



IN THE INCOME TAX APPELLATE TRIBUNAL, 'SMC' BENCH PUNE
BEFORE HON'BLE SHRI G. D. PADMAHSHALI, ACCOUNTANT MEMBER
AND
HON'BLE SHRI VINAY BHAMORE, JUDICIAL MEMBER

ITA No. 1458/PUN/2024
Assessment Year : 2015-16

Alliance Venashree Ventures
Brahma Chambers, 4th Flr.,
Sadashiv Peth, Pune-411030.
PAN: AAXFA1207G.

..... **Appellant**

V/s

The Income Tax Officer,
Ward-12(1), Pune.

..... **Respondent**

Appearances

Assessee by : None for the Assessee
Revenue by : Mr BS Rajpurohit ['Ld. DR']
Date of conclusive Hearing : 10/09/2024
Date of Pronouncement : 11/09/2024

ORDER

PER G. D. PADMAHSHALI, AM;

The assessee impugns DIN & Order No. ITBA/NFAC/S/250/2024-25/1064854369(1) dt. 14/05/2024 passed by the first appellate authority ['Ld. NFAC/ CIT(A)' hereinafter] u/s 250 of the Income-tax Act, 1961 ['the Act' hereinafter] which in turn confirms orders of assessment dt. 29/12/2017 passed u/s 143(3) of the Act by the Income Tax Officer, Ward-12(1), Pune ['Ld. AO' hereinafter] for assessment year 2015-16 ['AY' hereinafter].

2. This case was called twice; none appeared at the behest of the appellant, on the primary briefing from the Revenue and having regard



to order-sheet entries we deem fit it to advance *ex-parte* u/r 24 of ITAT-Rules, 1963 & adjudicate limited issue.

3. Briefly stated facts of case are that, the assessee is a partnership firm and engaged in real-estate business whereby its buys land, develop it for sale in small size. For the year under consideration the assessee filed its original return of income u/s 139(1) of the Act on 26/09/2015 declaring total income ₹13,97,858/- which was summarily processed u/s 143(1) of the Act without variation. Later on, the said return was selected under CASS for limited scrutiny assessment u/s 143(3) of the Act. During the course of regular assessment, it was found that, the assessee firm debited a provision of ₹2,50,00,000/- towards cost of development to be incurred in the subsequent financial year. In the event of failure on the part of assessee to demonstrate such cost is actually incurred for the year under consideration or credited equivalent amount to work-in-progress, the Ld. AO culminated the proceedings by disallowing portion of such provision ₹26,35,380/- u/s 37(1) of the Act and assessed the total income accordingly by an order dt. 29/12/2017 framed u/s 143(3) of the Act.

4. The assessee assailed the aforestated addition in appeal before the Ld. NFAC, which was dismissed on assessee's failure to prove the expenditure is actually incurred. Further aggrieved assessee came in present appeal challenging the action of Ld. NFAC on solitary ground of disregarding the facts while confirming the assessment.



5. Without touching the merits of the case, we have heard the Ld. DR on the limited issue and subject to rule 18 of ITAT-Rules 1963 perused material placed on record.

6. We note that during the course of appellate proceedings, the assessee vide five notices dt. 06/01/2021, 02/05/2023, 26/09/2023, 02/02/2024 & 05/03/2024 was called upon to produce evidential document affording less than reasonable period for compliance. Therefore hassled replies of the assessee did fail to sufficiently & effectively demonstrate that expenses were actually incurred as in the year under consideration as result of which the appeal of the assessee seen dismissal reiterating therein the findings of the tax authority below.

7. Having considered the facts holistically, in view of 'St. Paul's Anglo Indian Education Society' (2003) 262 ITR 377 (Pat)', the impugned adjudication we are of the considered view is unjust as the assessee was deprived of reasonable time/opportunity and time to produce all relevant documents to substantiate claims in relation to estimated project cost provided by it in the books *vis-à-vis* actually incurred by it.

8. The records reveals us that, the assessee firm employed mercantile system of accounting in maintaining its regular books of account for the business. At the closure books the assessee estimated further cost to be incurred in relation to development project & provision to that effect made creating the corresponding liability. The fact as to how much of



such estimated cost/provision was actually added to the cost of work-in-progress and portion thereof was actually incurred in the year in relation to area of land sold & taken into income remained to be placed before the tax authorities below for the want of reasonable time to comply. In the absence of such details the impugned addition made by the Ld. AO was sustained in first appeal vide para 5 of the impugned order.

9. In the present appeal as well the assessee is indifferent, in the event countenancing the impugned addition without vouching the factual position from the evidentiary document would be arbitrary & unjust as it would saddle the appellant with undue taxes, which is impermissible in law. For the reason we deem it fit to accord one more opportunity to the assessee by setting-aside the impugned order & remanding the matter back to the file of Ld. NFAC for de-novo adjudication in accordance with law after according three effective opportunities. Ordered accordingly.

10. In result the appeal is PARTLY ALLOWED FOR STATISTICAL PURPOSES.

In terms of rule 34 of ITAT Rules, the order pronounced in the open court on this Wednesday, 11th day of September, 2024

-S/d-

VINAY BHAMORE
JUDICIAL MEMBER

पुणे / PUNE ; दिनांक / Dated : 11th day of September, 2024

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

1. अपीलार्थी / The Appellant.

2. प्रत्यर्थी / The Respondent.

4. The CIT(A)/NFAC Concerned.

5. DR, ITAT, 'SMC' Bench, Pune

-S/d-

G. D. PADMAHSHALI
ACCOUNTANT MEMBER

3. The Pr. CIT Concerned.

6. गार्डफाइल / Guard File.

आदेशानुसार / By Order
वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय न्यायाधिकरण, पुणे / ITAT, Pune.