

IN THE INCOME TAX APPELLATE TRIBUNAL
PANAJI BENCH, PANAJI
(AT e-Court, PUNE)

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI S.S.VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.49/PAN/2022

निर्धारण वर्ष / Assessment Year : 2017-18

Commonwealth Developers Pvt. Ltd., CD Fountain head, Murida Post, Fatorda, Salcete, Goa – 403 602 PAN : AABCD1337M	Vs.	ACIT, Special Range, Panaji
Appellant		Respondent

Assessee by Shri Pramod Vaidhya
Revenue by Shri P.S. Shivshankar

Date of hearing 13-09-2023
Date of pronouncement 14-09-2023

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the assessee arises out of the order dated 21-04-2022 passed by the CIT(A) in National Faceless Appeal Centre (NFAC), Delhi in relation to the assessment year 2017-18.

2. The only issue raised in this appeal is against the confirmation of disallowance of Rs.43,48,000/- towards brokerage paid by the assessee on sale of flats.

3. Briefly stated, the facts of the case are that the assessee is engaged in the business of real estate development. It claimed deduction towards brokerage of Rs.43,48,000/-. On being called

upon to furnish the necessary details in support of the brokerage, the assessee submitted party-wise detail of 23 persons to whom such brokerage was paid. The Assessing Officer (AO) made the disallowance of the entire brokerage on the ground that the assessee failed to furnish justification for the payment. The ld. CIT(A) affirmed the addition, against which the assessee has approached the Tribunal.

4. After considering the rival submissions and perusing the relevant material on record, it is seen that the assessee furnished necessary details of the persons to whom brokerage was paid totalling to Rs.43.48 lakh on sales of Rs.37,38,38,261/-, which comes to 1.16%. A chart has been placed on record showing the position of brokerage paid in earlier years. For the immediately preceding year, the assessee paid brokerage of Rs.27,90,000/- on turnover of Rs.11,25,00,000/-, which comes to 2.48%. The case for the immediately preceding A.Y. 2016-17 was taken up for scrutiny u/s.143(3) and the AO did not make any disallowance on this score. A year prior, namely, A.Y. 2015-16, the assessee paid brokerage at the rate of 2.99% of the total sales, which was also allowed by the AO in the assessment u/s.143(3). For the A.Y. 2014-15, the assessee paid brokerage at 1.52%, which was also allowed by the AO u/s.143(3) of the Act. It, therefore, transpires that for all the

earlier years, the assessee paid brokerage in the same manner as it paid for the year under consideration. Assessments for all the immediately preceding three years were taken up for scrutiny u/s.143(3) and deduction of brokerage was allowed. In the year under consideration, the assessee paid brokerage at 1.16% as against the immediately preceding assessment year at 2.48% and 2.99% a year prior. Thus, the brokerage paid during the year under consideration is quite reasonable *vis-a-vis* the earlier years. In our considered opinion, once the brokerage has been allowed in all the earlier years and the assessee furnished the details of the persons to whom the brokerage was paid, there was no reason on the part of the AO to disallow it on the ground that no justification was given for payment. We, therefore, overturn the impugned order and direct to delete the addition.

5. In the result, the appeal is allowed.

Order pronounced in the Open Court on 14th September, 2023.

Sd/-
(S.S.VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 14th September, 2023
सतीश

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The respondent
3. The Pr.CIT concerned
4. DR, ITAT, Panaji Bench, Panaji
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,**// True Copy //**

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	13-09-2023	Sr.PS
2.	Draft placed before author	14-09-2023	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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