

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai “D” BENCH, MUMBAI
BEFORE SMT. BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER
ITA No.5002/M/2024
Assessment Year: 2015-16

Micron Builders F-11, The Affaires (Mall Area), Plot No.9, Sector-17, Sanpada, Navi Mumbai- 400705. PAN: AARFM8202B	Vs.	Income Tax Officer Ward- 28(3)(1) VRCCL-316, 4 th Floor, Tower No.6, Vashi Station Complex, Vashi, Navi Mumbai- 400703.
Appellant	:	Respondent

Present for:

Assessee by

: Shri Shashank Mehta

Revenue by

: Shri R. R. Makwana, Sr. DR.

Date of Hearing

: 14.11.2024

Date of Pronouncement

: 22.11.2024

O R D E R

Per Beena Pillai, JM:

Present appeal filed by the assessee arises out of order dated 31/07/2024 passed by NFAC Delhi/Ld.CIT(A) for assessment year 2015-16 on following grounds of appeal:

1. *“The Ld. CIT (A) has completed the appellate proceedings without considering the facts and circumstances of the case, which is contrary to the law and is also against the principles of natural justice.*
2. Addition of Rs. 7,44,08,070

- i. The Ld. CIT (A) has erred in treating the document executed for Conveyance of the land and building in the name of Micron Park View Co. Op. Housing Society by the appellant developer firm as a Sale of Property and assessed the aggregate sale consideration of all units in the building amounting to Rs.7,44,08,070 as sale consideration liable for tax under the head "Capital Gains".*
 - ii. The Ld. CIT (A) ought to have considered that the amount of Rs.7,44,08,070 representing aggregate sale consideration of the all units in the building is already considered by the appellant developer firm as "Sales" under Business Income during AY 2012- 13 & AY 2013-14, resulting in double taxation of the said consideration for taxation. For Micron Builders*
- 3. The Ld. CIT (A) has erred in dismissing the appeal merely on account of non-responding of notices by the appellant during the appellate proceedings, without considering the facts of case and without adjudicating the grounds of appeal on merits.*
- 4. The appellant craves leave to add, alter, amend, modify, substitute or delete all or any of the above grounds of appeal.”*

2. At the outset, it is submitted that assessee has not appeared before the Ld.AO as well as before the Ld.CIT(A). It is noted that the proceedings before the authorities below took place during the covid period and have obvious reason assessee could not have made proper representation of its case.

3. Before the Ld.CIT(A), we noted that the last three notices were issued post Covid period, however, no compliances were made by the assessee. The Ld.AR submitted that in the interest of justice, the issue may be remanded to the authorities below for considering the contentions based on evidences.

4. The Ld.DR though did not support the submissions of the Ld.AR, however, was of the opinion that proper verification of the

facts deserves to be made as it was a case of reopening of assessment.

We have perused the submissions advanced by both sides in the light of the records placed before us.

5. Considering the submissions made by both sides and the observation herein above in the interest of justice we remand the appeal back to the file of Ld.AO to decide the issue raised by the assessee by passing a detailed order on merits. Needless to say that proper opportunity of being heard must be granted to the assessee.

Accordingly the grounds raised by the assessee stands allowed.

In the result the appeal filed by the assessee stands allowed.

Order pronounced in the open court on 22-11-2024.

**Sd/-
PRABHASH SHANKAR
ACCOUNTANT MEMBER**

**Sd/-
BEENA PILLAI
JUDICIAL MEMBER**

Place: Mumbai,

Dated: 22.11.2024

Snehal C. Ayare, Stenographer/ Dragon

Copy of the order forwarded to :

1. The Appellant
2. The Respondent
3. Ld.DR, ITAT, Mumbai



4. Guard File
5. CIT

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai