

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "E": NEW DELHI  
BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

**ITA Nos. 212 & 213/Del/2023  
(Assessment Years: 2016-17 & 2017-18)**

DCIT, Central Circle-04, New Delhi (Appellant) <b>PAN:AAHCM4789B</b>	Vs. M/s. MG Housing Pvt Ltd, C-127, K. G. Marg, New Delhi (Respondent)
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Assessee by :	Shri Salil Aggarwal, Sr. Adv Shri Shailesh Gupta, Adv
Revenue by:	Shri Akhilesh Kumar Yadav, Sr. DR
Date of Hearing	04/12/2024
Date of pronouncement	10/12/2024

O R D E R

**PER M. BALAGANESH, A. M.:**

1. These appeals in ITA Nos. 212 & 213/Del/2023 for AYs 2016-17 and 2017-18, arise out of the order of the Id. Commissioner of Income Tax (Appeals)-23, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] dated 16.11.2022 against the order of assessment passed u/s 148 r.w.s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 23.02.2022 by the Assessing Officer, JCIT, Central Circle-4, Delhi (hereinafter referred to as 'Id. AO').
2. Identical issues are raised in both the appeals and hence, they are taken up together and disposed of by this common order for the sake of convenience.

3. In respect of appeal for AY 2016-17, the only issue to be decided is as to whether the Id CIT(A) was justified in deleting the disallowance made u/s 40(a)(ia) of the Act in respect of payment made by the assessee to HUDA.

4. We have heard the rival submissions and perused the material available on record. At the outset, the Id AR before us fairly conceded that this issue is decided against the assessee by the decision of the Hon'ble Jurisdictional High Court reported in 462 ITR 326 (Del). However, the Id AR submitted before us that the assessee files Rule 27 petition under ITAT Rules challenging the validity of reassessment proceedings both on assumption of jurisdiction on the legality of the reassessment order for want of Document Identification Number (DIN) in the assessment order.

5. The grounds raised in the Rule 27 petition are legal in nature and does not require any factual verification and hence, they are admitted. We find that the validity of reassessment proceedings was challenged by the assessee before Id CIT(A) also. The Id CIT(A) granted relief to the assessee on merits and held that the adjudication of other grounds need not be made. Since, no finding has been given by the Id CIT(A) on the legal issue raised by the assessee, the Bench deems it fit and appropriate to restore these grounds raised under Rule 27 petition to the file of the Id CIT(A) for de novo adjudication in accordance with law. Accordingly, the appeal of the revenue for AY 2016-17 is restored to the file of the Id CIT(A) and allowed for statistical purposes.

6. Appeal for AY 2017-18 is having tax effect of Rs. 58,33,446/- as per Form-36 filed by the revenue. Hence the same falls below the threshold monetary limit enabling the revenue to prefer appeal before the Tribunal

in view of the CBDT Circular No.09/2024 dated 17/09/2024. Hence, the appeal of the revenue is dismissed as not maintainable.

7. To sum up, the appeal of the revenue for AY 2016-17 is allowed for statistical purposes and appeal of the revenue for AY 2017-18 is dismissed.

Order pronounced in the open court on 10/12/2024.

**-Sd/-**  
**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

**-Sd/-**  
**(M BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated:10/12/2024  
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR  
ITAT, New Delhi