

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'G': NEW DELHI**

**BEFORE,  
SHRI S.RIFAUH RAHMAN, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.2043/Del/2023  
(ASSESSMENT YEAR 2018-19)**

SH Tech Park Developers Pvt. Ltd. 2 <sup>nd</sup> Floor, Vatika Business Centre Vatika Triangle M.G. Road, Sushant Lok-1, Gurugram Haryana-122 002  PAN:AALCS0818E	Vs.	The ACIT Circle-22(2) New Delhi
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Shri C.S. Aggarwal, Sr. Adv. Shri Uma Shankar, Adv. & Shri D.B. Jain, CA
Respondent by	Shri Anuj Garg, Sr. DR

Date of Hearing	08/05/2024
Date of Pronouncement	21/06/2024

**ORDER**

**PER S.RIFAUH RAHMAN, AM:**

1. This appeal has been filed by the Assessee against the order of Learned Commissioner of Income Tax (Appeals)- National

Faceless Appeal Centre (NFAC), Delhi [“Ld. CIT(A)”, for short], dated 19/05/2023 for Assessment Year 2018-19.

**2.** Brief facts of the case are, the Assessing Officer observed from the Note 27 of the financial statement and point no. 13 of Form 3CD that during the year, there is a change in accounting policy adopted by the assessee with regard to Revenue recognition. The Assessing Officer observed that assessee was following percentage of completion method till last year and during this assessment year the assessee has changed its method of accounting on the basis of project completion method. Therefore, it recognized Revenue from sale of land, complete property, project in progress and development right is recognized in the financial year in which significant control of right (i.e. registration of the property in the name of buyers and possession thereof is given) was adopted. Therefore, assessee was called upon to explain the reasons for changing the method of account during this year and to produce documentary evidences for the Revenue recognized in the financial year in which registration executed, supporting document with copy of agreements registered during the year and in Revenue

recognition during the year from sale of land or any property. In response, the assessee has submitted as under:-

*“during the year there is a change in accounting policy which has been reported in the Form 3CD at point no. 13 and also at note 27 of the audited financial statement. It is further submitted that during the year the company has changed its accounting policy for revenue recognized from sale of land, completed property, project in progress and development right. Now the company is recognizing revenue in accordance with the significant accounting policies.*

*Revenue recognition*

*Revenue from the sale of land, completed and project in progress property and development right*

*Revenue from sale of land completed property and development right is recognized in the financial year in which significant control of right (i. e. registration of the property in the name of buyers and possession thereof is given) has been transferred and no significant uncertainty exists regarding the amount of the consideration that will be derived from the sale, following points need to consider before revenue recognized:*

*The customer has legal title to the assets.*

*The entity has transferred physical possession of the assets.*

*The customer has the significant risk and rewards related to ownership of the assets.*

*Accordingly cost/expenses of completed property will be charged to statement of profit and loss account at the time of registration of sale deed and/ or handing over the possession thereof.*

*Previously the company was recognizing its revenue in the financial year in which the agreement to sell is executed. The accounting policies being adopted are in line with revised/new introduced Indian accounting standard (IND AS) 115 as issued by the ICAI"*

*In this regard, reference is made to the Press Release dated 20/07/2018 issued by The Institute of Chartered Accounts of India on the implementation of IND AS 115 regarding revenue from contracts with*

customers in context of Real Estate Sector and the misrepresentation of the principles laid down in the Standard which is reproduced as under :-

*"It has been clarified that the IND AS 115 does allow recognition of revenue using Percentage of Completion Method (POCM) and has explicit and specific requirements to recognise revenue, where performance obligation is satisfied over a period of time as stated in paragraph 35 of IND AS 115 which provides as under :- 35 An entity transfers control of a good or service over time and, therefore, satisfies a performance obligation and recognises revenue over time, if one of the following criteria is met :-*

*(a) the customer simultaneously receives and consumes the benefits provided by the entity's performance as the entity performs (see paragraphs B3-B4);*

*(b) the entity's performance creates or enhances an asset (for example, work in progress) that the customer controls as the asset is created or enhanced (see paragraph B5); or*

*(c) the entity's performance does not create an asset with an alternative use to the entity (see paragraph 36) and the entity has an enforceable right to payment for performance completed to date (see paragraph 37)."*

