

आयकर अपीलीय अधिकरण “ए” न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।
BEFORE HON’BLE SHRI MAHAVIR SINGH, VP AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं. ITA No.214/Chny/2022
(निर्धारण वर्ष / Assessment Year: 2011-12)

M/s. Uniway Properties Pvt.Ltd. 97-2A, Harini Avenue, Velachery Main Road, Guindy, Chennai-600 032.	बनाम / Vs.	ITO, Company Ward-3(1) Chennai.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AAACU-7907-P		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकी ओरसे/ Appellant by	:	Ms.N.V. Lakshmi(Advocate-Ld.AR
प्रत्यर्थीकी ओरसे/ Respondent by	:	Shri AR.V.Sreenivasan (Addl.CIT) -Ld. DR

सुनवाईकी तारीख/ Date of Hearing	:	31-07-2023
घोषणाकी तारीख / Date of Pronouncement	:	01-08-2023

आदेश / O R D E R

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeal by assessee for Assessment Year (AY) 2011-12 arises out of the order of learned Commissioner of Income Tax (Appeals)-13, Chennai [CIT(A)] dated 17-02-2020 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 30-03-2014. The grounds taken by the assessee read as under:-

“1. For that the order of the Commissioner of Income Tax (Appeals)“CIT (A)” is contrary to the Law, facts and circumstances of the case and is opposed to the principal of equity, natural justice and fair play.

2. For that the order of the Commissioner of Income Tax (Appeals) "CIT (A)" is contrary to the Law, facts and circumstances of the case and is opposed to the principal of equity, natural justice and fair play.
3. For that the CIT(A) erred in confirming the unexplained Investments of Rs.5,00,000/- in STN Properties.
4. For that the CIT(A) failed to appreciate the full facts and circumstances in confirming the amount of Rs. 93,14,664/- as difference in balance of Sundry_Creditors.
5. For that the CIT(A) erred in confirming Rs. 46,00,000/- as unconfirmed payments to land holders."

As is evident, three issues fall for our Consideration i.e., (i) Addition on account of difference in Sundry creditor balances; (ii) Addition of unexplained investments for Rs.5 Lacs; (iii) Addition of unconfirmed payment to landholders for Rs.46 Lacs. The assessee being resident corporate assessee is stated to be engaged in real estate business.

2. The Registry has noted the delay of 700 days in the appeal, the condonation of which has been sought by Ld. AR on the ground that the delay occurred due to lockdown situation arising out of Covid-19 Pandemic. The Ld. AR submitted that the order was received on 09.03.2020 and the last date for preferring appeal was 08.04.2020 which falls in the exclusion period commencing from 15.03.2020 to 28.02.2022. Though Ld. DR opposed condonation, however, keeping in view the adverse situation arising out of Covid-19 pandemic, we condone the delay and admit the appeal for adjudication.

3. Addition on account of difference in Sundry creditor balances

The assessee reflected balance of Rs.165.65 Lacs against one sundry creditor i.e., M/s Value Budget Housing Company Ltd. (VBHC). However that party confirmed balance of Rs.72.56 Lacs. The Ld. AO added differential of Rs.93.14 Lacs to the income of the assessee. The Ld. CIT(A), considering remand report of Ld. AO, sustained this addition.

The Ld. AR has placed on record a reconciliation statement for whole year to submit that the difference is only reconciliation difference and no addition is warranted. Considering the same, this issue is remitted back to the file of Ld. AO for verification of reconciliation and re-adjudication. The ground stands allowed for statistical purposes.

4. Addition of unexplained investments for Rs.5 Lacs

The assessee made various payments aggregating to Rs.172 Lacs to one STN properties. In the absence of evidences forthcoming from the assessee, this amount was added to the income of the assessee. The Ld. CIT(A), considering remand report of Ld. AO, sustained addition of Rs.5 Lacs. Aggrieved, the assessee is in further appeal before us. We find that the assessee is able to substantiate the claim only to the extent of Rs.167 Lacs. Therefore, this addition is confirmed.

5. Addition of unconfirmed payment to landholders.

The Ld. AO made addition of Rs.24.62 Crores under this head. The Ld. CIT(A), considering remand report of Ld. AO, sustained addition of Rs.46 Lacs. Aggrieved, the assessee is in further appeal before us. We find that the assessee is able to substantiate the claim partially only and the factual findings rendered by lower authorities remain uncontroverted before us. Therefore, this addition is confirmed.

5. The appeal stand partly allowed for statistical purposes.

Order pronounced on 01st August, 2023.

Sd/-
(MAHAVIR SINGH)
उपाध्यक्ष / **VICE PRESIDENT**

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखा सदस्य / **ACCOUNTANT MEMBER**

चेन्नई Chennai; दिनांक Dated : 01-08-2023.

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आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF