

**आयकर अपीलीय अधिकरण, कोलकाता पीठ 'सी', कोलकाता**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH KOLKATA**

**Before Shri Sanjay Garg, Judicial Member and Shri Sanjay Awasthi, Accountant Member**

**I.T.A. No.395/Kol/2024**  
**Assessment Year: 2018-19**

**Mayfair Properties.....Appellant**  
**194, Hossenpur,**  
**Mayfair Tower, C N Roy Road,**  
**East Kolkata Township,**  
**West Bengal-700107.**  
**[PAN: AAGFM2513C]**

**vs.**

**DCIT, Circle-32, Kolkata..... Respondent**

**Appearances by:**

Shri Manish Kumar Mundra, AR, appeared on behalf of the appellant.  
Md. Ghayansuddin, CIT-DR, appeared on behalf of the Respondent.

Date of concluding the hearing : May 20, 2024

Date of pronouncing the order : August 06, 2024

**आदेश / ORDER**

**संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:**

The present appeal has been preferred by the assessee against the order dated 13.02.2024 of the National Faceless Appeal Centre [hereinafter referred to as 'CIT(A)'] passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The assessee in this appeal is aggrieved by the action of the ld. CIT(A) in confirming the addition made by the Assessing Officer of Rs.16,47,19,380/- by making assessment of the income of the assessee applying percentage completion method as against the plea of the assessee that it has been regularly following project completion method.

3. The brief facts of the case are that the assessee is a partnership firm and is engaged in the business of builders and developers. During the year, the assessee company had undertaken two projects i.e. 1. Mayfair Greenwoods, 2. Mayfair Elite. The assessee has been following 'project completion method' of accounting, where the income is offered to tax on completion of the project. Further, the assessee firm had executed agreements for sale during the year, but no sale had been shown in Profit and Loss account. Also, the amount received against booking of flats was shown under advance against booking as 'current liability' in balance sheet till the sale was complete. The assessee also furnished before the Assessing Officer the sanction plans of two projects 1. Mayfair Greenwoods, 2. Mayfair Elite, which were under construction during the period under consideration. The Assessing Officer, however, observed that the assessee in the year under consideration had not recognised revenue on the plea that assessee had been maintaining accounts as per project completion method. However, the assessee incurred 84.28% & 67.34% of total cost of project of Mayfair Greenwood project & Mayfair Elite project respectively. Further, the assessee executed agreement for sale for 52870 unit area out of 77920 unit area i.e. 67% and 23270 unit area out of 59310 unit area i.e. 39% in respect of project Mayfair Greenwood project and Mayfair Elite project respectively. Also the assessee had received 96.90% & 81.13% of total sale consideration amount in respect of Mayfair Greenwood project & Mayfair Elite projects respectively. The Assessing Officer further observed that Institute of Chartered Accountants of India (ICAI) revised AS 7 w.e.f. 01.04.2003. In the revised AS 7, the ICAI recommended that the revenue from construction contracts should be recognized only on percentage completion method ('POCM') basis. In addition to this, the Central Government exercising power u/s 145(2) has notified Income

Computation and Disclosure Standards ('ICDS') III vide Notification No.S.O 3079(E) dated 29.09.2016 relating to construction contracts. The Assessing Officer observed that as per the said ICDS III notified by Central Government, the assessee was supposed to disclose its income as per percentage completion method. He observed that in this case, the assessee was nearby to completion of projects as the assessee incurred 84.28% & 67.34% of total cost of project of Mayfair Greenwood project & Mayfair Elite project respectively. Further, the assessee executed agreement for sale for 52870 unit area out of 77920 unit area i.e. 67% and 23270 unit area out of 59310 unit area i.e. 39% in respect of project Mayfair Greenwood project and Mayfair Elite project respectively. Also the assessee had received 96.90% & 81.13% of total sale agreement amount in respect of Mayfair Greenwood project & Mayfair Elite project respectively. He, therefore, held that the assessee had qualified following both conditions for disclosure of revenue recognised from both the projects of the assessee:

1. At least 25% of the saleable project area is secured by contracts or agreements with buyers.
2. At least 10% of the contract consideration as per the agreement of sale are realised at the reporting date in respect of each of the contracts.

3.1 The Assessing Officer, thereafter, analysed various contracts executed by the assessee with proposed purchasers and also noted that the assessee had accepted instalments at certain stage of completion of the flats and accordingly calculated the income of the assessee by applying percentage completion method. So far as the contention of the assessee that it has been regularly following project completion method, the Assessing Officer, in this respect, observed that on perusal of

Income Tax Return for A.Ys 2012-13 and 2013-14, it revealed that the assessee during the said assessment years had declared gross receipts/sale from sale of flats and as well as had shown 'work-in-progress' also. From this, he observed that the assessee had recognized revenue as per percentage completion method from the construction of project during the period from 01.04.2011 to 31.03.2013. He, accordingly, assessed the income of the assessee as per percentage completion method and made the impugned addition.

4. Being aggrieved by the said order of the Assessing Officer, the assessee preferred appeal before the CIT(A), however, the same was dismissed by the CIT(A).

5. We have heard the rival contentions and gone through the record. At the outset, the Id. Counsel for the assessee has submitted that the assessee-firm since inception of its business from the year 1995 has been consistently and regularly following project completion method of accounting. The Id. Counsel has further demonstrated that so far as the observation of the Assessing Officer that for the financial years 2011-12 and 2012-13, the assessee had shown income from sale of projects and the assessee at the same time had also shown certain amount as 'work-in-progress' is concerned, the assessee during the financial year 2011-12 relevant to assessment year 2012-13 had shown income from completion of three projects namely Mayfair Bliss, Mayfair Eternity and Mayfair Pearl and further during the financial year 2012-13 relevant to assessment year 2013-14, the assessee had shown income on completion of project i.e. Mayfair Venus, however, the work-in-progress was shown in relation to other two pending projects. The Id. Counsel has further referred to various submissions made before the Assessing Officer and Id. CIT(A) to submit that the assessee has been consistently

following project completion method, which has not been rebutted by the revenue authorities.

5.1 So far as the reliance of the Assessing Officer on the ICDS III notified by the Central Government is concerned, the Id. Counsel has submitted that the Assessing Officer has partially noted the provisions of accounting standards and that he has totally ignored the transitional provisions mentioned in the said accounting standards ICDS III, which for the sake of ready reference, is reproduced as under:

*“Transitional Provisions*

*22.1 Contract revenue and contract costs associated with the construction contract, which commenced on or after 1<sup>st</sup> day of April, 2016 shall be recognised in accordance with the provisions of this standard.*

*22.2 Contract revenue and contract costs associated with the construction contract, which commenced on or after 31<sup>st</sup> day of March, 2016 but not completed by the said date, shall be recognised based on the method regularly followed by the person prior to the previous year beginning on the 1<sup>st</sup> day of April, 2016.”*

5.2 The Id. Counsel has further demonstrated the aforesaid two projects in question namely Mayfair Greenwood project & Mayfair Elite project have commenced on 20.03.2013 and 10.03.2014 respectively. Therefore, the aforesaid transitional provisions which state that for the projects, which commenced on or before 31.03.2016 but not completed by the said date, the revenue shall be recognized based on the method regularly followed by the person prior to the previous year beginning from the 1<sup>st</sup> day of April 2016. It is unrebutted on the record that the assessee since its inception has been following project completion method. In view of the aforesaid transitional provisions, the action of the Assessing Officer in applying the percentage completion method on the basis of ICDS III by part-reading the same, cannot be held to be justified. In view of this, the impugned addition made by the Assessing

Officer for the year under consideration by applying percentage completion method of accounting is not justified and the same is accordingly set aside.

6. In the result, the appeal of the assessee stands allowed.

***Kolkata, the 6<sup>th</sup> August, 2024.***

Sd/-

**[Sanjay Awasthi]**

लेखा सदस्य/Accountant Member

Sd/-

**[Sanjay Garg]**

न्यायिक सदस्य/Judicial Member

Dated: 06.08.2024.

RS

*Copy of the order forwarded to:*

1. Mayfair Properties
2. DCIT, Circle-32, Kolkata
3. CIT (A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches