

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI "F" BENCH : MUMBAI

BEFORE SHRI B.R. BASKARAN, ACCOUNTANT MEMBER  
AND  
SHRI ANIKESH BANERJEE, JUDICIAL MEMBER

<b>ITA No.</b>	<b>A.Y.</b>	<b>Appellant</b>	<b>Respondent</b>
1385/Mum/2024	2018-19	M/s. Vidhi Realtors, 76, Laxmi Palace, Mathurdas Road, Kandivali (West), Mumbai PAN: AAFV4222J	National Faceless Assessment Centre, Delhi
1059/Mum/2024	2018-19	Income Tax Officer, Ward-42(1)(5), 9 <sup>th</sup> Floor, Kautilya Bhavan, Bandra Kurla Complex, Bandra East,	M/s. Vidhi Realtors, 76, Laxmi Palace, Mathurdas Road, Kandivali (West), Mumbai PAN: AAFV4222J

For Assessee :	Shri Akshay Jain,
For Revenue :	Shri Ashish Kumar, Sr.DR

Date of Hearing :	28-10-2024
Date of Pronouncement :	28-10-2024

**ORDER**

**PER B.R. BASKARAN, A.M :**

These cross-appeals filed by the assessee and Revenue are directed against the order passed by the Ld. Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)'] and it relates to AY. 2018-19.

2. The Ld.AR submitted that the assessee is a builder and he is following Percentage Completion Method for computing income. During the course of assessment proceedings, the AO, however, estimated the income of the assessee @10% of the cumulative advances received from the prospective buyers. The Ld A.R submitted that the AO did not examine the “percentage of the completion of the project”, which would form the basis for ascertaining the income of the year. The Ld.AR also submitted that the receipt of advances from prospective buyers is an altogether different thing and the same is not connected to the actual work carried on by the assessee. Accordingly, he submitted that the estimation made by the AO is not in accordance with the standards and accounting principles.

3. The Ld A.R further submitted that the Ld.CIT(A) also did not appreciate the above said facts and he has granted partial relief by adopting net profit rate of 6% as mentioned in section 44AD of the Act. The Ld.AR submitted that the assessee is in appeal in respect of the addition sustained by the Ld.CIT(A), while the Revenue is in appeal in respect of relief granted by the Ld.CIT(A).

4. We heard the Ld.DR and perused the record. We notice that both the tax authorities have estimated the income of the assessee on the cumulative advances received by the assessee from prospective buyers, while the accounting principles and the accounting guidance note pertaining to construction contracts require estimation of income on the basis of Percentage of Completion of the project. As rightly submitted by Ld A.R, receipt of advance from prospective buyers is not relevant to determine the percentage of completion of the project. Hence, the approach adopted by both the tax authorities are not in accordance with the accounting principles/accounting guidance notes. Under these set of facts, we are of the view that this issue requires fresh examination

at the end of the AO. Accordingly, we set aside the order passed by the Ld.CIT(A) and restore all the issues to the file of the AO with the direction to examine the claim of the assessee with regard to Percentage of Completion Method in accordance with accounting principles/guidance notes and take appropriate decision in accordance with law. We also direct the assessee to fully co-operate with the assessing officer for expeditious completion of the assessment.

5. In the result, the cross appeals are treated as allowed for statistical purposes.

Order pronounced in the open court on 28-10-2024

Sd/-  
[ANIKESH BANERJEE]  
JUDICIAL MEMBER

Sd/-  
[B.R. BASKARAN]  
ACCOUNTANT MEMBER

Mumbai,  
Dated: 28-10-2024

*TNMM*

Copy to :

1.	The Appellant
2.	The Respondent
3.	The Pr. CIT, Mumbai concerned
4.	D.R. ITAT, "F" Bench, Mumbai.
5.	Guard File.

//By Order//

//True Copy //

Dy./Asst. Registrar,  
ITAT, Mumbai