

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "B": NEW DELHI  
BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.4138/Del/2019  
(Assessment Year: 2015-16)**

Sagardutt Builders & Developers Pvt. Ltd, 46, Second Floor, 100 foota Road, Village Ghitroni, New Delhi (Appellant) <b>PAN: AAKCS9144E</b>	Vs. DCIT, Circle-22(1), New Delhi  (Respondent)
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Assessee by :	Shri R. S. Singhvi, CA Shri Satyajeet Goel, CA
Revenue by:	Shri Vivek Kumar Upadhyaya, Sr. DR
Date of Hearing	02/04/2024
Date of pronouncement	10/04/2024

O R D E R

**PER M. BALAGANESH, A. M.:**

1. The appeal in ITA No.4138/Del/2019 for AY 2015-16, arises out of the order of the Id. Commissioner of Income Tax (Appeals)-8, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeal No. 10403/17-18 dated 08.03.2019 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 29.12.2017 by the Assessing Officer, DCIT, Circle-22(1), New Delhi (hereinafter referred to as 'Id. AO').
2. At the outset, we find that the assessee had filed additional Ground, which was stated to be not pressed by the learned AR before us. Hence, there is no need for even admitting the said additional ground, and accordingly the same is hereby dismissed as not admitted.
3. The assessee has raised the following grounds of appeal before us :-

*"1.(i) That on facts and circumstances of the case, the Ld. CIT(A) was not justified in upholding addition to the extent of Rs. 5,01,84,718/- being aggregate of initial compensation of Rs. 1,11,59,149/- and enhanced compensation of Rs. 3,90,25,569/-received on acquisition of land by Government of India without appreciating the factual matrix of the case.*

*(ii) That entire compensation being subject matter of dispute before judicial authorities, there was no case of any accrual of income in the year under consideration in terms of provisions of section 5 of the Income tax Act, 1961.*

*(iii) That assessee has duly accounted for the entire compensation in AY 2017-18 on final settlement of issue of compensation and the surplus so arising having been subjected to tax, the impugned addition in the year under consideration is merely on account of timing difference and leads to double taxation.*

*2(i) That even otherwise, the Ld. CIT(A) should have explicitly allowed the benefit of cost of acquisition while taxing compensation in the year under consideration.*

*(ii) That income tax being chargeable only on "Income" arising to the assessee, the action of the assessing officer in rejecting the claim of cost of acquisition is in total disregard to scheme and intent of section 5 of Income tax Act, 1961 read with Article 265 of Constitution of India.*

*3. That orders of the lower authorities are not justified on facts and are bad in law."*

4. We have heard the rival submissions and perused the material available on record. The assessee company was incorporated on 31.03.2006 with the main object to carry out the business of real estate development as stated in its Memorandum & Articles of Association. The company carried out its business activities by acquiring land in Gurgaon, Haryana in earlier years. The return of income for assessment year 2015-16 was filed by the assessee company on 30.03.2016 declaring total income of ₹1,13,40,330/-. During the year under consideration, the assessee company received a sum of ₹5,01,84,718/- on account of enhanced compensation and interest of ₹2,24,15,375/- on enhanced compensation against acquisition of land in AY 2010-11 admeasuring 4.92230 acres located in Gurgaon by Govt. of Haryana. Similar compensation were received by the assessee for Assessment Year 2011-12 to the tune of ₹1,46,52,868/- and for Assessment Year 2014-15 to the tune of ₹1,92,81,972/-. The assessee was of the opinion that initial compensation was received under protest was shown under the head "current liabilities" and not offered to tax as

the matter was sub-judice; the enhanced compensation received was also not offered to tax by the assessee. Accordingly, the assessee had not offered to tax the compensation received in the sum of ₹1,46,52,868/- for Assessment Year 2011-12 and ₹1,92,81,972/- for AY 2014-15. No action was taken by the Id AO on the said treatment given by the assessee and the assessment for those years had become admittedly final. Similar stand was taken by the assessee for AY 2015-16 for the enhanced compensation received in the sum of ₹5,01,84,718/-, which was rejected by the Id AO and the Id AO sought to bring the same to tax for AY 2015-16. It was also submitted by the assessee before the lower authorities that the entire compensation received (original as well as enhanced compensation) totalling to ₹8,41,19,558/- i.e.

AY	Amount
11-12	Rs. 1,46,52,868/-
14-15	Rs. 1,92,81,972/-
15-16	<u>Rs. 5,01,84,718/-</u>
<b>Total</b> -	Rs. 8,41,19,558/-

was offered to tax by the assessee in AY 2017-18 in the return of income and hence taxing the part of the sum during the year would only result in double taxation of the same income. The Id AO however, did not heed to the contention of the assessee and proceeded to tax the sum of ₹5,01,84,718/- as income of the assessee for AY 2015-16. This action of the AO was upheld by the Id CIT(A).

5. It is not in dispute that the assessee had duly offered the entire compensation of ₹8,41,19,558/- for AY 2017-18. However, we do not find any infirmity in the action of the Id AO in taxing the enhanced compensation of ₹5,01,84,718/- received by the assessee in AY 2015-16. This receipt of enhanced compensation is indeed taxable in AY 2015-16. The assessee however would be entitled for proportionate deduction of cost of land in AY 2015-16, which ought to have been granted by the lower authorities in the instant case having decided to tax capital gains. This is legitimate claim made by the assessee and accordingly it

would be entitled for deduction of cost of land proportionately in AY 2015–16. Ld AO is directed accordingly. The assessee is also directed to furnish the exact details of cost of land eligible for deduction on proportionate basis in AY 2015–16 before the ld. AO.

5. Further, it is a fact that the sum of ₹5,01,84,718/- being enhanced compensation received is offered to tax by the assessee for AY 2017–18. In view of our decision hereinabove for AY 2015-16 taxing the very same sum, the same income should be excluded from income in AY 2017-18. The ld AO is also directed to pass suitable rectification order for AY 2017-18 in order to avoid double taxation of the same income. With these observations, grounds raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 10/04/2024.

-Sd/-  
**(KUL BHARAT)**  
**JUDICIAL MEMBER**

-Sd/-  
**(M BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 10/04/2024  
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi