आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD

BEFORE
SHRI RAMA KANTA PANDA, VICE PRESIDENT
&
SHRI K. NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA No.	निर्धारण वर्ष / A.Y.	अपीलार्थी / Appellant	प्रत्यर्थी / Respondent
33/Hyd/2017	2012-13	Deputy Commissioner of Income Tax, Circle-2(1), Hyderabad	M/s. KMC Constructions Limited, Hyderabad [PAN No. AABCK6483B]
1075/Hyd/2017	2013-14		
692/Hyd/2019	2014-15		
693/Hyd/2019	2015-16		
735/Hyd/2020	2017-18		
635/Hyd/2019	2014-15	M/s. KMC Constructions Limited, Hyderabad [PAN No. AABCK6483B]	Deputy Commissioner of Income Tax, Circle-2(1), Hyderabad
636/Hyd/2019	2015-16		

निर्धारिती द्वारा/Assessee by: Shri S. Rama Rao, AR
राजस्व द्वारा/Revenue by: Shri Jeevan Lal Lavidiya, CIT-DR

सुनवाई की तारीख/Date of hearing: 07/06/2023
घोषणा की तारीख/Pronouncement on: 25/08/2023

आदेश / **ORDER**

PER BENCH:

Aggrieved by the order(s) passed by the learned Commissioner of Income Tax (Appeals)-2, Hyderabad, ("Learned CIT(A)"), in the case of M/s. KMC Constructions Ltd., ("the assessee") for the assessment years 2012-13, 2013-14, 2014-15, 2015-16 & 2017-18, both Revenue and Assessee preferred these appeals. For the sake of convenience, we dispose of these appeals by way of this common order.

2. Assessee is a company and engaged in the business of civil construction works. While determining the income of the assessee for the assessment years 2012-13, 2013-14, 2014-15, 2015-16 & 2017-18, learned Assessing Officer made certain additions and in appeal, learned CIT(A) granted relief in respect of certain additions, while confirming the others. Challenging the relief granted, Revenue preferred ITA Nos. 33/Hyd/2017, 1075/Hyd/2017, 692/Hyd/2019, 693/Hyd/2019 and 735/Hyd/2020; whereas aggrieved by the additions that are sustained, assessee preferred ITA Nos. 635 and 636/Hyd/2019.

Revenue Appeals in ITA Nos. 33/Hyd/2017, 1075/Hyd/2017, 692/Hyd/2019, 693/Hyd/2019 & 735/Hyd/2020:

3. First coming to the appeals preferred by the Revenue, in all these five appeals, Revenue has raised four issues challenging the findings of the learned CIT(A), namely, (i) allowing depreciation after estimation of income, (ii) allowing deduction under section 80-IA of the Act, (iii) estimating the FMS income and adjudicating on the income from other sources offered by the assessee himself, and (iv) exclusion of works allotted to sub-contractors. First issue is common for the assessment years 2013-14, 2014-15, 2015-16 and 2017-18, second issue is common for all the appeals, third issue is involved for the assessment years 2012-13 and 2014-15 whereas fourth issue is there in assessment year 2012-13. For the sake of convenience, we deal the grounds issue-wise.

4. Insofar as the issue relating to the allowance of depreciation after estimation of income for the assessment years 2013-14, 2014-15, 2015-16 & 2017-18 is concerned, according to the learned Assessing Officer, in spite of granting several opportunities to the assessee to produce the books of accounts and other material like bills and vouchers, assessee failed to comply with the same and, therefore, the absence of supporting material necessitated the learned Assessing Officer to estimate the income of the assessee @8% on the works executed by the assessee and @5% on the works executed by sub-contractor. At the same time, learned Assessing Officer did not allow any depreciation claimed by the assessee, stating that such a claim for depreciation was taken care by the lower percentage of estimation.

5. Learned CIT(A) dealt with this issue in the light of the ITAT order for the earlier assessment years followed by his predecessor for the assessment year 2013-14 and observed that for the earlier assessment years, depreciation was allowed to the assessee by the learned Assessing Officer himself and for the assessment year 2013-14 also depreciation was allowed to the assessee, following the order of the Hon'ble High Court in the case of CIT vs. Y. Ramachandra Reddy, 50 taxmann.com 129.

