

THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD "SMC" BENCH

Before: Ms. Suchitra Kamble, Judicial Member

**ITA No. 7/Ahd/2024
Assessment Year 2011-12**

Ruchi Developers A/40 Lalit Society, Opp, Adarsh Tenament, Ishanpur, Ahmedabad PAN: AADFR6907Q (Appellant)	Vs	The Income Tax Officer, Ward-3(2)(9), Ahmedabad, (Respondent)
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**Assessee by: Shri M.J. Shah &
Shri Rashin Patel, ARs**
Revenue by: Shri Sanjaykumar, Sr. D.R.

Date of hearing : 08-08-2024
Date of pronouncement : 19-09-2024

आदेश/ORDER

This is an appeal filed against the order dated 04-12-2023 passed by National Faceless Appeal Centre (NFAC), Delhi for assessment year 2011-12.

2. The grounds of appeal are as under:-

“1. The ld. CIT(A) has erred in law and on facts of the case sustaining addition of alleged undisclosed profit on sale of land to the extent of R. 24,73,977/-.

2. The appellant craves leave to add, amend or alter the grounds of appeal at the time of hearing, if need arise.

Total tax effect (Rs. 7,64,460/-)”

3. The assessee did not file return of income u/s. 139 of the Act. As individual transaction statement/data, during the year under consideration, the assessee sold immovable property valued at 3,96,91,000/-. The sale consideration of property remains to be verified as per observations of the Assessing Officer. Therefore, the case of the assessee was reopened. Notice u/s. 148 was issued on 27-03-2018 and was served upon the assessee. The notice u/s. 148 was issued after recording the reasons. In response to the notice u/s. 148, the assessee filed the return of income on 30-04-2018 declaring total income at Rs. nil. The assessee filed reply dated 03-11-2018 and submitted that the requisite details. After taking cognizance of the said details, the Assessing Officer held that the assessee itself offered the profit on sale of land in accordance with the jantry rate and because the assessee has no other option or parameter left to offer the profit on sale of the land, therefore the Assessing Officer accepted the pro rata allocation of profit. Thus, the Assessing Officer made addition of Rs. 49,48,034/- as regards the profit of Rs. 24,73,977/-

owned up and offered by the assessee during the course of assessment proceedings as undisclosed profit on sale of land.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The Id. Authorized Representative submitted that the CIT(A) was not right in sustaining the addition on the so-called profit on sale of land to the extent of Rs. 24,73,977/-, Ruchi Nirman Pvt. Ltd. in whose hand the income of Rs. 3,96,91,000/- was observed to be taxable and the same was offered to tax in respect of the sale consideration of the units of Green Part -1 (land of plots). The Id. Authorized Representative submitted that the remand report called by the CIT(A) categorically mentioned that the said amount was offered to tax and therefore the assessee is not liable to pay taxes on the amount which was already taxed by the Ruchi Nirman Pvt. Ltd. which will amount to double taxation.

6. The Id. Departmental Representative relied upon the assessment order and the order of the CIT(A).

7. Heard both the parties and perused all the relevant materials available on record. The remand report has

categorically mentioned that Ruchi Nirman Pvt. Ltd. is the assessee in whose hands income of Rs. 3,96,91,000/- shall be taxable and the same has been offered to tax by the same company in respect of entry of unit No. A/04 as well as the extra work done income by Ruchi Nirman Pvt. Ltd. and in respect of actual sales accounted by the said entity. The Department is not disputing the amount which was offered for taxation by Ruchi Nirman Pvt. Ltd. and therefore the profit of Rs. 24,73,977/- owned up and offered by the assessee has to be deleted otherwise the same will be held as double taxation.

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

Order pronounced in the open court on 19-09-2024

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Ahmedabad : Dated 19/09/2024

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,
उप/सहायक पंजीकार
आयकर अपीलीय अधिकरण,
अहमदाबाद