*It may be noted that Paragraph 35(b) & (c) of Ind AS 115 are intended to address situations of real estate sector. In view of the above, recognition of revenue as the construction progresses is possible considering the prevalent long established legal system/jurisprudence in India, and facts and circumstances of individual case/contract".*

**3.** After considering the above submissions the Assessing Officer rejected the same by observing that percentage completion of method also a recognized method (as per revised in AS115) and further he observed that the assessee itself has stated that in the earlier years the company was recognizing its Revenue on percentage of completion method and had the company followed

the earlier policy of Revenue recognition, it would have resulted in net increase in profit by Rs.9,47,14,870/-. Further observed that it is also not clear whether the assessee has revised its financial in the earlier year also. In view of the change of method of accounting, the assessee has not established any basis/justification for change in the method of accounting during the year under consideration, resulting in decrease of profit of Rs.9,47,14,870/-, as the assessee has been regularly following POCM method in the earlier years. Accordingly, he proceeded to make the addition of above mentioned profit to the income of the assessee.

**4.** Aggrieved the above order, the assessee preferred an appeal before the NFAC, Delhi and filed detailed submissions for the same of clarity, the same is reproduced below:-

*“5. In so far as, addition made by disallowance of a sum of Rs.9,47,14,870/-, the said addition has been made inspite of the fact that, it was duly submitted by the assessee during the year under consideration, that there had been change in accounting policy from POCM method to project completion method, regarding revenue recognition which was base upon Indian Accounting Standard issued by 'Institute of Chartered Accountants of India' and adopted by the Ministry of Corporate Affairs and by giving complete go by to the provision of section 145 of the Income Tax Act, 1961 and without appreciating that the assessee company is engaged in the development of real estate activities for which in accordance with the instructions issued by the Institute of Chartered*

Accountants, the company is required to adopt accounting policies as have been found appropriate by the Institute of Chartered Accountants of India.

6. The assessee was directed to follow instructions in accordance with law. The assessing officer has further failed to appreciate, that it is the prerogative of the assessee to follow method of accounting out of various methods, if provided, under the Income Tax Act.

7. The assessing officer has further failed to appreciate, that the question as to the year in which an assessment of income may be material of the rate of tax chargeable on the assessee in two different years but in the case of income of a company tax is attracted at a uniform rate and that year of taxation would be a matter of no consequence to the department and one should have consider that the department would not fitter away its enquires in fighting matter of this kind (CIT vs Nagri Mills Co. Ltd. reported in 33 ITR 681). Again the Apex Court in CIT vs. Excel Industries Ltd. reported as 358 ITR 295 at page 304, it was held that the dispute raised by the revenue is entirely academic or at best may have a minor tax effect.”

**5.** After considering the submissions of the assessee and assessment order Ld. CIT(A) dismissed the grounds raised by the assessee by observing as under:-

“5.4 The appellant submitted that it used to recognise revenue following percentage of completion method which was changed to other method wherein the revenue would be recognised upon transfer of control. The appellant contested that the letter method is prescribed under Ind AS which is being prescribed method for accounting as per ICAI. The appellant also submitted the documents such as sample of copies of agreement registered during the year under consideration.

5.5 The appellant also contested that it is not prerogative of the Assessing Officer to determine which accounting method is to be followed. It also contested that agreement registered during the year under consideration were merely sort of arrangement between appellant and its customer. No physical possession was given and no sales deed was registered (Registering of sale deed is conclusive event whereby the purchaser becomes the owner of property) therefore no revenue is being recorded during the year under consideration.

5.6 However, the appellant also mentioned that its customer can sell the property purchased by it before entering into sale deed. This is a contradicting situation, when buyer can sell its property without registering sale deed, it very well indicates that it has deemed ownership of the property pursuant to which he is eligible to sell the same to another party. Under such circumstances the appellant would not have any control on the terms and conditions between its customer and subsequent buyer.

5.7 This practice merely indicates that there is deferment of revenue being recognised and accounting principles are not implemented in right spirit. The practice of appellant indicates that in SUBSTANCE the control of property is transferred but in FORM it will be transferred upon registration of sale deed. SUBSTANCE over FORM should prevail is also fundamental objective of Ind AS.

5.8 On perusal of appellant submission it is also observed that the appellant has not provided cogent reason for adopting new accounting policies and has also not provided any computation which indicates the effect of accounting policies on underlined real estate project over the period of its life span. The appellant has simply implemented accounting policies during the year under consideration and has not provided for impact of such policies on the previous years of project (beginning of project till the implementation of new policies). Thus, the approach of the appellant seems to be arbitrary.

5.9 In view of the above the contentions of appellant are not found to be acceptable. Therefore, the addition made by learned AO is being upheld.”

**6.** Aggrieved with the above order, the assessee is in appeal before us, raising the following grounds of appeal:-

“1. That the learned CIT(A) while substantially upholding the order of assessment, has failed to comprehend that the assessment made by the National Faceless Assessment Centre ('NFAC') itself was bad in law and void-ab-initio, in as much as no reasonable and meaningful opportunity of being heard had been provided to the assessee.

2. That the learned CIT(A) has failed to comprehend, that the assessment framed by the NFAC had not been made in accordance with the provisions contained in section 144B of the Income Tax Act, in as much as the assessment had been superficially framed by not strictly following the provisions of section 144B (1) to 144B(7) of the Act.

3. That in any case and without prejudice the learned CIT(A) has erred in disposing off the appeal arbitrarily without granting to the assessee a proper and valid opportunity of being heard, so much so that even the written submissions dated 20.02.2023 have not been considered and dealt while disposing off the appeal.
4. That the learned CIT(A) while sustaining the addition made of Rs. 9,47,14,870/- has failed to comprehend that, the assessee had computed its income in accordance with the mercantile system of accounting regularly employed by it and that it had computed its income in accordance with mandate of section 145A of the Act.
5. That the learned CIT(A) has failed to appreciate that the findings of the learned NFAC in its order that, there was a 'reduction in profit by a sum of Rs. 9,47,14,870/- is wholly erroneous and unsustainable in law. In so concluding he has failed to appreciate that no such profit and alleged to have been reduced had yet accrued to the assessee company and as such there was no justification to hold that there was a reduction of alleged profit by the assessee company.
6. That the learned CIT(A) has failed to appreciate that the assessee was the real estate developer having a single project to complete and no income could be said to have accrued to it till the completion of the project.
7. That the learned CIT(A) has failed to appreciate the sums received aggregating to Rs. 17,18,65,013/- did not represent the sale price of the project but was merely a sum received towards the booking of space and as such no income as alleged to have been reduced could be said to have accrued to it.
8. That the learned CIT(A) has failed to appreciate that, even if in the preceding assessment years the assessee had followed an incorrect method of accounting, the same was sufficient to enable the assessee to adopt the correct method of accounting.
9. That in any case and without prejudice, change of method being bonafide and had hereafter been regularly followed by it, there was no justification to hold that the assessee had suppressed its income by Rs. 9.47,14,870/-.
10. That the findings of the learned CIT(A) in his order in para 5.8 are based on incorrect appreciation of facts and in law.

11. That the learned CIT(A) has failed to comprehend that such method as had been adopted by the assessee was a recognized by Accounting Standard issued by the Institute of Chartered Accountants of India and also notified by Ministry of Corporate Affairs and that section 145A(i) of the Act permits an assessee to follow the method of accounting as per its own choice.

12. That the finding of the C.I.T. (Appeals), that assessee has not been able to establish the circumstances under which it has changed the method of accounting is based on miss appreciation of facts.

12.1 That the learned authorities below have also failed to consider notes given in the Notes to Accounts which too gave the reason for a change in the method of accounting and thus the findings of the CIT(A) in para 5.8 were misconceived and erroneous.

13. That the learned CIT(A) has further erred in sustaining in the levy of interest u/s 234A and 234B of the Act in as much as no interest u/s 234A of the Act was leviable.

14. That the learned CIT(A) ought to have held that the proceedings initiated u/s 270A of the Act has no application and as such proceedings initiated was bad in law.”

**7.** At the time of hearing, the Ld. AR has not pressed grounds No.1, 2 & 3 and proceeded to make submissions on the issue of change of accounting policy and addition proposed by the Assessing Officer of Rs.9,47,14,870/-. In this regard, he filed detailed written submission discussed on the whole issues.

**8.** After considering the written submissions, we have reproduced the relevant submissions, which is relevant for our discussion.

“11. It is submitted that the perusal of the Balance sheet **Note 5 (Pg. 18)** would show that inventories i.e. closing stock of the preceding year aggregating to Rs.19,22,41,278/-; whereas the same at the end of the

year aggregated to Rs.79,10,66,339/- and thus increase which represented capital expenditure on the construction has not been claimed as deduction.

