

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" DELHI**

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.3303/DEL/2019
Assessment Year 2015-16

Ansal Crown Infrabuild Pvt. Ltd., 118, UFF Prakash Deep Building 7 Tolstoy Marg, Connaught Place, New Delhi.	vs.	Asst. Commissioner of Income Tax Circle-2(2), New Delhi.
TAN/PAN: AACCC8058M		
(Appellant)		(Respondent)

Appellant by:	Shri Akash Deepak, CA		
Respondent by:	Shri Kanv Bali, Sr.DR		
Date of hearing:	14	03	2023
Date of pronouncement:	17	03	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the assessee against the order of the Commissioner of Income Tax (Appeals)-XXXII, New Delhi ['CIT(A)' in short] dated 28.02.2019 arising from the assessment order dated 29.12.2017 passed by the Assessing Officer under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2014-15.

2. As per the grounds of appeal, the assessee has challenged the addition of Rs.15,32,063/- to the total income of the assessee on account of difference in depreciation claimed.

3. Briefly stated, the assessee is engaged in the business of

developing residential, commercial properties etc. In the course of the scrutiny assessment for Assessment Year 2014-15 in question, the Assessing Officer observed that while determining the taxable income, the assessee has added back an amount of Rs.8,74,382/- determined under Companies Act instead of depreciation of Rs.24,06,445/- debited to the Profit and Loss account. In the process, the taxable income has been reduced to the extent of Rs.15,32,063/-.

4. Aggrieved, the assessee preferred appeal before the CIT(A). The CIT(A) however also did not see any merit in the explanation offered by the assessee. The relevant operative paragraph is reproduced hereunder:

“6.1 Appellant company is engaged in the project of residential flat. It had filed its IT for A.Y. 2015-16 declaring income of Rs.51,88,840/-. The case was selected for scrutiny under CASS. During the course of assessment proceedings, AO observed that assessee company had added back an amount of Rs.8,74,382/- towards depreciation as per Companies Act whereas assessee had claimed depreciation of Rs.24,06,445/- in the P&L account. AO disallowed the difference of Rs. 15,32,063/- between depreciation claim in the computation of income and depreciation claimed in the P&L account. Assessee is in appeal against the same.

6.2 I have carefully considered the observations of AO and submissions of appellant. It is seen that assessee company had added back an amount of Rs.8,74,382/- towards depreciation as per Companies Act whereas assessee had claimed depreciation of Rs.24,06,445/- in the P&L account. AO disallowed the difference of Rs.15,32,063/- between depreciation claim in the computation of income and depreciation claimed in the P&L account. Appellant has stated that there was mistake on its part and therefore, excess depreciation was claimed. It has further been submitted that the company should have taken only current year depreciation which was Rs.5,29,347/- being difference between accumulated depreciation amounting to Rs.24,06,445.43 and depreciation claim upto 31.03.2014 amounting to Rs.18,77,098/-. However, the correctness of balance sheet was not disturbed as total expenditure claimed remained the same. On perusal of the P&L account and

computation of income, the contention of AO is found to be correct. There is no basis in the claim of appellant that claim of total expenditure remained the same as appellant has claimed excess depreciation. Appellant has debited an amount of Rs.24,06,445/- in the P&L account whereas he was required to have debited the depreciation for the current year only. Therefore, there is excess debit by appellant which AO has correctly disallowed. Therefore, I am in agreement with AO and the disallowance of Rs.15,32,063/- is sustained.”

5. Aggrieved, the assessee preferred appeal before the Tribunal.

6. We have heard the rival submissions on the issue. The correctness of addition on account of depreciation claimed in the Profit and Loss account qua depreciation disallowed as per Companies Act by the assessee is under question. It is the case of the assessee that accounts of a real estate company are *inter alia* governed by Guidance Note issued by Institute of Chartered Accountant of India. In tune with Guidance Note, income has been determined as per separate calculation sheet which calculated the income and expenditure and carried to profit and loss account every year. The income has been determined as per the Guidance Note and correct taxable income has been offered in the return of income.

7. We see no rationale in the plea of the assessee for explanation in claim of depreciation. The assessee while computing the taxable income has taken ‘profit before tax’ as per its ‘profit and loss account’ as a starting point and reduced the depreciation only to the extent of Rs.5,29,347/- (being current year depreciation) as per Companies Act instead of accumulated depreciation of Rs.24,06,445/- claimed as

deduction in the Profit and Loss Account. If the version of the assessee for claim of current year depreciation is accepted then by the same token, 'profit before' tax will stand increased by the differential to the same extent. Thus, when seen holistically, the taxable income has remained understated to the extent of addition rightly made by the Assessing Officer. No cogent explanation has been given for making departure from the tangible records. We thus see no reason to interfere with the first appellate order and the assessment order.

8. In the result, the appeal of the assessee is dismissed.

Order was pronounced in the open Court on 17.03.2023.

Sd/-

**[CHALLA NAGENDRA PRASAD]
JUDICIAL MEMBER**

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**

DATED: **03.2023**

Prabhat