

**आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE**

**BEFORE SHRI R.K. PANDA, VICE PRESIDENT**  
**AND**  
**MS. ASTHA CHANDRA, JUDICIAL MEMBER**

**आयकर अपील सं. / ITA No.64/PUN/2020**  
**निर्धारण वर्ष / Assessment Year : 2014-15**

Income Tax Officer, Ward – 1(2), Pune	<b>Vs.</b>	M/s. Carcanet Infra Projects Pvt. Ltd., 502/B, City Tower, Boat Club Road, Bund Garden, Pune – 411001  PAN : AAEECC5337M
<b>अपीलार्थी / Appellant</b>		<b>प्रत्यर्थी / Respondent</b>

**CO No.1/PUN/2024**  
**निर्धारण वर्ष / Assessment Year : 2014-15**

M/s. Carcanet Infra Projects Pvt. Ltd., 502/B, City Tower, Boat Club Road, Bund Garden, Pune – 411001  PAN : AAEECC5337M	<b>Vs.</b>	Income Tax Officer, Ward – 1(2), Pune
<b>अपीलार्थी / Appellant</b>		<b>प्रत्यर्थी / Respondent</b>

Assessee by :	Shri Neelesh Khandelwal
Department by :	Shri Keyur Patel
Date of hearing :	20-05-2024
Date of Pronouncement :	22-07-2024

**आदेश / ORDER**

**PER ASTHA CHANDRA, JM :**

The appeal filed by the Revenue and Cross Objection filed by the assessee arise out of order dated 26.09.2019 of the Ld. Commissioner of Income Tax (Appeals)-1, Pune [**"CIT(A)"**] pertaining to Assessment Year (**"AY"**) 2014-15.

2. The Revenue has raised the following grounds of appeal:-

- "1) *The order of the Ld. CIT(A) is contrary to law and to the facts and circumstances of the case.*
- 2) *The Ld. Commissioner of Income-tax (Appeal) has erred on the facts and circumstances of the case in giving relief to the assessee*

company on the issue of addition of Rs.6,09,50,650/- on account of suppression of receipts without considering and rebutting the comments of the AO in the his remand report dated 21.08.2019.

- 3) The Ld. Commissioner of Income-tax (Appeal) has erred on the facts and circumstances of the case in giving relief to the assessee company on the issue of addition of sundry creditors of Rs.3,32,91,977/- not being genuine despite the fact that the issue was squarely covered by the reasons of limited scrutiny.
- 4) The appellant craves to add, amend, alter or delete any of the above ground of appeal during the course of appellate proceedings before the Hon'ble Tribunal.

3. The assessee has raised the following grounds of cross objections:-

- “1. On facts and circumstances prevailing in the case as per the provisions and scheme of the Act it be held that additions made of Rs.6,09,50,650/- on account suppression of sales is improper, unjustified and contrary to the provisions and scheme of the Act and facts prevailing in the case. The additions made be deleted. Just and proper relief be granted to the appellant in the respect.
2. Without prejudice to the above Ground No.1 and in the alternative on facts it further be held that addition if any should have been restricted to reasonable profit on sale of plots after considering the purchase cost of lands and the infrastructure development cost. It be held that, the addition made by the AO is on a very high side. Just and proper relief be granted to the appellant in this respect.
3. Without prejudice to the Ground No.1 and 2, it be further held that the AO should have made the additions after considering the net profit percentage and hence, it deserves to be substantially reduced. The appellant be granted just and proper relief in his respect.
4. On facts and circumstances prevailing in the case and as per the provisions & scheme of the Act it held that the AD erred in making additions of the sundry creditors of Rs.3,32,91,977/-. The addition made is not in accordance with the provisions of the Act. The addition be deleted. Just and proper relief be granted to be appellant in this respect.
5. Without prejudice to the above Ground No.4, on facts and circumstances prevailing in the case and as per the provisions & scheme of the Act it be held that the AD has erred in adding difference on account of sale as per Ground No.1 and sundry creditors amounting to Rs3,32,91,977/- simultaneously. It further be held that this would amount to multiplicity of addition and the same deserves to be deleted. Just and proper relief to be granted to the appellant in this respect.
6. Without prejudice to all the above grounds, the matter be remanded back to the file of the Ld. CIT(A) for adjudication of unsettled grounds as the Ld. CIT(A) ought to have adjudicate all the [grounds raised before his Honour and not only the technical ground.
7. The appellant prays to be allowed to add, amend, modify, rectify, delete and raise any grounds of appeal at the time of hearing.”

4. Briefly stated, the assessee is an Infrastructure Development Company. It e-filed its return of income for AY 2014-15 on 05.02.2015 declaring income of Rs.13,85,561/-. After processing the return u/s 143(1) of the Income Tax Act, 1961 (**the "Act"**) the case was selected for scrutiny under CASS. Statutory notice u/s 143(2) of the Act was issued on 18.09.2015 and duly served upon the assessee. The case was selected for limited scrutiny for the reason – (i) large amount of sundry creditors and (ii) large increase in sundry creditors with respect to turnover as compared to preceding year.

