



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

BEFORE SHRI PRASHANT MAHARISHI, AM
AND
SHRI RAJ KUMAR CHAUHAN, JM

ITA No. 3064/MUM/2024

A.Y.2013-14

ACIT,
Central Circle-4,
Thane

Vs.

Neel Sidhi Developers ,
Plot No.195, Beside Neel
Sidhi Towers, Sector-12,
Vashi,
Navi Mumbai 400703

(Appellant)

(Respondent)

PAN

AAGFN 2744N

Assessee by
Revenue by

Shri Subodh Ratnaparkhi
Shri Ashok Kumar Ambastha,
Sr. (DR),

Date of hearing
Date of pronouncement

30th July, 2024
08th October 2024

ORDER

PER PRASHANT MAHARISHI, AM:

1. ITA No. 3064/M/2024 is filed by the learned Assistant Commissioner of Income Tax, Central Circle – 4, Thane, (the learned AO) for Assessment Year 2013 – 14 against the appellate order passed by the Commissioner of Income Tax (Appeals) – Pune dated 18/3/2024 wherein the addition of Rs.35,119,146/- made by the learned



Assessing Officer in the assessment order by applying percentage completion method, was deleted.

2. Therefore, the learned AO is in appeal raising following grounds:-

a) On the facts and in the circumstances of the case and in law, the learned CIT (A) has erred in deleting the addition of Rs. 35,119,146/- made by the AO by applying percentage completion method without appreciating the fact that the assessee satisfied all the conditions for revenue recognition specified in accounting standard – 9 guidelines issued by ICAI, and therefore revenue should be recognized by applying the percentage completion method as per accounting standard – 7 guidelines.

b) On the facts and in the circumstances of the case and in law, the learned CIT (A) has erred in deleting the addition by ignoring the fact that substantial portion of the work was completed, and the revenue recognized is deferred by the assessee only on the ground that occupancy certificate has not been received.

3. On the issue, at the initial stage itself the learned authorised representative submitted that this issue has already been decided in the case of the assessee for assessment year 2011 – 12 by ITA No. 30/M/2020 dated 28/10/2022 and in ITA No. 1693/M/2024 Assessment Year 2012 – 13 as per order dated 24/11/2022 and, therefore, the appeal of the learned Assessing Officer deserves to be dismissed.



4. The learned Departmental Representative also agreed that this issue has been decided in case of the assessee for the same project for Assessment Years 2011 - 12 and 2012 - 13 and this Assessment Year is 2013 - 14.
5. We find that assessee is a partnership firm engaged in the development of real estate into residential and commercial complexes. While paragraph number 29 of the order of the Coordinate Bench in assessee's own case for Assessment Year 2011 - 12 wherein the issue of determination of the profits of the assessee company by applying the project completion method or percentage completion method is discussed. It was held that assessee is realistic developer engaged in the business of developing housing projects at Navi Mumbai. The assessee is declaring the income under the project completion method for its projects. These projects commenced on 9/3/2010. The learned Assessing Officer has rejected the project completion method and held that only the percentage completion method should be adopted. The learned CIT-A that the income of the assessee is to be computed under the project completion method. The coordinate bench accepting the argument of the assessee that project completion method is consistently followed by the assessee which is a valid method for computing taxable income. Merely because the percentage completion method is a better method as per the learned assessing officer, it does not make the project completion method as invalid. The choice as to which



accounting method is to be followed rests with the assessee. Further the learned assessing officer did not reject the books of accounts and therefore following the decision of the Hon'ble Bombay High Court in 79 taxmann.com 394, the addition was deleted holding that the project completion method adopted by the assessee is correct method of accounting. Similar is finding of the Coordinate Bench for the subsequent year. Therefore, respectfully following the decision of the coordinate benches in assessee's own case for the same project, we also hold that the learned and CIT - A is correct in directing the learned Assessing Officer to compute the income of the assessee on project completion method misses. Accordingly, the solitary ground raised by the learned Assessing Officer in this appeal is dismissed.

6. The appeal filed by the learned AO is dismissed.

Order pronounced in the open court on 08/10/2024.

Sd/-

(RAJ KUMAR CHAUHAN)
(JUDICIAL MEMBER)

Sd/-

(PRASHANT MAHARISHI)
(ACCOUNTANT MEMBER)

Mumbai, Dated: 08.10.2024

Dragon



Copy of the Order forwarded to :

The Appellant, The Respondent, The CIT, The DR ITAT & Guard File

BY ORDER,

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Mumbai