

आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर
IN THE INCOME TAX APPELLATE TRIBUNAL
INDORE SMC BENCH, INDORE

BEFORE SHRI MANISH BORAD, ACCOUNTANT MEMBER

ITA No.184/Ind/2024
(Assessment Year: 2015-16)

Gurukripa West End, M-9 Akashdeep Compex, 21 Sneh Nagar, Sapna Sangeeta Road, Indore	Vs.	Income Tax Officer 5(5), Indore
(Appellant / Assessee)		(Respondent/ Revenue)
PAN: AAMFG2439D		
Assessee by	S/Shri Pankaj Shah and Soyumya Bumb, ARs	
Revenue by	Shri Ashish Porwal, Sr.DR	
Date of Hearing	06.08.2024	
Date of Pronouncement	09.08.2024	

ORDER

This appeal by the assessee is directed against the order of the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi for A.Y.2015-16 dated 26.12.2023 which is arising from the assessment order u/s 143(3) of the Act dated 20.12.2017 framed by ITO-5(5), Indore.

2. Registry has informed that there is a delay of 6 days in filing of this appeal. The assessee has filed an application for condonation

of delay and the main reason for the delay was that the impugned order was served upon the assessee at the wrong e-mail ID. It is submitted that the e-mail ID furnished in Form 35 is pankajshah@gmail.com but the impugned order has been e-mailed on cagjshah@gmail.com which does not belong to the assessee. This is the sole reason for the said delay and I find it to be a reasonable cause preventing the assessee from filing the appeal within the prescribed time limit. Thus taking support from the decision of *Hon'ble Apex Court in the case of Collector, Land Acquisition Vs. Mst. Katiji AIR 1987 SC 1353* I hereby condone the delay and admit the appeal for adjudication on merits.

3. Assessee has raised following grounds of appeal:

"1. On the facts and circumstances of the case and in law, the learned Commissioner of Income tax (Appeals) ("CIT(A)") erred in understanding of facts of the case, the appellant prays that said addition be directed to be deleted.

2. On the facts and circumstances of the case and in law the learned CIT(A) erred in confirming the addition upheld by A.O. did not agree to the clarification made by the appellant and added the amount of Rs.27,58,288/- on the fact that he had explained only after it was examined during the hearing. which is prayed to be deleted.

3 . The Appellant craves leave to add to, alter and/or amend all or any of the foregoing grounds of appeal."

4. Brief facts of the case are that the assessee is a partnership firm engaged in the business of builder and developer. Return of income for Assessment Year 2014-15 e-filed on 29.9.2015 declaring income of Rs.5,12,120/-. After the case being processed u/s 143(1)(a) of the Act it was subsequently selected for scrutiny through CASS followed by validly serving notices u/s 143(2) and 142(1) of the Act. Though the case was selected for limited scrutiny but subsequently it was converted into complete scrutiny. The reason for selecting the case for scrutiny is that *"there is a difference in the value of closing stock shown as on 31.3.2014 and as on 1.4.2014"*. Ld. A.O during the course of assessment proceedings noticed that the assessee firm has shown closing stock as on 31.3.2014 at Rs.5,68,87,671/- in the return of income for Assessment Year 2014-15. However in the return for Assessment Year 2015-16 value of opening stock as on 1.4.2014 is shown at Rs.5,96,45,959/-. Thus there is a difference of Rs.27,58,288/- between the opening stock as on 1.4.2014 and the closing stock as on 31.3.2014.

4.1 When the assessee was confronted to explain the alleged difference it was stated that the land which forms part of the closing stock as on 31.3.2014 was introduced by the partner, however the interest paid for acquiring such land was not added to the cost of land. It was submitted that the assessee in order to make compliance to the 'Income computation and Disclosure Standards' which provides that the interest incurred for land and other immovable property which requires a period of 12 months or more to bring them to saleable condition needs to be capitalized. It was submitted by the assessee that in the preceding assessment year this exercise was not undertaken correctly but in the balance sheet for the year under appeal, the interest of Rs.27,58,288/- was capitalized and added to the cost of land. It was admitted by the assessee that it should have revised the return for the preceding assessment year but due to inadvertence the return could not be revised. However, Ld. A.O was not satisfied with these submissions and observing that the Income computation and Disclosure Standard-IX were applicable from Assessment Year 2016-17 he made addition of Rs.27,58,288/- in the hands of the assessee on

account of suppression of the profits. Income assessed at Rs.32,70,410/-.

4.2 Dissatisfied with the order of Ld. A.O assessee preferred appeal before Ld. CIT(A) but failed to succeed.

4.3 Aggrieved assessee is now in appeal before this Tribunal.

5. Ld. Counsel for the assessee reiterated the submissions filed before Ld. A.O and submitted that there is no suppression of profit and it is merely on account of regrouping and classification of interest capitalization and the difference is compensatory in nature and correct closing balance for the year ended on 31.3.2014 has been considered as opening balance as on 1.4.2014.

6. On the other hand Ld. Departmental Representative vehemently argued and supported the orders of both the lower authorities.

7. I have heard rival submissions and perused the records placed before me. The assessee is aggrieved with the finding of Ld. CIT(A) confirming the action of the Ld. A.O making addition for

suppression of profits at Rs.27,58,288/-. Ld. A.O made the impugned addition observing that there is a difference in the closing stock as on 31.3.2014 declared in the return of income for Assessment Year 2014-15 vis-à-vis the opening stock as on 1.4.2014 shown in the return for Assessment Year 2015-16. Admittedly the difference is Rs.27,58,288/- and the same pertains to the interest incurred on land purchased by the partner and contributed as partners capital in the partnership firm. From the profit and loss account for Financial Year 2013-14 placed at page-7 of the assessment order I notice that the opening stock is NIL and in the purchase account apart from the expenditure incurred for building material, there is a purchase of plot costing Rs.5,22,31,198/-. Thereafter considering the direct expenses incurred during the year and further there being no revenue during the year, the closing stock is valued at Rs.5,68,87,671/-. Now as per the settled accounting principles the closing stock as on 31.3.2014 is to be shown as opening stock as on 1.4.2014. However in the profit and loss account for Financial Year 2014-15 opening stock is shown as Rs.5,96,45,959/-. So there is a clear cut difference of Rs.27,58,288/- .

7.1 Now the contention of the Ld. Counsel for the assessee is that the said plot of land located at 6/6 New Palasia, Indore was introduced by one of the partner namely Shri Sunil Kumar Jodhani. This plot was purchased at Rs.4,98,71,485/- vide registered deed dated 11.2.2013 by the partner Shri Sunil Kumar Jodhani. For making such purchase, secured loan of Rs. 2.45 crores was taken from Tata Finance Ltd. From 11.2.2013 to 31.3.2014 the interest accrued on the borrowing taken from Tata Finance Ltd. Now during the financial year 2013-14 when the said plot of land was introduced into the partnership firm then the secured loan was also transferred to the partnership firm and as on 31.3.2014. The capital account of Shri Sunil Kumar Jodhani reflects the figure of Rs.2,54,19,931/- and on secured loan from Tata Finance Ltd was also shown at Rs.2,30,76,007/-. However the interest accrued at Rs.27,58,288/- did not form the part of the cost of plot of land. As per the assessee the inventory value of developed land as on 31.3.2014 is actually Rs.5,96,45,959/- which includes the interest accrued on borrowings at Rs.27,58,288/- but the assessee failed to include in the cost of land. The calculation of the inventory value of developed land as on 31.3.2014 is as under:

Particulars	Amount
Original cost of land purchased	49871485
Interest till 31.03.2013 to inventory	1898434
Interest till 08.07.2013 (property transferred in firm)	1488369
Total value of land in firm	53258288
Interest till 31.03.2014	1731198
Closing Inventory value of land on 31.03.2014	54989486
Material and other cost incurred in development as per books of accounts	4656473
Total Inventory value of developed land as on 31.03.2014	59645959

7.2 Now the revenue have not controverted the above details filed by the assessee at any stage. The reason given by the assessee for making said change in the balance sheet for Financial Year 2014-15 is that it wanted to make compliance to the Income computation and Disclosure (In short 'ICDS') Standard-IX notified by CBDT which includes the land as a qualifying asset in para 2(b)(i). Further para 2(b)(iii) of the ICDS states that if inventories that require a period of 12 months or more to bring them to a saleable condition then such borrowing cost being interest incurred for land and other immoveable property held as inventory is required to be capitalized. Further in para 4 of the ICDS it is stated that for the purposes of this ICDS, Capitalization in the context of inventory referred to in item (iii) of clause (b) of sub-paragraph (1) of the

paragraph means addition of borrowing cost to the cost of inventory. In view of the ICDS norms assessee has calculated the inventory value as on 31.3.2014 and 1.4.2014.

7.3 Though the Ld. A.O has rightly observed that these provisions of ICDS were required to be complied for Assessment Year 2016-17 but in my view the interest incurred up to 31.3.2014 has only been added to the cost of land. Irrespective of the ICDS, the cost of land including the interest incurred in the hands of the partner needs to be shown as total cost of land as on 31.3.2014, therefore the correct value of the inventory as on 31.3.2014 is Rs.5,96,45,959/-. The assessee should have incorporated this correct figure in the return for preceding year. However so far as the year under appeal is concerned the assessee has rightly adopted the correct figure of opening stock at Rs.5,96,45,959/-. Therefore there being no loss to the revenue as the alleged sum would have been claimed as an expenditure in subsequent year as per ICDS, therefore in my view both the lower authorities erred in observing that the assessee has suppressed the profits to the tune of Rs.27,58,288/-. I therefore set aside the finding of Ld. CIT(A) and delete the impugned addition of

Rs.27,58,288/- and allow the effective grounds of appeal raised by the assessee.

8. In the result appeal of the assessee is allowed.

Order pronounced in the open court on 09.08.2024.

Sd/-

(MANISH BORAD)
Accountant Member

Indore, 09.08.2024

Dev/Sr. PS

Copies to: (1) *The appellant*
(2) *The respondent*
(3) *CIT*
(4) *CIT(A)*
(5) *Departmental Representative*
(6) *Guard File*

By order

Sr. Private Secretary
Income Tax Appellate Tribunal
Indore Bench, Indore