4.1 During the assessment proceedings, the assessee submitted a statement of sale (plot sale ledger account) as per which the turnover as on 31.03.2014 was shown at Rs.7,64,05,337/- (copy at pages 7-8 of the paper book) based on bank statements and agreements whereas turnover (revenue from operations) as per the audited balance sheet amounted to Rs.1,54,54,687/-. The Ld. Assessing Officer ("**AO**") thus noticed suppression of sales to the extent of Rs.6,09,50,650/- (Rs.7,64,05,337/- - Rs.1,54,54,687/-). Rejecting the assessee's explanation contained in its reply submitted on 28.12.2016 the Ld. AO added the said amount of Rs.6,09,50,650/- to the income of the assessee.

4.2 The assessee submitted list of sundry creditors before the Ld. AO on 07.12.2016 (copy at pages 9-11 of the paper book) showing 162 creditors involving an amount of Rs.84,266,977/-. According to the Ld. AO, PAN or address of the creditors was not submitted by the assessee. However, the Ld. AO reconciled the creditors list with ledger account of plot sales during the year and as result of such reconciliation found that the credibility and genuineness of sundry creditors involving an amount of Rs.3,32,91,977/- could not be established in the absence of documentary evidence. The Ld. AO added the said amount of Rs.3,32,91,977/- to the income of the assessee.

4.3 Accordingly, the assessment was completed on total income of Rs.9,56,28,188/- on 30.12.2016 u/s 143(3) of the Act including therein the above additions.

5. The assessee filed appeal before the Ld. CIT(A) challenging the said additions and raised an additional ground that the Ld. AO exceeded

jurisdiction by making additions outside the scope of issues selected under “limited scrutiny”.

6. The submissions of the assessee as contained in para 5.4.1 of the appellate order were forwarded by the Ld. CIT(A) for comments of the Ld. AO who submitted remand report (reproduced in para 5.4.2 of the appellate order) on which the assessee submitted rejoinder (reproduced in para 5.4.3 of the appellate order). According to the Ld. CIT(A) there was non-adherence by the Ld. AO of the mandatory CBDT Instructions dated 26.09.2014, 29.12.2015 and 14.07.2016 and thereby the Ld. AO has exceeded jurisdiction as laid down by the CBDT. He, therefore recorded the finding that the Ld. AO had “limited” scope to look and examine the sundry creditors, with respect to purchases having been made and could not have travelled beyond this to look into the “suppression of sales” which was not the mandate of the Ld. AO under “limited scrutiny”. The Ld. CIT(A) therefore held that the assessment order passed by the Ld. AO is without jurisdiction and void ab-initio. Consequently, other grounds of the assessee on merits became academic which he dismissed as such.

7. Aggrieved, the Revenue is in appeal before the Tribunal and both the effective grounds Nos. 2 and 3 relate to addition of Rs.6,09,50,650/- on account of suppression of receipts without considering and rebutting the comments of the Ld. AO in the remand report dated 21.08.2019 and addition of sundry creditors of Rs.3,32,91,977/- not being genuine.

8. In Cross Objections, the assessee has alleged that addition made of Rs.6,09,50,650/- is improper, unjustified and contrary to the provisions and scheme of the Act; that alternatively, the addition, if any should have been restricted to reasonable profit on sale of plots after considering the purchase cost of land and the infrastructure development cost; that the Ld. AO should have made the additions after considering the net profit percentage and hence, it deserves to be substantially reduced; that the additions of the sundry creditors of Rs.3,32,91,977/- is not in accordance with the provisions of the Act; that the Ld. AO erred in adding difference of Rs.6,09,50,650/- on account of sale and sundry creditors amounting to Rs.3,32,91,977/- simultaneously which amounts to multiplicity of addition; that the matter be remanded back to the Ld. CIT(A) for adjudication of unsettled grounds which he ought to have adjudicated.

9. We have heard the Ld. Representative of the parties at length and perused the records. The Revenue is dissatisfied by the relief given to the assessee by implication on account of suppression of receipts of Rs.6,09,50,650/- and non-genuine creditors of Rs.3,32,91,977/- and in its Cross Objection the assessee besides challenging the aforesaid additions on merits is aggrieved by the fact that the Ld. CIT(A) has not adjudicated them which he should have done. In such a scenario, we are of the view that in the interest of justice and fair play, it would be judicially expedient to remand the matter back to the file of Ld. CIT(A) with a direction to him to consider the impugned additions and decide them by passing a speaking order in accordance with law after allowing reasonable opportunity of being heard to the parties. We order accordingly.

10. In the result, the appeal of the Revenue and the Cross Objection of the assessee both are treated as allowed for statistical purposes.

**Order pronounced in the open court on 22<sup>nd</sup> July, 2024.**

Sd/-  
(R.K. Panda)  
**VICE PRESIDENT**

Sd/-  
(Astha Chandra)  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 22<sup>nd</sup> July, 2024.  
रवि

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-1, Pune.
4. The Pr. CIT-1, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune