

**IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH : BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
MS. MADHUMITA ROY, JUDICIAL MEMBER**

ITA No. 705/Bang/2023
Assessment Year : 2016-17

M/s. Krishna E Campus Pvt. Ltd., NIRMAL, 344 RMV II Stage, II Block, 1 st Cross, Bangalore – 560 094. PAN: AACCK2999P	Vs.	The Joint Commissioner of Income Tax, Circle – 4(1)(1), Bangalore.
APPELLANT		RESPONDENT

Assessee by	:	Shri Prasanna Urala, Advocate
Revenue by	:	Shri Nischal .B, Addl. CIT DR

Date of Hearing	:	06-12-2023
Date of Pronouncement	:	14-12-2023

ORDER

PER MADHUMITA ROY, JUDICIAL MEMBER

The instant appeal filed by the assessee is directed against the order dated 31.07.2023 passed by the National Faceless Appeal Centre (NFAC), Delhi arising out of the order dated 14.05.2019 passed by the ACIT, Circle – 4(1)(1), Bangalore u/s. 154 of the Income Tax Act, 1961 (hereinafter referred to as “the Act”) for A.Y. 2016-17.

2. The assessee engaged in developing of property and constructing residential apartments cum commercial

complex filed its return of income for the year under consideration on 16.10.2016 declaring loss of Rs.(-) 1,87,96,563/- which was finalized by the Ld.AO upon determining income at Rs.2,09,82,885/-. GP was determined on the basis of the percentage completion method. After allowing expenses from it, the income was determined by the Ld.AO at Rs.2,09,82,885/-. The loss claimed by the appellant in its return were rejected. The assessee preferred an application for rectification which also stood rejected.

3. At the time of hearing of the instant appeal, the Ld.Counsel appearing for the assessee submitted before us that the Ld.AO has not given a proper opportunity of being heard which was also recorded in the order passed by the Ld.CIT(A). However the order passed on the rectification application made by the assessee before the Ld.AO stood wrongly rejected by the Ld.CIT(A) as admittedly the assessee was not given proper opportunity of being heard.
4. In that view of the matter, the issue needs to be adjudicated afresh by the Ld.AO upon giving an opportunity to the assessee for the ends of justice as the crux of the arguments of the Ld.AR. Such contention made by the assessee's counsel was not been able to be controverted by the Ld.DR. We also find force in such submission rendered by assessee's counsel. Hence in order to prevent the miscarriage of justice, we remit the issue to the file of Ld.AO for adjudication of the same upon granting an opportunity of being heard to the

assessee and upon taking into consideration the evidence on record or any other evidence which the assessee may choose to file at the time of hearing of the matter.

In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 14th December, 2023.

Sd/-
(CHANDRA POOJARI)
Accountant Member

Sd/-
(MADHUMITA ROY)
Judicial Member

Bangalore,
Dated, the 14th December, 2023.
/MS /

Copy to:

1. Appellant
2. Respondent
3. CIT
4. DR, ITAT, Bangalore
5. Guard file

By order

Assistant Registrar,
ITAT, Bangalore