

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

**BEFORE SHRI AMARJIT SINGH, ACCOUNTANT MEMBER  
AND SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER**

**ITA No.1845/Mum/2024  
Assessment Year: 2020-21**

Shri Bipin Shankarlal Barot  1 <sup>st</sup> Floor, Yogikrupa, 14, Jawahar Nagar, S.V. Road, Goregoan (W), Mumbai- 400062.  <b>PAN: AABPB 6750 H</b>	Vs.	DCIT 13(1)(2), Mumbai
(Appellant)		(Respondent)

**Present for:**

Assessee by : Shri Malav P. Sheth  
Revenue by : Shri Ashok Kumar Ambastha, Sr. DR

Date of Hearing : 25.06.2024

Date of Pronouncement : 24.07.2024

**ORDER**

**PER AMARJIT SINGH, ACCOUNTANT MEMBER:**

This appeal of the assessee for the assessment year 2020-21 is directed against the order dated 26.02.2024 passed by the ld. Commissioner of Income-tax, Appeals, NFAC, Delhi [hereinafter referred to as 'the ld. CIT(A)']. The assessee has raised the following grounds of appeal:

*"1. Addition of construction cost of Rs. 9,94,20,471/- incurred during the year must be deleted.*

*1.1. On the facts and circumstances of the case and in law, the ld. CIT(A) erred in not appreciating that the WIP shown in the profit & loss account of the impugned year at Rs. 41,23,72,339/- is not opening WIP but cost of total WIP comprising of opening WIP of Rs. 31,29,51,868/- and further construction expenses incurred during the impugned year amounting to Rs. 9,94,20,471/-. Thus the ld. CIT(A) erred in not appreciating that opening WIP amounting to Rs. 31,29,51,868/- has been correctly brought forward from the closing WIP of preceding assessment year.*

1.2. *On the facts and circumstances of the case and in law, the ld. CIT(A) erred in not appreciating that the accounting done during the year by debiting the total construction cost incurred as on 31.03.2020 including the opening WIP to the profit and loss account is in accordance with the recognized methods of accounting which is even approved by the Auditor in his audit report.*

1.3. *On the facts and circumstances of the case and in law, the ld. CIT(A) erred in not appreciating the details filed along with sample documentary evidences to justify the construction cost of Rs. 9,94,20,471/- incurred during the year.*

2. Addition made of Rs. 9,94,20,471/- u/s 69 r.w.s. 115BBE of the Act is bad in law and must be deleted

*On the facts and circumstances of the case and in law, the ld. CIT(A) erred in confirming addition of Rs. 9,94,20,471/- as unexplained investment u/s 69 of the Act without appreciating that there is no unexplained investment made in WIP and that too not recorded in the books of account and that the entire WIP is duly accounted and incurred from regular and disclosed sources. Accordingly, the entire addition made of Rs. 9,94,20,471/- u/s 69 r.w.s. 115BBE is bad in law and must be deleted.*

3. *The appellant craves leave to add, to amend, alter/delete and/or modify the above grounds of appeal on or before the final hearing.”*

2. Fact in brief is that assessment u/s 143(3) r.w.s. 144B of the Act in the case of the assessee was finalized on 27.09.2023. The assessee was engaged in real estate business. During the course of assessment, the assessing officer noticed that in the F.Y. 2018-19, the assessee had shown closing stock at Rs. 31,29,51,868/- whereas in the F.Y. 2019-20 the assessee had shown opening stock at Rs. 41,23,72,339/-. The assessing officer has questioned the assessee about difference of Rs. 9,94,20,741/- between the closing stock of proceeding years and the opening stock of the current year. The assessee has filed reconciliation of difference in closing and opening stock due to adjustment of purchase/expenses during the Financial Year 2019-20. However, the AO had not agreed with the submission of the assessee and stated that

assessee failed to furnish supporting document to substantiate its claim for the difference in the closing stock of preceding years and opening stock of current year as shown in the profit & loss account. Therefore an addition of Rs. 9,94,20,471/- was made u/s 69 r.w.s. 115BBE of the Act.

3. The assessee filed appeal before the ld. CIT(A). The ld. CIT(A) has dismissed the appeal of the assessee.

4. During the course of appellate proceedings before us, the ld. Counsel submitted that AO has not disputed that as per reconciliation chart opening WIP is shown correctly and further construction related expenses are incurred during the year to arrive at a total work in progress as on 31.03.2020 as reflected in the P & L A/c. The ld. Counsel has filed paper book comprising copies of document and detail of submission made before the AO and CIT(A).

5. On the other hand, ld. DR supported the order of lower authority.

6. Heard both the sides and perused the material on record. During the course of assessment, the assessing officer found variation in closing stock of previous year and the opening stock of current year therefore the difference was added to the total income of the assessee as discussed supra in this order. The assessee submitted that figure of work in progress stated in the P & L A/c at Rs. 41,23,72,339/- includes opening work in progress of Rs. 31,29,51,868/- plus the construction cost incurred during the year of Rs. 9,94,20,471/-. The assessee further submitted that expenses relating to hydraulic lift, MCGM etc. were incurred during the year and also filed reconciliation of the work in progress. The assessee claimed that difference in the closing stock and opening stock arised because of including of construction cost in the opening stock and filed supporting documents comprising copies of

sample bills and other documents forming part of the construction cost incurred during the year along with copies of all the ledgers forming part of the construction cost incurred during the year. However, the same were not examined and verify by the assessing officer, therefore, we restore this case to the file of the assessing officer for deciding afresh after verification and examination of the various details and documents filed by the assessee as discussed. Therefore, the appeal of the assessee is allowed for statistical purposes.

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

Order pronounced in the open court on 24.07.2024.

**Sd/-**  
**(RAJ KUMAR CHAUHAN)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(AMARJIT SINGH)**  
**ACCOUNTANT MEMBER**

Mumbai, Dated: 24.07.2024  
Biswajit, Sr. P.S.

Copy to:

1. The Appellant:
2. The Respondent:
3. The CIT,
4. The CIT (A)
5. The DR

//True Copy//

By Order

Assistant Registrar  
ITAT, Mumbai Benches, Mumbai