

आयकर अपीलिय अधिकरण
देहरादून पीठ "डीबी", देहरादून
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री अवधेश कुमार मिश्रा, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN BENCH "DB", DEHRADUN (THROUGH VIRTUAL HEARING)
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER
आअसं.103 &104/देहरादून/2019(नि.व. 2015-16 & 2016-17)
ITA Nos.103 & 104/DDN/2019 (A.Ys.2015-16 & 2016-17)

Deputy Commissioner of Income Tax,
Central Circle, Dehradun

..... अपीलार्थी/Appellant

बनाम Vs.

Golden Manor,
229, Indira Nagar, Dehradun,
Uttarakhand 248001

PAN: AAMFG-2590-D

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri S.K Chaterjee, CIT-DR(Through VC)
प्रतिवादीद्वारा/ Respondent by : Shri S.K. Matta, Chartered Accountant
सुनवाई की तिथि/ Date of hearing : 10/02/2025
घोषणा की तिथि/ Date of pronouncement: : 21/02/2025

आदेश/ORDER

PER VIKAS AWASTHY, JM:

These two appeals by the Revenue are directed against the order of Commissioner of Income Tax (Appeals)-IV, Kanpur (hereinafter referred to as 'the CIT(A)') dated 16.05.2019, common for assessment years 2015-16 & 2016-17.

2. Since, identical issues have been raised by the Revenue in both these appeals and the facts germane to the issues in appeal are identical, these appeals are taken up together for adjudication and decided by this common order.

3. Shri S.K. Chaterjee, representing the Department narrating facts of the case submitted that a search and seizure operation was carried out at the business premises of Golden Manor Group on 22.07.2015. The assessee is a partnership firm and is engaged in Real Estate Business. During the course of search and seizure operation one of the partners Shri A N Ahuja in his statement recorded u/s. 132(4) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') made a disclosure of Rs.5 crores for AY 2015-16 and Rs.9 crores for AY 2016-17. However, in return of income the assessee did not offer surrendered income. The assessee in return of income declared total taxable of Rs.2,68,97,657/- from the business of Real Estate for AY 2015-16 and Rs.2,92,02,474/- for AY 2016-17. The assessee being in the business of Real Estate Development was required to adopt Percentage Completion Method as per Accounting Standard-7 (AS-7). The Assessing Officer (AO) computed the gross profit as per norms laid down in AS-7 and made addition of Rs.4,96,15,372/- in AY 2015-16 and Rs.5,58,06,768/- in AY 2016-17. The CIT(A) has erred in deleting the additions made by the AO. The CIT(A) has not followed mandatory provision of AS-7. The assessee had furnished written submissions before the CIT(A). The CIT(A) has sought remand report from the AO. The AO submitted his report vide letter dated 18.04.2019. The CIT(A) without properly appreciating observations of the AO in remand report decided appeal of the assessee deleting addition made in the assessment orders. The Id. DR thus prayed for reversing findings of the CIT(A) and upholding addition made in assessment orders for respective impugned assessment years.

4. Shri S.K. Matta, appearing on behalf of the assessee submitted that Financial Year 2014-15 relevant to assessment year 2015-16 is the first year of booking profits by the assessee. During assessment proceedings, the assessee furnished all the relevant documents and financial statement before the AO. The assessee is following Percentage Completion Method as per AS-7. In assessment proceedings, the AO could not point any defect in the working of the assessee or books of the assessee which were duly audited as per provision of section 44AB of the Act. In so far as, surrender of Rs.5 crores/Rs.9 crores in impugned assessment years, by Shri A N Ahuja Managing Partner, the statement was retracted next day. The AO has not made any addition on the basis of surrender of income. The Id. Counsel for the assessee submitted that the AO instead of taking actual cost and actual revenue has adopted projected figures which were filed before the bank. The AO conveniently ignored actual figures which were submitted during the course of assessment proceedings as well as on the basis of which the return of income was filed. The Id. Counsel vehemently defended impugned order and prayed for upholding the same.

5. Both sides heard, orders of the authorities below examined. In so far as the nature of business activities carried out by the assessee, it is not in dispute. The assessee recognized revenue on the basis of Percentage Completion Method. The assessment year 2015-16 is the second year of operations and the first year of booking profits. The profits computed by the assessee for impugned assessment years per Percentage Completion Method and in line with AS-7, is tabulated herein under:-

PARTICULARS	ASSESSMENT YEARS		
	2014-15	2015-16	2016-17
OPENING WORK IN PROGRESS (WIP)	NIL	68405365	166362875
COST INCURRED DURING RELEVANT A.Y.	68405365	219370654	145259079
TOTAL COST INCURRED UPTILL NOW [A]	68405365	287776019	433035097
ESTIMATED PROJECT COST[B]	450645000	581130894	607096958
DEGREE OF COMPLETION (%) [C] i.e [A/B]	15.18%	49.52%	71.33%
(Refer Note 1)			
ESTIMATED PROJECT REVENUE [D]	-	299513995	433573883
(Based on Sale Agreement Executed)			
TOTAL PROJECT REVENUE [C*D] i.e [E]	-	148310800	316396018
(Refer Note 1)			
PROJECT REVENUE FOR RELEVANT A.Y.	-	148310800	168085218
CLOSING WORK IN PROGRESS	68405365	166362875	172739211
PROJECT COST TO BE CHARGED [F]	-	121413143	138882743
(Opening WIP +Cost Incurred -Closing WIP)			
PROFIT FOR RELEVANT A. Y.	NIL	26897657	29202475
[E-F] i.e [G]			

6. We find that the AO is also of the view that the assessee has recognized profits in accordance with AS-7. However, the AO while computing profits instead of taking actual revenue and cost has relied on projections that were furnished to the bank by the assessee. When actuals are available, resorting to addition based on projections is unwarranted. The CIT(A) has reserved findings of the Assessing

Officer by observing that the computation of assessee's profits of business should be on the basis of actual revenue recognized and actual cost incurred. We find no infirmity in the order of CIT(A).

7. The impugned order is upheld and both appeals of the Revenue are dismissed.

Order pronounced in the open court on Friday the 21st day of February, 2025.

Sd/-

(AVDHESH KUMAR MISHRA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली / Delhi, दिनांक/Dated 21/02/2025

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषित Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि., देहरादून /DR, ITAT, Dehradun
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, Dehradun