

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "G", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
AND
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.4067/M/2023
Assessment Year: 2017-18**

**ITA No.4068/M/2023
Assessment Year: 2018-19**

M/s. Shivshahi Punarvasan Prakalp Ltd. 5 th Floor, Griha Nirman Bhavan, Bandra (E)- 400051, Maharashtra. PAN: AACCS1590C	Vs.	CIRCLE 14 (1) (2) Aayakar Bhavan, 4 th Floor, Room No. 455, M. K. Road, Mumbai- 400020.
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Kirit Sanghvi, A.R.
Revenue by : Shri Manoj Kumar Singh, Sr. A.R.

Date of Hearing : 23 . 04 . 2024
Date of Pronouncement : 30 . 04 . 2024

ORDER

Per Ratnesh Nandan Sahay, Accountant Member:

1. This appeal has been filed for the assessment year 2018-19 where following grounds of appeal have been taken in ITA No. 4067/M/2023:-

“1. The learned CIT(A), The National Faceless Appeal Centre, erred on facts and in law in confirming addition of Rs. 43,23,186/- being alleged income not disclosed in the Return.

2. The learned CIT(A), the National Faceless Appeal Centre, erred on facts and in law in misreading/misinterpreting the provisions of s.199 read with Rule 37BA of the I.T.Rules, 1962.

The Appellant craves leave to add to, modify or amend one or more of the Grounds of Appeal.”

2. Similarly, following Grounds of appeal have been raised in ITA No. 4068/M/2023:-

“1. The learned CIT(A),The National Faceless Appeal Centre, erred on facts and in law in confirming addition of Rs. 1,69,35,779/- being alleged income not disclosed in the Return.

2. The learned CIT(A), The National Faceless Appeal Centre, erred on facts and in law in misreading/misinterpreting the provisions of s.199 read with Rule 37BA of the I.T.Rules, 1962.

The Appellant craves leave to add to, modify or amend one or more of the Grounds of Appeal.”

3. Since grounds of appeal raised in both the appeals are similar, these appeals are decided together.
4. The facts of the case are that the assessee was engaged in the business of construction, slum rehabilitation and redevelopment in



the Mumbai metropolitan region. During the assessment years under consideration, it was found that the appellant has shown rental income from M/s. Omkar Realtors and Developers Pvt. Ltd in his books amounting to Rs.3,51,17,951/- whereas as per 26AS it had received rental income amounting to Rs. 3,94,41,137/- Hence, there is a difference of Rs.43,23,186/- in rental income so reflected. Accordingly, a show cause notice was issued to the assessee to explain the difference. In response to the show cause notice, the assessee submitted a reconciliation statement as under:-

Reconciliation with corresponding income shown in form 26AS/AIR:

Income shown in Form 26AS	Income	TDS Claimed
Halkara Builders P. Ltd.	190,23,778/-	19,02,379/-
Omkara Realtors & Developers Pvt. Ltd.	394,41,137/-	39,44,115/-
Omkara Ventures Pvt. Ltd	<u>137,69,901/-</u>	<u>13,90,375/-</u>
Total	<u>722,34,816/-</u>	<u>72,36,869/-</u>

5. The Assessing officer considered the above reconciliation statement but not satisfied with the explanation of the assessee as he found that there was clear difference in rental income as reflected below:-

Sr. No.	Party	Income		TDS	
		As per 26 AS	As per Books	As per 26 AS	As per Books
1.	Omkar realtors and developers pvt. Ltd.	3,94,41,137/-	351,17,951/-	49,82,142/-	15,58,206/-
2.	Halaka Developers	153,89,385/-	177,92,100/-	15,38,939/-	17,60,815/-

The Assessing Officer, therefore, added the difference in rental income amounting to Rs.43,23,186/- to the total income of the assessee under the head “ Income from Other Sources” and also initiated Penalty proceeding u/s. 270(A) of the Act for underreporting of Income.

6. We have considered the rival submissions and found it proper to restore the issue back to the file of the assessing officer to consider the claim of the assessee afresh by giving him adequate opportunity of being heard.
7. In the result, the appeal is dismissed in terms of aforesaid terms.

Order pronounced in the open court on 30.04.2024.



Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

Sd/-
(RATNESH NANDAN SAHAY)
ACCOUNTANT MEMBER

Mumbai, Dated: 30.04.2024
Snehal C. Ayare, Stenographer

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy/

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.