6. It is contended by the Revenue that when the income of the assessee is estimated, allowing of depreciation goes against the decision of the Tribunal in assessee's own case for the assessment years 2001-02 and 2003-04; whereas it is submitted by the learned AR that for the assessment years 2004-05 to 2010-11, the learned Assessing Officer himself allowed depreciation after estimating the income of the assessee and, therefore, the issue before the learned CIT(A) and the Tribunal for those years was not in respect of the depreciation, but it was only focused on the estimate of income.

7. We have gone through the record in the light of the submissions made on either side. We perused the order dated 16/03/2012 in assessee's own case in ITA Nos. 430 & 996/Hyd/2003 and 558/Hyd/2006 for the assessment years 2001-02, 2002-03 and 2003-04. As rightly pointed out by the learned AR, the issue involved in these three appeals was only in respect of the estimation of income. A Co-ordinate Bench of the Tribunal, however, while dealing with such an issue relating to the estimation of income from sub-contract and contract receipts and confirming the estimation of income, held that after the estimation of income, the assessee is entitled for deduction towards depreciation as all other

deductions deemed to have been allowed under section 30 to 38 of the Act. Allowance or otherwise of the depreciation after the estimate was not in issue at all.

8. However, in the case of CIT vs. Y. Ramachandra Reddy [2014] 50 taxmann.com 129 (AP), an appeal preferred by the Revenue, the Hon'ble jurisdictional High Court, considered the issue relating to the feasibility of allowing the depreciation after estimation of income in cases where section 44AD of the Act has no application because of the turnover being the above the threshold limit, and held that,-

> *"12. For example, Section 44AD of the Act provides for determination of the income of an assessee from the business at 8% of the total turnover or the gross receipts of the previous year under certain circumstances. Sub-Section (2) is to the effect that if any deduction allowable under Sections 30 to 38, which takes in its fold the deduction such as depreciation and interest, shall be deemed to have been effected. The procedure under that section, however, applies only when the turnover is below a particular figure which at the relevant point of time was Rs.40,00,000/-. As of now, it is Rs.1 Crore. In the instant case, Section 44AD of the Act does not apply because the turnover was above the stipulated amount. Therefore, the feasibility of deduction of turnover and interest cannot be said to have been taken away.*
>
> *13. The learned counsel for the appellant is not able to point out any provision of law in the Act or Rules made thereunder, which restricts the allowance of the depreciation and interest. On the other hand, the facility created under the Act is so firm and strong that if for any reason it becomes impermissible or unnecessary for an assessee to seek the allowance of depreciation for a particular Assessment Year, he is entitled to carry it forward, for the subsequent years. In such an event, it assumes the character of unabsorbed depreciation. In this very case, the Assessing Officer permitted the allowance of unabsorbed depreciation to the respondent. However, he denied the benefit of the allowance of current depreciation and interest. No reference is made to any provision of law to make such distinction. His understanding of the matter is that Section 44AD of the Act, that provides for a comprehensive formula of determining net profit*

derived by a civil contract or at 8%, takes in its fold, allowance of depreciation, interest and other benefits. The fact, however, remains that such a provision was not in exercise in the Assessment Year 1994-95.

14. If an assessee is entitled to claim deduction of interest, be it under Section 36(1)(iii) of the Act or any other relevant provision and of depreciation under Section 37 of the Act, in the ordinary course of assessment, there is no reason why the same facilities be not extended to him, merely because the profit is determined on the basis of estimation as was done in the instant case. We are of the view that depreciation and interest, which are otherwise deductable in the ordinary course of assessment, remain the same legal character, even where the profit of assessee is determined on percentage basis.

15. The conclusions arrived at by us, get support from the Circular dated 31.08.1965 issued by the Central Board of Direct Taxes. Though the Circular was with reference to the 1922 Act, it holds good for the analogous provisions under the 1961 Act."

9. While dealing with this issue for the assessment year 2013-14, learned CIT(A) referred to the decision of the Third Member in assessee's own case for the assessment year 1991-92 and 1992-93 wherein it was held that depreciation was allowable as a deduction after estimation is resorted to. He also referred to the Circular No. 29-D/XIX-14 in F.No. 45/239/65-ITJ dt 31/08/1965 issued by the CBDT. Learned CIT(A), then, followed the binding precedent of the Hon'ble jurisdictional High Court in the case of Y. Ramachandra Reddy (supra) and granted relief to the assessee allowing depreciation after rejection of books of accounts and estimating the income.

10. For this year, learned CIT(A) followed this view taken for the assessment year 2013-14 by his predecessor and allowed depreciation to the assessee. We, therefore, do not find anything illegality or irregularity in the order of the learned CIT(A), granting depreciation to the assessee by

following the binding precedent. We, therefore, uphold the findings of the learned CIT(A) and dismiss this ground of appeal for all these years.

11. Now issue relates to allowance of deduction under section 80-IA of the Act for all the assessment years under consideration. Both the counsel concede that this issue was covered by the findings of the Tribunal in assessee's own case for the earlier assessment years. Learned Assessing Officer, however, recorded that the assessee did not fulfil the essential conditions to be a developer like investment, entrepreneurial risk and using of facility – and, therefore, the assessee is only a work contractor. According to the learned Assessing Officer, since the Revenue preferred appeals and those are pending before the Hon'ble High Court, to maintain consistency in the stand of the Revenue, deduction under section 80-IA of the Act, was not to be allowed.

12. Learned CIT(A), however, followed the CBDT Circular No. 4/2010, dated 18/05/2010 in F.No. 178/14/2010-ITA.1 and also the view taken by the Tribunal in assessee's own case for assessment years 2001-02 to 2007-08 and held that in view of the facts and issue being identical with the earlier assessment years, deduction under section 80-IA of the Act has to be allowed. Insofar as this fact is concerned, absolutely there is no dispute.

13. Learned DR vehemently contends that the department did not accept the view taken by the Tribunal in the earlier assessment years and appeals are pending before the Hon'ble High Court and, therefore, the view taken by the Tribunal for the earlier assessment years cannot be taken as a precedent binding the subsequent Benches; whereas the learned AR contended that the Tribunal by order dated 16/03/2012 in ITA

No. 996/Hyd/2003 elaborately discussed the facts and decided the issue in favour of the assessee and since there is no change in the factual matrix, the facts do not permit a different view. Learned AR submits that as on the date, there is a precedent in the findings of the Tribunal in assessee's own case un-disturbed and, therefore, the same may be followed.

14. We considered this issue. Facts of this year are identical to the facts of the earlier assessment years. Vide paragraph Nos. 44 to 55 of its order, a Co-ordinate Bench of the Tribunal in ITA No. 996/Hyd/2003 (supra), discussed the facts at length in the light of the case law available on this issue and reached to a conclusion that even where the assessee had caried out the development of infrastructure work in consortium or jointly with any other agency and not as a sub-contractor still the assessee is entitled for deduction under section 80-IA of the Act. This finding holds good as on the date.

15. In view of the identical facts involved for all these years, we do not find any illegality or irregularity in the order of learned CIT(A) following the binding precedent in the well considered view of a Co-ordinate Bench of the Tribunal taken for the earlier assessment years by order dated 16/03/2012 (supra). We, therefore, uphold the findings of the learned CIT(A) for all the assessment years and dismiss this ground of Revenue in all the appeals.

16. Turning to the issue relating to the Facility Management Services (FMS), for the assessment years 2012-13 and 2014-15 learned Assessing Officer added the entire receipts relating to the FMS as 'income from other sources'. In appeal, it was contended by the assessee before the learned

CIT(A) that the assessee had to incur expenditure for deriving such an income and when the income earned from other projects was estimated, the income from FMS also needs to be estimated.

17. Learned CIT(A) agreed with the submissions on behalf of the assessee and opined that the entire receipt cannot be considered as 'income'. Considering the contention of the assessee that expenditure for this segment constitutes 90%, learned CIT(A) estimated the income component at 15% of the receipt towards FMS. We can find this reasoning at paragraph No. (i) to (iii) after paragraph No. 8.4 of the order of the learned CIT(A) for the assessment year 2012-13, which the learned CIT(A) followed for the assessment year 2014-15 also.

18. Having considered the facts, we concur with the observation of the learned CIT(A) that the entire receipt cannot constitute the income and when once the learned Assessing Officer estimated the income from other projects, it is but reasonable to estimate the income from the FMS also. Learned CIT(A) considered the facts submitted by the assessee and also having considered the contention of the assessee that expenditure in this service constitutes 90% and income is only at 10%, learned CIT(A) estimated the income from FMS at 15%.

19. Though the Revenue challenged this estimate very vehemently, contending that the assessee did not incur any expenditure to render this service, we cannot accept the same because no service earning revenues could be rendered without expenditure. At the same time, no material is placed before us to show as to how this estimate went wrong. Hence, we find it difficult to hold that the estimate made by the learned CIT(A) suffers

no infirmity. We accordingly uphold the same and dismiss Ground No. 4 for assessment year 2012-13 and Ground Nos. 3 & 4 for assessment year 2014-15.

20. Now coming to the last issue raised by the Revenue and relevant for the assessment year 2012-13, it relates to the grievance of the Revenue that the learned CIT(A) erred in directing the exclusion of works allotted to subcontractors and other project works while estimating the income on contracts. It could be seen from the record that the learned Assessing Officer estimated the income of the assessee at 12.5% of the turnover, while rejecting the books of accounts of the assessee. Grievance of the assessee is that in that process, the learned Assessing Officer is not justified in estimating the income of 12.5% on the gross contract receipts without considering the depreciation and the departmental recoveries and also certain items which do not impact the element of profit.

21. It was the argument of the assessee before the learned CIT(A) that in the earlier assessment years, the tax authorities estimated the element of income by dividing the contracts executed by the assessee into two broad categories, namely, on contracts and sub contracts undertaken; the own contracts are further subdivided into contract works got executed through subcontractors and the contract works executed by the assessee himself, whereas the subcontractor bifurcated into the sub contracts done through outsiders and sub contracts executed by the assessee himself. Assessee further submits that the rate of profit was adopted by the authorities like in respect of own contracts to the extent got done through the subcontractors, the amount of commission received as reduced by the estimated expenditure by treating it as income and the amount was

reduced from the gross receipts, in respect of own contract works done by the assessee itself, 12.5% of the receipts as reduced by the Department recoveries, in respect of sub contracts got done through the outsiders, the amount retained or the amount of commission paid by the subcontractors is treated as income and income on the balance of the amount received from the principal contractor is estimated at 8% and the aggregate of the amount was reduced by the allowable depreciation. Assessee placed reliance on the decision of the Hon'ble Apex Court in the case of Brij Bhushan Lal Parduman Kishore vs. CIT 115 ITR 524.

22. Learned CIT(A) perused the orders of assessment for the earlier assessment years and found, as a matter of fact, that the income from own contracts was estimated at 12.5% on the gross contract receipts as reduced by the recoveries and the works done on sub contract, insofar as the works given to subcontractors, the commission retained by the assessee was adopted as the income, and insofar as the sub contract works of the works received from others are concerned, the income was estimated at 7.5% for the earlier assessment years.

23. Learned CIT(A) while applying the decision of the Hon'ble Apex Court in the case of Brij Bhushan Lal (supra) to the above undisputed facts, directed the learned Assessing Officer to determine the business income of the assessee by considering the receipts from the own contracts after reducing the cost of recoveries and also the depreciation. Learned CIT(A) further directed the learned Assessing Officer to consider the receipts from the works entrusted by the SPVs, by reducing the value of the works allotted to subcontractors and then estimate the same at 8%; and commission received in respect of works given on sub contracts were to

be added to the said amounts. In the same breath, the learned CIT(A) held that since the assessee had to incur expenditure for deriving income whether it is for facility management services or for earning the fees for project development, and when the income earned from the other projects is estimated, the income from the FMS and the fees for project development shall also be estimated.

24. On the face of these facts, Revenue contends that the learned CIT(A) was not correct in directing the exclusion of works allotted to subcontractors and also the other project works while estimating the income of the contracts. There is no denial of the fact that in assessee's own case for the earlier assessment years, the learned Assessing Officer and the first appellate authorities held that the gross receipts shall be reduced by the recoveries were to be considered for estimation and also the works allotted to the subcontractors in respect of the SPVs. Learned CIT(A) recorded as a matter of fact, on perusal of the orders of the assessment for the earlier assessment years for this purpose, that the Department is consistently adopting this procedure and there is no reason for deviating from the same.

25. Since the learned CIT(A) followed the consistent view adopted by the Revenue for the earlier assessment years and also the binding precedent of the decision of the Hon'ble Apex Court in the case of Brij Bhushan Lal (supra), we do not find anything illegality or irregularity in the findings returned by the learned CIT(A) and, accordingly, uphold the same. Consequently, we dismiss ground No. 2 of the appeal of Revenue for the assessment year 2012-13. With this, all the grounds of appeals of the Revenue stand answered in the negative and stand dismissed.

26. In the result, all the appeals of Revenue are dismissed.

Assessee Appeals in ITA Nos. 635 & 636/Hyd/2019:

27. Now coming to the appeals preferred by the assessee, in these two appeals, the assessee challenged the direction of the learned CIT (A) to the learned Assessing Officer to adopt the profit rate of 12.5% on contract receipts and to tax the interest income as 'income from other sources'.

28. On the aspect of profit rate, as stated above, brief facts of the case are that during the course of assessment proceedings, despite several opportunities granted by the learned Assessing Officer to produce the books of account and other details to substantiate the return of income from his books, bills and vouchers, there was no compliance from the side of the assessee. In absence of such details, the learned Assessing Officer estimated the income @ 8% on works executed by the assessee itself and 5% on works executed through sub-contractors and did not allow depreciation.

29. In appeal, the learned CIT(A), following the decision of his predecessor in assessee's own case for earlier assessment year, directed the learned Assessing Officer to estimate the income @12.5% on own contract works executed by the assessee and 5% executed through sub-contracts (inclusive of SPV) and 7.5% on works executed on behalf of the SPV and allowed depreciation thereafter.

30. Insofar as the profit of 12.5% on own work directed by the learned CIT (A) is concerned, learned AR submitted that it is an admitted fact that during the earlier years i.e. from assessment years 2001-02 to 2007-08, the

Tribunal held that profit @12.5% on contracts executed by itself, and 4% on contracts executed through the sub-contractors before depreciation is a fair estimation. According to him, however, the position in the current years is different from those of the earlier year so far as the finance charges are concerned. Learned AR drew our attention to the table reproduced by the learned CIT(A) in the body of the appeal order and submitted that as against around 3 to 5.5% of the financial charges during the assessment years 2006-07 to 2009-10, such financial charges have gone upto more than 19% in the assessment years 2014-15and 2015-16. For the sake of convenience, we reproduce such table hereunder,-

S.No.	Asst. Year	Gross Receipts	Financial Charges	%
1	2006-07	3030478531	130073134	4.29%
2	2007-08	6608057165	251905421	3.78%
3	2008-09	7282387944	229417743	3.14%
4	2009-10	8383903915	459420592	5.49%
5	2010-11	9990306241	928048909	9.30%
6	2011-12	10367247572	1384411485	13.32%
7	2012-13	10312117903	1195843322	11.65%
8	2013-14	10550944576	1121153378	10.62%
9	2014-15	6333085837	1249185853	19.72%
10	2015-16	7847091027	1516695115	19.32%

31. His argument is that when the assessee undisputedly incurring such huge financial charges, the estimation of profit at 12.5% on own contract works before depreciation is not justified. He accordingly submitted that the same should be reduced to 9% to 10%.

32. Per contra, learned DR heavily relied on the order of the learned CIT (A). He submitted that the learned CIT(A) has followed the decision of his predecessor for the preceding year in assessee's own case, therefore, the same should be upheld.

33. We have gone through the record in the light of the submissions made on either side. We have also considered the various decisions cited before us by both sides. Only dispute in the grounds raised by the assessee in these appeals is regarding the estimation of profit @ 12.5% on contract executed by self. We find that the learned CIT(A), following the order of his predecessor learned CIT(A) in assessee's own case for the earlier years, directed the learned Assessing Officer to estimate the profit at 12.5% on contract work executed by self. It is the submission of the learned Counsel for the assessee that such estimation at 12.5% is not at all justified for the impugned assessment year especially when the financial charges had substantially gone up to almost 19.72% in financial year 2014-15 as against 3.78% in assessment year 2007-08.

34. We find some force in the above argument of the learned Counsel for the assessee. The details of financial charges and the percentage of interest in the earlier years as well as for the current year depicted in the above table clearly show that as against the finance charges of 3.78% in A.Y 2007-08, the same has gone up to 19.72% in assessment year 2014-15 and 19.32% in assessment year 2015-16. Under this circumstance, the estimation of profit at 12.5% cannot be applied merely because the same was directed by his predecessor learned CIT (A) in assessee's own case in the preceding years.

35. There are various factors that influence the profit percentage even when the books of account are rejected and financial charges are one of the major factors. Profit percentage of an assessee with high financial charges cannot be compared with that of an assessee having zero financial charges or very less/negligible financial charges. Since in the case on hand, the finance charges have drastically gone up from 3.78% in assessment year 2007-08 to 19.72% in assessment year 2014-15, therefore, considering the totality of the facts of the case, we are of the considered opinion that estimation of profit @ 11.5% as against 12.5% directed by the learned CIT (A) for these years will be fair and reasonable estimation. We, therefore, modify the order of the learned CIT (A) accordingly and direct the learned Assessing Officer to estimate the profit @ 11.5% before depreciation on contract work executed by the assessee itself. Grounds raised by the assessee are accordingly allowed in part.

36. The other issue raised by the assessee relates to the taxability of interest income as "income from other sources". Learned Assessing Officer treated the interest income on Fixed Deposits as "income from other sources". In appeal, learned CIT (A) upheld the action of the Assessing Officer on the ground that his predecessor in the preceding year has upheld the action of the learned Assessing Officer in treating interest income on Fixed Deposits as "income from other sources".

37. Aggrieved with such order of the learned CIT (A), the assessee is in appeal before the Tribunal. Learned AR submitted that the fixed deposits were made with regard to the bank guarantees etc., and the interest is allowable against the said fixed deposits and the authorities below did not

allow the same as deduction. Learned DR on the other hand, supported the findings of the learned CIT(A) on this aspect.

38. We have heard both sides. We find identical issue had come up before the Tribunal in assessee's own case in assessment years 2008-09 & 2009-10. In ITA Nos. 1247/Hyd/2012 & ITA No.1248/Hyd/2012 order dated 28/10/2013, a Co-ordinate Bench of the Tribunal decided the issue against the assessee by observing as under:

> *"16. We have considered the rival submissions and perused the orders of the lower authorities. The issue before us is the head under which the interest income derived by the assessee from the bank deposits made towards margin money, or for securing bank guarantee has to be assessed. It is the contention of the assessee that this interest income is inextricably linked to the business of the assessee and hence, it has to be assessed under the head business and not as income from other sources, and consequently, it is the claim of the M/s. KMC Constructions Ltd., Hyderabad assessee that the Assessing Officer, having estimated the assessee's income from business and assessed the same to tax, no separate addition is called for under S.56, for bringing to tax the interest income in question, under the head 'other sources'. In support of this contention, reliance is placed on the decisions of the Tribunal in assessee's own cases for the earlier years noted above. On careful consideration of the matter, we find no merit in the contentions of the assessee on this aspect. The issue as to the head under which the interest earned by the assessee, even in the course of carrying on the business, now stands settled by the decisions of the Apex Court in Tuticorin Alkali Chemicals & Fertilisers Ltd.(227 ITR 172) and Pandian Chemicals V/s. CIT(262 ITR 278). In view of the ratio laid down by the Apex Court in these decisions, which in fact have been followed by the CIT(A) in the impugned orders, the decisions of the Tribunal in assessee's own cases for assessment years 1991-92 and 1992-93 and for assessment year 1995-96, noted (supra), as also the decision of the jurisdictional High Court in the case of CIT V/s. Vidyut Steel ltd.(219 ITR 30), are no longer a good law. In this view of the matter, finding no merit in the grievance of the assessee on this issue, we uphold the orders of the CIT(A) on this issue and reject the grounds of the assessee in these appeals."*

39. Since identical issue has already been decided by the Tribunal against the assessee in assessee's own case in the assessment year 2008-09 and 2009-10, therefore, in the absence of any distinguishable feature brought to our notice, respectfully following the same we uphold the order of the learned CIT(A) confirming the action of the learned Assessing Officer in treating the interest income from Fixed Deposits as "income from other sources". The ground raised by the assessee on this issue is dismissed.

40. In the result, both the appeals of assessee are partly allowed.

41. To sum-up, all the Revenue appeals are dismissed and both the appeals of assessee are partly allowed.

Order pronounced in the open court on this the 25th day of August, 2023.

Sd/-	Sd/-
(RAMA KANTA PANDA)	**(K. NARASIMHA CHARY)**
VICE PRESIDENT	**JUDICIAL MEMBER**

Hyderabad,
Dated: 25/08/2023

TNMM

Copy forwarded to:

1. Deputy Commissioner of Income Tax, Circle-2(1), Hyderabad.
2. M/s. KMC Constructions Limited., 8-2-268/1/E, 555, Arora Colony, Road No. 3, Banjara Hills, Hyderabad.
3. The Pr.CIT-2, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ITAT, HYDERABAD