

आयकर अपीलिय अधिकरण, चण्डीगढ़ न्यायपीठ "बी" , चण्डीगढ़
IN THE INCOME TAX APPELLATE TRIBUNAL, CHANDIGARH BENCH "B", CHANDIGARH

HEARING THROUGH: HYBRID MODE

श्री आकाश दीप जैन, उपाध्यक्ष एवं श्री विक्रम सिंह यादव, लेखा सदस्य
BEFORE: SHRI. AAKASH DEEP JAIN, VP & SHRI. VIKRAM SINGH YADAV, AM

आयकर अपील सं. / ITA NO. 437/Chd/2022
निर्धारण वर्ष / Assessment Year : 2017-18

RSG Properties Private Limited Leela Bhawan, Patiala Patiala-147001, Punjab	बनाम	The PCIT Patiala
स्थायी लेखा सं./PAN NO: AACCR9943A		
अपीलार्थी/Appellant		प्रत्यर्थी/Respondent

निर्धारिती की ओर से/Assessee by : Shri Rakesh Cajla, Advocate
राजस्व की ओर से/ Revenue by : Smt. Kusum Bansal, CIT DR

सुनवाई की तारीख/Date of Hearing : 13/03/2024
उद्घोषणा की तारीख/Date of Pronouncement : 18/03/2024

आदेश/Order

PER VIKRAM SINGH YADAV, A.M. :

This is an appeal filed by the Assessee against the order of the Ld. PCIT, Patiala passed under section 263 dt. 21/03/2022 pertaining to Assessment Year 2017-18.

2. In the present appeal, the assessee has taken the following grounds of appeal:

- "1. The order passed by the Ld. PCIT Patiala is bad in law and against the facts of the case.
2. That the Ld. PCIT Patiala has erred in considering the order passed by the AO as erroneous as well as prejudicial to the interest of the Revenue.
3. That the Ld. PCIT Patiala has erred in passing the order u/s 263(1) of the Income Tax Act on the ground that assessment order was passed without making inquiries or verification whereas the order was passed after making full inquiries and with due application of mind.
4. That the Ld. PCIT Patiala is not justified in passing the order u/s 263(1) without considering the documents during the proceedings before him.

5. *That the Ld. PCIT Patiala failed to conduct the inquiry while exercising the revisional power u/s 263 of the Income Tax Act.*
6. *That the Ld. PCIT Patiala failed to appreciate the fact that the area in the closing stock was not developed due to this reason the valuation was done at the cost price and the order is not prejudicial to the interest of the Revenue.*
7. *That the assessee craves leave, to add or amend any ground(s) of appeal before it is finally heard."*

3. Briefly the facts of the case are that the assessment in this case was completed by the ITO, Ward-4, Patiala vide order dt. 19/08/2019 passed under section 143(3) whereby the AO had made an addition of Rs. 2,50,000/- on account of disallowance of development expenses and assessed loss was determined at Rs. 1,26,632/- as against returned loss of Rs. 3,76,632/-. Subsequently, the assessment records were called for and examined by the Ld. PCIT and a show cause dt. 31/01/2022 was issued to the assessee.

3.1 In the show cause, it was stated by the Ld. PCIT that the assessee has taken the value of closing stock of land situated at Village Chaura at Rs. 22,33,142/- as against the value of Rs. 31,62,858/-. As per the Ld. PCIT, from the perusal of the trading account, it is found that the value of the closing stock has been determined without adding proportionate development expenses of Rs. 9,29,716/- and which has not been examined by the AO during the course of assessment proceedings and same has resulted in under assessment of Rs. 9,29,716/- and therefore the order so passed by the AO was held to be prima facie erroneous and prejudicial to the interest of the Revenue.

3.2 In response to the show-cause, the assessee filed its submissions and which were considered by the Ld PCIT but not found acceptable and the assessment order was held to be erroneous as well as prejudicial to the interest of the Revenue and the same was set aside to the file of the AO for passing a fresh order in accordance with law in respect of issue taken in the impugned order after providing reasonable opportunity to the assessee.

4. Against the said findings and directions of the Ld. PCIT, the assessee is in appeal before us.

5. During the hearing, the Id AR submitted that during the course of assessment proceedings, all the documents as required by the AO were duly submitted namely Balance Sheet, P&L Account, details of Opening Stock and Closing Stock project wise, trading account etc. It was submitted that the complete details of development expenditure was submitted alongwith documentary evidence and reference was drawn to the assessee's paper book as well as the notice dt. 03/07/2019 issued by the AO wherein he had specifically asked regarding the development expenditure, nature of business expenditure and change in inventory stock. It was submitted that all the necessary details were duly submitted during the course of assessment proceedings and therefore the matter has been duly examined by the AO during the course of assessment proceedings.

5.1 It was further submitted that from the perusal of the project wise trading account, it would reveal that the assessee had developed the land measuring 5950 Sq. Yards out of total land purchased measuring 7600 Sq. Yards and had incurred the development expenditure thereon amounting to Rs. 42,85,780/-. It was submitted that the land so developed was subsequently sold by the assessee company and the resultant sale proceeds have been duly reflected in the trading account. It was further submitted that the remaining land measuring 1649 Sq. Yards remained vacant wherein there was no development activity carried out during the year, hence the said land was valued at cost prices i.e; Rs. 1354/- per Sq. Yards which amounts to Rs. 22,33,142/- which has been shown by the assessee company as part of his closing stock. It was accordingly submitted that since no development activity was carried out on the remaining left over land measuring 1649 Sq. Yards, the land has to be taken at cost price and which has been rightly taken by the assessee while preparing its trading

account which has been duly considered and examined by the AO. It was accordingly submitted that the matter relating to the development expenditure and the valuation of the closing stock has been duly examined by the AO. Therefore there is no basis for the Ld. PCIT to set aside the order so passed by the AO which has been passed after due application of mind.

5.2 It was further submitted that the Ld. PCIT has not carried out any further inquiry or verification and therefore the order so passed by the AO cannot be held to be erroneous as well as prejudicial to the interest of the Revenue and in support reliance was placed on various authorities on the subject.

6. Per contra, the Ld. CIT DR relied on the impugned order passed by the Ld. PCIT. It was submitted that during the course of assessment proceedings, the assessee had submitted before the AO that *"the development expenditures were mainly on account of earth filling and lying of roads. No contractor was involved in the development. The vouchers regarding development expenditure are available for your inspection."* It was submitted that the submissions of the assessee made during the assessment proceedings reveal that during the FY 2016-17, total development expenses incurred were Rs.73,86,680/- out of which development expenses to the tune of Rs.42,85,7807-were incurred at village Chaura land stock. But nowhere during the assessment proceedings, the assessee had specifically brought on record that the entire development expenses of Rs.42,85,7807- in respect of its land stock situated at village Chaura were incurred on 5950.91 sq.yards sold during the year under consideration (out of total 7600 sq.yards of land stock situated at village Chaura). Also, there is nothing on record which justifies the assessee's contention that the balance land stock of 1649.09 sq.yards was not developed during the FY 2016-17. It was submitted that the proportionate amount of development expenses of Rs.9,29,716 were required to be added back to the closing stock of assessee's land stock situated at village Chaura and the closing stock of the said land

should have been taken at Rs.31,62,858/- in place of Rs.22,33,142/-. Thus, while passing the assessment order in this case for the A.Y.2017-18, the AO had not verified the aforesaid facts and has accepted the submissions of the assessee on face value without any verification. It was accordingly submitted that under the aforesaid circumstances, the order of the A.O. was rightly held as erroneous as the AO did not enquire/verify about the complete details/facts and documentary evidences and being taken less closing stock of land which has affected resultant profit thus being prejudicial to the interest of the Revenue.

7. We have heard the rival contentions and perused the material available on record. We find that as far as nature and quantum of development expenditure and claim thereof by the assessee while filing its return of income, the same has been examined by the Assessing officer as evident from the show-cause, the submissions and the contents of the assessment order where the AO has disallowed part of the development expenditure.

8. The issue which has been raised by the Id PCIT relates to valuation of the closing stock of land situated at Village Chaura. As far as valuation of closing stock is concerned, we find that there is no material on record which suggests that the matter has been enquired into or examined by the AO. There are no queries which have been raised by the AO and there are no submissions which could be said to have been filed in this regard. Further, how the closing stock has been valued and more so, the treatment of development expenditure vis-à-vis the closing stock is not apparent from the perusal of the trading account. There is no material on record which suggests that there has been part development in relation to land sold and in relation to remaining unsold land stock, there has been no development and even going by the nature of the development expenditure which is land filling and laying of roads, it seems odd that the developer will carry out land filling and laying of roads as and when the land is sold or proposed to be sold and not prior to selling the land. We

therefore agree with the findings of the Id PCIT where he says that “nowhere during the assessment proceedings, the assessee had specifically brought on record that the entire development expenses of Rs.42,85,7807- in respect of its land stock situated at village Chaura were incurred on 5950.91 sq.yards sold during the year under consideration (out of total 7600 sq.yards of land stock situated at village Chaura) and there is nothing on record which justifies the assessee's contention that the balance land stock of 1649.09 sq.yards was not developed during the FY 2016-17.”

9. It is therefore clearly a case of lack of enquiry on part of the Assessing officer to examine the matter relating to the valuation of closing stock. The contention of the Id AR that the valuation of closing stock is revenue neutral exercise as closing stock of the year under consideration would be opening stock for the subsequent year cannot be accepted. The reason for the same is that the valuation of the closing stock will have a direct impact on the profitability for the year under consideration. Where the proportionate amount of development expenses of Rs.9,29,716 as so suggested by the Id PCIT are added to the closing stock of assessee's land stock situated at village Chaura, the closing stock of the said land would be taken at Rs.31,62,858/- in place of Rs.22,33,142/- and the same will result in lower gross loss at project level to the extent of Rs 9,29,716/- and higher gross profit at entity level of equivalent amount and the said treatment since not done originally is therefore clearly prejudicial to the interest of the Revenue at the entity level.

10. We therefore find that as far as matter relating to valuation of closing stock is concerned, there has been no enquiry on part of the AO during the course of assessment proceedings. The Id PCIT thereafter, examining the assessment record and examining the trading account has clearly brought out the fact that the valuation has not been properly done by the assessee and there is not enough material on record to support the contention that the

valuation has been properly done by the assessee. In light of the same, where the assessment order has been set-aside to the file of the AO to examine the said contention so raised by the assessee, we donot see any infirmity in the findings of the Id PCIT and exercise of jurisdiction u/s 263 of the Act. The assessee shall be at liberty to raise the aforesaid contention before the AO as so advised and the AO shall examine the same as per law after providing reasonable opportunity to the assessee.

11. In the result, the appeal filed by the assessee is dismissed.

Order pronounced in the open Court on 18/03/2024.

Sd/-

आकाश दीप जैन
(AAKASH DEEP JAIN)
उपाध्यक्ष / VICE PRESIDENT

Sd/-

विक्रम सिंह यादव
(VIKRAM SINGH YADAV)
लेखा सदस्य/ ACCOUNTANT MEMBER

AG

आदेश की प्रतिलिपि अग्रेषित/ Copy of the order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकर आयुक्त/ CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय आधिकरण, चण्डीगढ़/ DR, ITAT, CHANDIGARH
6. गार्ड फाईल/ Guard File

आदेशानुसार/ By order,
सहायक पंजीकार/ Assistant Registrar