

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में  
**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "SMC", HYDERABAD**

**BEFORE**

**SHRI MANJUNATHA. G.  
Hon'ble ACCOUNTANT MEMBER**

ITA No.598/Hyd/2024		
Assessment Year: 2014-15		
Tejonirman Estates Private Limited, Hyderabad.  PAN : AABCT9393H  (Appellant / Assessee)	Vs.	The Income Tax Officer, Ward – 2(4), Hyderabad.    (Respondent)
Assessee by:	Shri P. Murali Mohan Rao, CA	
Revenue by:	Ms. P. Sumitha, Sr.AR	
Date of hearing:	27.06.2024	
Date of pronouncement:	27.06.2024	

**ORDER**

**PER MANJUNATHA G. A.M:**

This appeal filed by the assessee is directed against the order of learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi passed on 02.05.2024 for the assessment year 2014-15.

2. The brief facts of the case are that the assessee company is engaged in the business of real estate development, filed its return of income for the assessment year 2014-15 on 30.09.2014, declaring total income of Rs.10,38,850/-. As per the information available with the

Department, the Assessing Officer noticed that the assessee sold a piece of land situated at Shamshabad Village for Rs.32,50,000/- vide document No.3895/2013 dt.20.09.2013 and the stamp duty valuation of the said property was at Rs.49,37,500/-. Since there is difference between guideline value and sale consideration, the Assessing Officer called upon the assessee to explain as to why the provisions of section 43CA of the Income Tax Act, 1961 cannot be invoked to make addition towards difference in value. In response, the assessee submitted that particular plot was sold is a distress sale and therefore, fair market value of the property as per the stamp duty valuation cannot be taken for the purpose of Section 43CA of the Act. The Assessing Officer after considering the submissions of the assessee and also taken note of provisions of Section 43CA of the Act, which is applicable from assessment year 2014-15, assessed a sum of Rs.16,87,500/- being difference between sale consideration, as per the registered sale deed and fair market value of the property as per stamp duty valuation under section 43CA of the Income Tax Act, 1961.

3. Being aggrieved by the assessment order, the assessee preferred appeal before the Id.CIT(A).

4. On appeal, the Id.CIT(A) for the reasons stated in their appellate order dt.02.05.2024, sustained additions made by the Assessing Officer and rejected the grounds taken by the assessee.

5. Being aggrieved by the order of Id.CIT(A), the assessee is in appeal before me.

6. The learned counsel for the assessee, Shri P. Murali Mohan Rao, C.A., referring to the provisions of Section 43CA of the Income Tax Act, 1961 submitted that if difference between stamp duty valuation and sale consideration is less than 5% in case of non-residential property and 10% in case of residential property, then for the purpose of this section, the consideration, so received as a result of the transfer, shall be deemed to be full value of the consideration. The learned counsel for the assessee referring to the financial statements for the impugned assessment year submitted that the assessee has offered sum of Rs.45 lakhs from sale of this property, which includes consideration, as per sale deed amounting to Rs.32,50,000/- and development charges of Rs.12,50,000/- and if you consider total consideration accounted by the assessee at Rs.45 lakhs, and fair market value of the property as per stamp duty valuation, which was at Rs.49,37,500/-, the difference is less than 10% and thus, provisions of section 43CA cannot be applied.

7. The Id. DR Ms. P. Sumitha, Sr.AR., on the other hand, supporting the order of Id.CIT(A), submitted that the assessee has taken a new argument, which was not at all taken before the Assessing Officer, which is evident from the assessment order and the Id.CIT(A)'s order. Therefore, there is no merit in the arguments taken

by the assessee and thus, the addition made by the Assessing Officer should be upheld.

8. I have heard both the parties and considered relevant assessment order passed by the Assessing Officer and the appellate order passed by the Id.CIT(A), in light of various evidences filed by the appellant. I find that the appellant claims to have received a sum of Rs.45 lakhs from transfer of property, which includes Rs.32,50,000/-, as per registered sale deed dt.20.09.2013 and further, a sum of Rs.12,50,000/- as development charges. If you consider total consideration offered by the assessee for tax with reference to fair market value of the property, as per stamp duty valuation, then the difference is less than 10% and thus, as per the provisions of section 43CA(1) of the Act, the consideration, so received as a result of transfer, be deemed to be the full value of the consideration. In support of his arguments, the assessee has filed relevant financial statements, including the Profit and Loss account to prove that the appellant has offered total sale consideration of Rs.45 lakhs from the sale of this property. I find that the assessee has accounted a sum of Rs.45 lakhs from sale of this property, which includes Rs.32,50,000/- as per the sale deed and further sum of Rs.12,50,000/- for development charges. If the claim of the assessee is correct, then the question of invoking provisions of Section 43CA does not arise, because the difference between consideration received by the assessee and the fair market value of the property as per stamp

duty valuation is less than 10%. But, fact remains that there is no clarity as to whether these documents were filed before the Assessing Officer or not. Therefore, I am of the considered view that the matter needs to go back to the file of Assessing Officer for the verification of facts in light of evidences filed by the assessee. Thus, I set aside the order of Id.CIT(A) and restore the issue to the file of Assessing Officer and also direct the Assessing Officer to re-examine the issue in light of financial statements filed by the assessee and in case, the claim of the assessee is correct, then the Assessing Officer is directed to delete the addition made under section 43CA of the Income Tax Act.

9. In the result, the appeal filed by the assessee allowed for statistical purposes.

Order pronounced in the Open Court on 27<sup>th</sup> June, 2024.

**Sd/-**  
**(MANJUNATHA. G)**  
**ACCOUNTANT MEMBER**

Hyderabad, dated 27.06.2024.  
***TYNN/sps***

Copy to:

S.No	Addresses
1	Tejonirman Estates Private Limited, Hyderabad. C/o. P. Murali & Co., Chartered Accountants, 6-3-655/2/3, Somajiguda, Hyderabad – 500082, Telangana.
2	The Income Tax Officer, Ward – 2(4), Hyderabad.
3	Pr.CIT, Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*