



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK 'SMC' BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER**

**ITA No.119/CTK/2023**

Assessment Year : 2017-18

|  |     |                              |
|--|-----|------------------------------|
| M/s. Ashirvad Infrastructure, Flat No.1, Plot No.26, Budha Nagar, Laxmisagar, Bhubaneswar. | Vs. | ITO, Ward -2(2), Bhubaneswar |
| PAN/GIR No.AATFA 5443 Q  |     |                              |
| <b>(Appellant)</b>   | ..  | <b>( Respondent)</b>         |

Assessee by : Shri Brajabandhu Bihari, AR  
Revenue by : Shri S.C.Mohanty, Sr DR

**Date of Hearing : 13/06/2023**  
**Date of Pronouncement : 13/06/2023**

**ORDER**

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 19.12.2021 in Appeal No.ITBA/NFAC/S/250/2021-22/1037926103(1) for the assessment year 2017-18.

2. Shri Brajabandhu Bihari, Id AR appeared for the assessee and Shri S.C.Mohanty, Id Sr DR appeared for the revenue.

3. It was submitted by Id AR that the assessee is in the business of construction of flat and sale of land. It was the submission that during the

relevant assessment year, the return filed by the assessee came to be taken up for complete scrutiny on the ground that the assessee has shown high closing stock (work-in-progress) and the Id CIT(A) had for the assessment year 2015-16 confirmed the same. It was the submission that consequently, the Assessing Officer had completed the assessment by bringing to tax the estimated profit of the assessee at 6.45% of the closing stock (work –in-progress) as the gross profit. It was the submission that the Assessing Officer had followed the order of the ITAT in assessee’s own case for the assessment year 2015-16 in ITA No.255/CTK/2018 dated 11.9.2019. It was the submission that against the said order of the Tribunal, the assessee had filed appeal before the Hon’ble Jurisdictional High Court of Orissa and the Hon’ble Jurisdictional High Court in ITA No.7/2020 vide order dated 7.4.2022 set aside the order of the Tribunal dated 11.9.2019 as also the order of the Id CIT(A) and AO for the assessment year 2015-16 and held that the assessee was following completed contract method and this being a consistent method followed by the assessee, the percentage completion method adopted for calculating the profit of the assessee for the assessment year was not permissible. It was the submission that for the assessment year under appeal also, the Assessing Officer and Id CIT(A) has applied the percentage completion method on the same project, which was continuing from the assessment year 2015-16. It was the submission that in view of the order of the

Hon'ble Jurisdictional High Court of Orissa in assessee's own case for the assessment year 2015-16, the assessment order and the order of Id CIT(A) may be set aside and it may be directed that the assessee's income is to be assessed by following completed contract method.

4. In reply, Id Sr DR vehemently supported the assessment order and the order of the Id CIT(A). It was the submission that each assessment year is separate assessment year and is to be considered independently.

5. I have considered the rival submissions. A perusal of the assessment order for the impugned appeal shows that the Assessing Officer has relied upon the decision of the Co-ordinate Bench of this Tribunal in assessee's own case for the assessment year 2015-16 referred to supra for the purpose of applying profit at 6.45% of the closing stock (work-in-progress) as gross profit. The Id CIT(A) has also followed the decision of the Co-ordinate Bench of this Tribunal. However, a perusal of the order of the Hon'ble Jurisdictional High Court of Orissa in the case of the assessee for the assessment year 2015-16 in ITA No.7/2020 shows that the Hon'ble Jurisdictional High Court of Orissa has vide its order dated 7.4.2022 set aside the order of the Tribunal in assessee's own case for the assessment year 2015-16 and has upheld the method of accounting followed by the assessee being the completed contract method. This being so, respectfully following the decision of the Hon'ble Jurisdictional High Court of Orissa in assessee's own case for the assessment year 2015-16, the addition as made

by the AO and confirmed by the CIT(A) stands deleted and it is held that the assessee is entitled to offer its income on the consistently followed method being the completed contract method.

6. In the result, appeal of the assessee stands allowed.

Order dictated and pronounced in the open court on 13/06/2023.

Sd/-  
**(George Mathan)**  
**JUDICIAL MEMBER**

Cuttack; Dated 13/06/2023  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : M/s. Ashirvad Infrastructure, Flat No.1, Plot No.26, Budha Nagar, Laxmisagar, Bhubaneswar
2. The Respondent: ITO, Ward -2(2), Bhubaneswar
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT-, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, Cuttack**