

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. 591/Hyd/2023
(निर्धारण वर्ष / Assessment Year: 2012-13)

Deputy Commissioner of Income Tax, Circle-5(1), Hyderabad	Vs.	M/s. Progressive MVR Joint Venture, Hyderabad [PAN: AAAAP5541J]
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारिती द्वारा / Assessee by: Shri Santi Pavan Kumar, AR
राजस्व द्वारा / Revenue by: Shri Waseem UR Rehman, DR

सुनवाई की तारीख/Date of hearing: 29/02/2024
घोषणा की तारीख/Pronouncement on: 29/02/2024

आदेश / ORDER

PER K. NARASIMHA CHARY, J.M:

Challenging the order dated 27/09/2023 passed by the learned Commissioner of Income Tax (Appeals)- National Faceless Appeal Centre (NFAC), Delhi ("Ld. CIT(A)"), in the case of Progressive MVR Joint Venture ("the assessee") for the assessment year 2012-13, Revenue preferred this appeal.

2. Only grievance of the Revenue in this matter is that as against the estimation of profit at 6% of the gross receipts made by the learned Assessing Officer, the learned CIT(A) deleted the entire addition, without any basis. Facts are that in the return of income filed on 29/03/2013 for the assessment year 2012-13, declaring the total income of Rs. 1,79,62,100/-, the assessee had shown the same at 2% of the gross profits. According to the assessee, no books of accounts were maintained. Learned Assessing Officer thought that profit at 2% of the turnover is too low and, therefore, estimated the same at 6% thereof.

3. Assessee preferred appeal and pleaded that in assessee's own case for the assessment year 2010-11, estimate at 2% was made. Learned CIT(A) while referring to the estimate at 2% for the assessment year 2010-11, held that the estimate of profits by the learned Assessing Officer at 6% is without any basis and, therefore, deleted the same.

4. Revenue is therefore, aggrieved and filed this appeal, stating that the learned CIT(A) ignored the fact that the learned Assessing Officer placed reliance on the decision of the Co-ordinate Bench of the Tribunal in the case of M/s. PCL-MVR Joint Venture, for the assessment year 2006-07, in ITA No. 662/Hyd/2010, by order dated 16/03/2012 and, therefore, there is no basis for the learned CIT(A) to delete the addition.

5. We have gone through the record in the light of the submissions made on either side. There is no dispute that this issue is squarely covered by the common order of the Co-ordinate Bench of the Tribunal in the case of PCL-STICCO Joint Venture and PCL – MVR Joint Venture in ITA Nos. 1556/Hyd/2010 and 1517/Hyd/2011, for the assessment year 2007-08, by

order dated 21/09/2012, wherein the Co-ordinate Bench of the Tribunal decided the issue by observing that,-

“17. Before us, the learned counsel for the assessee submitted that the issue under consideration is squarely covered by the decision of the coordinate bench in the case of DCIT Vs. M/s PCL Sticco JV (supra). The learned DR did not controvert the facts available on record.

18. After hearing the parties and perusing the record, we find that the issue in dispute is squarely covered by the decision of the coordinate bench in the case of PCL Sticco JV (supra) wherein the coordinate bench following the decision of another coordinate bench in the case of M/s Limak Soma JV in ITA No. 498 to 599/Hyd/2006, dismissed the appeal of the revenue. Respectfully following the decision of the said coordinate bench in the case of PCL Sticco JV(supra), we set aside the order of the CIT(A) and hold that no income is assessable in the hands of the assessee. Therefore, the addition made by the AO on this count is hereby deleted.

19. We have heard both the parties, perused the record and gone through the orders of the authorities below. The learned counsel for the assessee Shri Raghavendra Rao has also submitted in the paper book the details of contract receipts and profit & loss account. He also reiterated that no income is earned by the JV and the income has arisen to the members individually. In these circumstances, we restore the issue to the file of the Assessing Officer to verify whether the corresponding incomes as per the allotment of JV agreements has been offered in the individual (constituents) hands and, if so, it cannot be taxed in the hands of the JV, namely, the assessee. Hence, the appeal of the assessee is allowed for statistical purposes.”

6. In view of the undisputed fact that learned CIT(A) also referred to the above decision, we respectfully follow the same and set aside the impugned order and restore the issue to the file of the learned Assessing Officer to verify whether the corresponding incomes as per allotment of JV

agreements has been offered in the hands of the individual constituents and decide the issue as per fact and law.

7. In the result, appeal of the Revenue is treated as allowed for statistical purposes.

Order pronounced in the open court on this the 29th day of February, 2024.

Sd/-
(RAMA KANTA PANDA)
VICE PRESIDENT

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Hyderabad,
Dated: 29/02/2024

Copy forwarded to:

1. The Deputy Commissioner of Income Tax, Circle-5(1), Hyderabad.
2. M/s. Progressive MVR Joint Venture, Flat No. 65A, Ground Floor,
Raghava Ratna Tower Tower, Chirag Ali Lane, Abids, Hyderabad.
3. Pr.CIT, Hyderabad.
4. DR, ITAT, Hyderabad.
5. GUARD FILE

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ASSISTANT REGISTRAR
ITAT, HYDERABAD