

IN THE INCOME TAX APPELLATE TRIBUNAL “F” BENCH, MUMBAI

**BEFORE SHRI OM PRAKASH KANT, AM
AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 7401/Mum/2016
(Assessment Year: 2016-17)

ITA No. 7558/Mum/2019
(Assessment Year: 2012-13)

ACIT Circle- 3(3)(2) Room No. 628, 6 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400020	Vs.	M/s. Videocon Realty & Infrastructures Ltd. 171, C-wing, Mittal Court, Nariman Point, Mumbai-400021
PAN/GIR No.AAACV2303V		
(Appellant)	:	(Respondent)

CO No. 215/Mum/2018
(Assessment Year:2012-13)

M/s. Videocon Realty & Infrastructures Ltd. 171, C-wing, Mittal Court, Nariman Point, Mumbai-400021	Vs.	ACIT Circle- 3(2)(2) Room No. 628, 6 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400020
PAN/GIR No.AAACV2303V		
(Appellant)	:	(Respondent)

Assessee by	:	None
Revenue by	:	Shri Ankush Kapoor, DR

Date of Hearing	:	10.07.2023
Date of Pronouncement	:	11.07.2023

ORDER**PER KAVITHA RAJAGOPAL, J M:**

1. The above captioned appeals have been filed by the revenue challenging the order of the learned Commissioner of Income Tax (Appeals)-8 ('ld.CIT(A) for short), u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2012-13 and 2016-17. The assessee has also filed a cross objection challenging the order of Ld. CIT(A) for A.Y. 2012-13.
2. The revenue and the assessee have challenged the appeal and the cross objection on various grounds. As there was no representation on behalf of the assessee, we hereby proceed to decide the appeals and the CO by hearing the Ld. DR and on perusal of material available on record.
3. As the facts all these cases are identical, we hereby pass a consolidated order in these appeals by taking ITA No. 7558/Mum/2019 as the lead case for the sake of convenience.
4. The brief facts are that the assessee is a domestic company engaged in the business of real-estate development and had filed its return of income for A.Y. 2016-17 dated 17.10.2016 declaring loss at ₹8,34,79,412/-. The assessee's case was selected for scrutiny and assessment order dated 18.12.2018 was passed u/s 143(3) of the Act. where the AO determined the total income at ₹ 3,33,47,710/- under normal provisions and book profit

u/s 115JB at ₹7,20,24,375/- by making an addition/disallowance of ₹11,88,75,497/- u/s 14A of the Act r.w. rule 8D of the IT Rules.

5. The assessee was in appeal before the Ld. CIT(A). The Ld. CIT(A) partly allowed the grounds raised by the assessee. The revenue is in appeal before us challenging the order of the Ld. CIT(A) in deleting the impugned addition/disallowance. The assessee has also filed cross objection for AY. 2012-13.

6. It is observed that the assessee company is undergoing insolvency proceedings before Hon'ble NCLT (National Company Law Tribunal) and the Ld DR has also not controverted the said fact. We deem it fit to dismiss the appeals filed by the revenue with the liberty given to the revenue to restore the appeals and also dismiss the CO filed by the assessee with the liberty given to the assessee/RP after the moratorium period as per section 14 of the Insolvency and Bankruptcy Code 2016 along with fresh Form 36.

7. In the result the appeals filed by the revenue and the cross objection filed by the assessee are dismissed.

Order pronounced in the open court on 11.07.2023

Sd/-
(Om Prakash Kant)
Accountant Member

Sd/-
(Kavitha Rajagopal)
Judicial Member

Mumbai;

Dated : 11.07.2023

Aniket Singh Rajput, Stenographer

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. CIT - concerned

4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai