by competent Authority.
1.3.0	Second Floor					
1.3.1	Second Floor with floor height 3.30 m	144.78	12441.00	Sqm	1801183	The rate is arrived on the basis of Plinth area rate approved by competent Authority.
1.4.0	Third Floor					
1.4.1	Third Floor with floor height 3.30 m	49.90	12441.00	Sqm	620812	The rate is arrived on the basis of Plinth area rate approved by competent Authority.
	TOTAL	484.23			5403549	
2.0	Services					
2.1	Internal water supply and Sanitary Installations	5403549	10.00%	%	540355	
2.2	Internal electrical installations	5403549	10.00%	%	540355	
2.3	External service connections	5403549	5.00%	%	270177	
	TOTAL			A	6754436	
	1. Deduct 7.5% for inferior quality of material used and specification of materials used are not at par with Govt. Standard. 2. 5% for self supervision		-12.50%		-844305	
	TOTAL			RS.	5910132	


 Valuation Officer-II, Valuation cell,
 Income Tax Department,
 Hyderabad

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14 Further, a perusal of the receipt showing payment for building permission fee, copy of which is placed at Page 12-13 of the Paper Book shows that the assessee has deposited an amount of Rs.1,76,785/- on 5.3.2009 and Rs.43,020/- on 5.3.2009 towards payment for building permission fee. A perusal of page No.15 to 20 of the paperbook shows that the permission order given by the GHMC for construction of the Nursing Home on 30.5.2009. A perusal of the property tax receipts copies of which are placed at page 23 to 28 of the Paper Book shows that the assessee has started paying the property tax from 1.10.2012. Under these circumstances, we find merit in the argument of the learned Counsel for the assessee that the construction of the building started in financial year 2009-10 (May-2009) and completed in financial year 2016-17(August,2016) and therefore, the difference between the cost of construction as per the DVO and the Valuer's report should be spread over between financial year 2009-10 to financial year 2016-17 i.e. A.Y 2010-11 to A.Y 2017-18 proportionately. We, therefore, direct the Assessing Officer to spread over the difference between the cost of construction arrived at by the DVO and the cost of construction arrived at after considering our observations in the subsequent paragraphs over the period from August, 2010-11 to A.Y 2017-18.

15. A perusal of the report of the DVO shows that he has allowed only 10% towards reduction in cost of material purchased by the assessee. Since the assessee is a reputed doctor, it is quite possible that he has purchased the material from sources known to him and is expected to get some further discount. Considering the totality of the facts of the case, we direct the Assessing Officer

to consider the discount for the material purchased by the assessee at 20% as against 10% allowed by the DVO.

15.1 Similarly, the cost of self-supervision charges has been allowed by the DVO at 5% only whereas the Coordinate Benches of the Tribunal are allowing such self-supervision charges varying from 12.5% to 15%. Considering the totality of the facts of the case, we direct the Assessing Officer to allow self-supervision charges at 12.5% as against 5% allowed by the DVO.

15.2 The Assessing Officer is directed to recompute the cost of construction after reducing the discount for purchase of material at 20%, allowing self-supervision charges at 12.5% and whatever value is arrived by the Assessing Officer, the same shall be deducted from the value arrived at by the DVO and the difference so arrived at shall be spread over A.Y 2009-10 to A.Y 2017-18 and the Assessing Officer shall calculate the income of the assessee on the basis of such spread over.

16. So far as the ground relating to applicability of provisions of section 115BBE is concerned, since the addition has been made u/s 69 of the I.T. Act, therefore, the learned CIT (A) is fully justified in upholding the order of the Assessing Officer on this issue. Therefore, the additions so made after the calculations shall be taxed u/s 115BBE for A.Y 2017-18. Grounds raised by the assessee are accordingly partly allowed in the terms indicated above.

17. In the result, appeal filed by the assessee is partly allowed.

Order pronounced in the Open Court on 17th March, 2023.

Sd/- (LALIET KUMAR) JUDICIAL MEMBER	Sd/- (R.K. PANDA) ACCOUNTANT MEMBER
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Hyderabad, dated 17th March, 2023.

Vinodan/sps

Copy to:

S.No	Addresses
1	M/s. Sabitha Anand Hospital 4-2—879/9/1 Pratap Giri Bagh, Vikarabad, Hyderabad 501101
2	Dy.CIT, Central Circle 3(3) Aayakar Bhavan, Opp: LB Stadium Hyderabad 500004
3	CIT-11 Hyderabad
4	Pr. CIT- Central, Hyderabad
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order