12. It is most humbly submitted as to what the auditors have stated that as compared to the method of accounting followed by the assessee till the preceding year, there is a decrease in the profit and not that there is decrease of an income which has accrued to the assessee company. Infact, AS115 does permit the Real Estate companies to follow the project completion method and there has been misconception that they were required to follow percentage of project completion method. In view of the aforesaid guidelines issued by the Institute of Chartered Accountants, the appellant considering the fact that it had been receiving advance from the customers without delivering the possession or transferring the same to them recognizing the revenue on the basis of percentage of project completion method is an incorrect method to compute income had the policy of recognizing the revenue on percentage of completion method. The submission thus is that till the end of the preceding assessment year, it had been following percentage of project completion method, whereas from the AY 2018-19 it had processed to adopt project completion method as proper accounting method to offer its income, which is being followed since then continuously till date.

13. It is thus re-submitted that till the end of the preceding year the appellant company followed the incorrect method of accounting which was corrected by it and thus there was no decrease in the accrued income. It is reiterated that the expenditure incurred by it on the construction has also not been claimed as deduction and was capitalized which expenditure aggregated to Rs. 59,88,25,061/- and in line of the judgment of Apex Court in the case of CIT vs. Bilahari Investment Pvt. Ltd. reported in 299 ITR 1.

14. The appellant further submits that the perusal of the order the learned CIT (A) would show that he had not adversely commented that, the change of method of accounting was not bonafide. Infact, in para 5.5 of the order the learned CIT(A) has also noted the appellant's submissions that it is not prerogative of the Assessing Officer to determine which accounting method is to be followed'. Thus it is submitted that the finding of the learned AO in making an addition and held to be disallowance on account of decrease of profit is manifestly contrary to the judgment of the Hon'ble High Court of Delhi and otherwise too against the settled principle of law that no income is taxable till it accrues. The advances received by the appellant against the bookings and likewise expenditure incurred on the construction had been capitalized which was an inappropriate method of accounting, the

learned AO has erred in making an addition and the learned CIT(A) has accordingly erred in sustaining said addition. The submissions made by the appellant are at Pg. 259310 of PB. Neither the learned CIT(A) nor the learned AO has disputed any of the factual submissions made by the appellant.

15. To demonstrate that advances received against bookings from the prospective customers, details had also been placed on record to justify that the appellant had offered an income on the basis of POCM, even on advances since it had refunded the sums of advances on the cancellation of the bookings. (See Pg. 209/329)

16. It is reiterated that the following judgment of the Supreme Court in the case of CIT vs. Bilahari Investment Pvt. Ltd. reported in 299 ITR 1 the expenditure incurred during the year on the construction, as also not been claimed as expenditure while computing the total income. It is because of this the learned AO while computing the income has allowed proportionate expenditure from the advances received from the customers, on the basis of POCM. In other words, the learned AO has taken a view that the method adopted by the appellant in the preceding year is to be followed by him during the instant year disregarding the fact that para 6 of ICDS IV (pages 393 394 of Paper Book), which mandated that while preparing its accounts it should reflect and offer income on the basis of POCM is erroneous as it is one of the method of accounting and not the only method of accounting.

17. It is submitted that the change in the method of accounting on account of striking down para 6 of ICDS IV as well as of clarification issued by the Institute of Chartered Accountants as aforesaid, it is reiterated that advances received as booking which were refundable could not have been regarded as income accrued to the assessee. Thus, there was no accrual of income till the transfer takes place of the spaces booked.

18. While concluding with the aforesaid submissions it is additionally submitted that, there has been a change in the method of accounting adopted by the appellant as compared to the method of accounting adopted till the immediately preceding year and it was because Para 6 of ICDS IV, **which had mandatorily required to be adopted by it,** to maintain its accounts in accordance with the aforesaid ICDS i.e. to recognize revenue on percentage of completion method had been adopted. However as submitted aforesaid, the Hon'ble High Court of Delhi has held such a method is inconsistent with statutory provisions and as such para 6 of ICDS IV had been struck down. The appellant in fact had also been advised that, despite the fact in respect of the advances received against

the bookings income had not accrued to it (since some of the customers who had booked the spaces were claiming refund upon cancellation) considered appropriate that the sum recognized as income has adversely effected it when it had offered to tax such sum which has not accrued to it as income, (when the sums received as advances were recognized the income by adopting the percentage of completion method (POCM)). **It is well settled rule of law that an assessee is entitled to change the method of accounting regularly employed by him. What he must alter, however, is his regular method, that is to say, he must abandon what up to that time has been his regular method, and start a new regular method and not merely a new method for a causal period.** This is the rule of law laid down by the High Court of Bombay in the case of **Sarupchand vs. CIT** reported in 4 ITR 402 at Pg. 421. It had been held that when an assessee **bona fide changes his method of accounting and satisfies the department that he intends to adopt changed method of accounting thereafter or that he has in fact adopted it thereafter, that satisfies the requirement of section 145 of the Act.** The aforesaid submission is supported by judicial pronouncements as are stated as below:

- (i) Indo-Commercial Bank Ltd. vs. CIT, 44 ITR 22 (Mad.)
- (ii) Forest Industries Travancore Ltd. vs. CIT, 51 ITR 329 (Ker.)
- (iii) New Victoria Mills Co. Ltd. vs. CIT, 61 ITR 395 (All.)
- (iv) Dr. Ishwari Prasad vs. CIT, 143 ITR 789 (All.)
- (v) CIT vs. Shriram Associated Bearing Pvt. Ltd. SLP (Civil) No. 6665 of 1982, 150 ITR (St.) 77 (SC)
- (vi) CIT vs. Hind Lamps Ltd., (1987) Taxation 85(3)-225 (All.)
- (vii) CIT vs. Mopeds India Ltd., 173 ITR 347 (AP)
- (viii) CIT vs. Bikaner Trading Co., 180 ITR 286 (Cal.)
- (ix) CIT vs. Hollungooree Tea Co., 192 ITR 125 (Cal.)
- (x) CIT vs. Bharat Commerce & Industries Ltd., 240 ITR 256 (Del.)
- (xi) P. Balakrishnan vs. Tranvancore Cochin Chemicals Ltd. 243 ITR 284 (Ker.)

18.1 In view of the aforesaid facts, it is submitted that in view of the clarification issued by the Institute of Chartered Accountants of India, as also Para 6 of ICDS IV having been struck down, the changed method of accounting followed by it from the AY 2018-19 does deserves an acceptance. It is reiterated that, the change of method of accounting was thus bona fide which infact has not even been adversely commented upon either by the learned AO or by the learned CIT(A) and as such, on the basis of the judgments cited aforesaid, it is submitted that the income

*offered on the basis of its accounts as maintained from the AY 2018-19 and onwards till date be directed to be accepted and the addition made and sustained by the learned CIT(A) be directed to be deleted.”*

**9.** On the other hand, the Ld. DR relied on the findings of the lower authorities specifically he brought to our notice para 5.6 to 5.8 to the CIT(A) findings.

**10.** Considered the rival submissions and material placed on record, we observed that assessee is consistently following the method of Revenue recognition by following percentage completion method till previous Financial Year i.e., 2016-17 and during the current Financial Year 2017-18, the assessee preferred to change the Revenue recognition method to Project Completion Method. The assessee has indicated the change of method in its note forming part of financial statement at Note No.27. For the sake of clarity it is reproduced below:-

*27. During the war the company has changed its accounting policy for revenue recognition from sale of land, completed property, Project in Progress and development right. Now the company is recognizing revenue in accordance with the significant accounting policies as described in note no 18 test the time of transfer of ownership of the property is passed to buyer through Registration (i.e, transfer of control). Accordingly cost/expenses of completed property will be charged to statement of profit and loss account at the time of registration of sale deed and/or handing over the possession thereof.*

*Earlier, the company was recognizing its revenue in the financial year in which the agreement to sell is concerned.*

*Had the company followed earlier policy of revenue recognition on the basis of agreement to sale an amount of Rs. 17,18,65,013 would have shown as "Revenue from constructed property". Rs 150.143 as "Cost of Revenue" Otherwise this would have net increase in profit and loss account by Rs. 9,47,14,870/- and decrease in inventory by Rs. 7,71,50,143/-*

Similarly the Auditor also qualified it at point No 13 in the Form 3CD wherein it was indicated that because of change of method adopted by the assessee, it may have increased the profit by Rs.9,47,14,870/- and decreased inventory by Rs.7,71,50,143/. We observed that the Assessing Officer during the assessment proceeding observed that there is a change in method of accounting recognized by the assessee and is not satisfied with the submissions made by the assessee. He is of the view that assessee has changed the method of accounting to understate the profit of the company and not brought on record any justified reasons for such change of method of accounting during the year, consequently he proceeded to make the addition. After careful consideration of the facts on record, we are of the view that there is no restriction on the assessee to follow a single or same method of accounting over the years and it has an option to change the

method of accounting in any year in order to present the statement of accounts with true and fair basis, further after change of method of account, assessee should consistently follow the same. It is also the duty on the part of the assessee to disclose the financial impact on the financial statements due to such change of method of accounting/revenue recognition adopted by the assessee during the financial year. We observed from the notes to account, the assessee no doubt disclosed the change of method/revenue recognition adopted by the assessee during the year, however, disclosure of financial impact of such change of method is not being properly brought on record. In our view, this has made the Assessing Officer to doubt the change of method adopted by the assessee in order to understate the income. Therefore, in our considered view the assessee has to disclose financial information for two years in its balance sheet as on 31/03/2018 and as at 3/03/2017, therefore, assessee has to bring on record the financial impact of such change of method during the year along with the corresponding impact of such change relating to computation of income declared in the earlier

years i.e., as on 31/03/2018 and 31/03/2017. From the financial statement, we observed that the assessee has recognized Revenue from the constructed properties to the extent of Rs.37.92 Crores as at 31/03/2017 and disclosed the relevant cost and also recorded profit of 7.2 Crores, however, in the current financial year (31.03.2018), the assessee has not recognized any Revenue relating to construction business due to change of method of Revenue recognition and also not claimed relevant expenditure during the year. During the year, assessee has disclosed income from other sources i.e., rental income, interest income and other incomes during the year and declared a net loss of Rs.1.43 Lacs and disclosed the justification and the financial impact in its notes to financial statement. The Assessing Officer proceeded to make the addition the financial impact declared by the assessee due to change of method of accounting as profit for the current financial year. In our considered view by making above financial impact as addition along with other disallowances/additions, the percentage of profit determined by the Assessing Officer is quite abnormal way above the industry average.

**11.** After considering the above facts on record, we are of the considered view that assessee should submit the financial impact in the financial years 2016-17, 2017-18 respectively and also impact in computation of taxable income declared under Income Tax Act before the AO. Accordingly, the AO is directed to verify the above impact in the financial statements and may verify the declared financial impact in both financial years as well as Income Tax computation, we direct him to verify the profit declared by the assessee in the earlier years as per old method of accounting and because of change of method of accounting, there may be under statement or over statement of declared profit, this under or over statement of profit in the earlier years has to be acknowledged as an impact on such change of profit and ultimately the correct profit alone has to be charged to tax.

**12.** Merely because a understatement of profit during the current year due to change of method of accounting does not mean that the assessee has understated the profit and AO cannot proceed to make any adjustment based on such financial impact. It is only a declaration on such impact for selection of different method of

accounting. This approach is approved method as per the accepted standard of accounting by ICAI and IAS. Therefore, the selection of method of accounting is the right of the respective assessee. The AO cannot put any restriction on such selection of method and only thing is that it has to be verified whether the assessee has followed the new method of accounting and follows consistently, the impact declared by the assessee is as per the convention. If these details are proper, the AO cannot insist on to follow the old method of accounting. Therefore, with the above direction, we are remitting this issue back to the file of AO and also direct him to give proper opportunity of being heard to the assessee. Accordingly, the grounds raised by the assessee is allowed for statistical purpose.

**13.** In the result, grounds raised by the assessee are allowed for statistical purposes.

**14.** At the time of hearing, the Ld AR has also brought to our notice the ground no.13, with regard to levy of interest u/s 234A of the Act with the submission that assessee has filed the return of income in time, therefore, there cannot be penal interest u/s 234A

of the Act. In our view, it is only a consequential in nature, if there is increase in the taxable income more than the declared income by the assessee, there will be impact of interest on such additional taxable income. Since, we remit the issue back to the file of AO, the charging of interest u/s 234A is remitted back to Assessing Officer to determine the same as per law.

**15.** In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced on 21<sup>st</sup> June, 2024.

Sd/-

**(YOGESH KUMAR U.S)**  
**JUDICIAL MEMBER**

Dated: 21/06/2024

*Pk/sps*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

**(S.RIFAUR RAHMAN)**  
**ACCOUNTANT MEMBER**

ASSISTANT REGISTRAR  
ITAT, NEW DELHI