

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“DB” BENCH, AGRA**

**BEFORE HON’BLE SHRI SATBEER SINGH GODARA, JM AND  
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**

**आयकरअपीलसं./ ITA No. 92/Agr/2023**  
**(निर्धारणवर्ष / Assessment Year: 2018-19)**

<b>M/s Ram Raghu Build Well LG</b> 345, Suresh Plaza, MG Road, Agra	<b>बनाम/</b> Vs.	<b>ITO- Circle 1(1)(1)</b> Agra
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AAJFR-4302-D</b>		
<b>(अपीलार्थी/Appellant)</b>	:	<b>(प्रत्यर्थी / Respondent)</b>

<b>अपीलार्थीकीओरसे/ Appellant by</b>	:	Ms. Prathana Jalan, CA- Ld. AR
<b>प्रत्यर्थीकीओरसे/Respondent by</b>	:	Shri Shailendra Shrivastava – Ld. Sr. DR

<b>सुनवाईकीतारीख/Date of Hearing</b>	:	13-02-2025
<b>घोषणाकीतारीख /Date of Pronouncement</b>	:	28-03-2025

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2018-19 arises out of an order of learned Commissioner of Income Tax (Appeals), NFAC [CIT(A)] dated 20-04-2023 in the matter of an assessment framed by Ld. AO u/s 143(3) vide order dated 05-04-2021. The substantial grievance of the assessee is addition of Rs.280.24 Lacs. Having heard rival submissions, the appeal is disposed-off as under.

2. The assessee being partnership firm is engaged in real estate construction. The assessee follows specific method of accounting to recognize revenue on the projects being carried on by it. During assessment proceedings, Ld. AO held that since few of the projects

were completed, the assessee should have offered entire revenue arising there-from to tax. However, the assessee reflected advances of Rs.280.24 Lacs in three of the projects in its Balance Sheet. Therefore, the same was added to the income of the assessee. The Ld. CIT(A), referring to the provisions of Sec.43CB r.w.s. 145(2), confirmed the same against which the assessee is in further appeal before us.

3 The Ld. AR stated that the assessee has adopted revenue recognition method on sale basis on the projects which were started before 01-04-2012 i.e., before release of Guidance Note on Accounting for Real estate. This method was accepted by the department in earlier years which is evident from assessment orders of earlier years as placed on record. The Ld. AR stated that after this, the assessee has applied percentage of completion method in accordance with the guidance note. However, all the three projects commenced before the year 2011 and the assessee recognized revenue on sale basis. The assessee recognizes the revenue at the time of execution of sale deeds through which significant risk and rewards of the ownership are transferred to the buyer which is in accordance with Accounting Standard-9 'Revenue recognition' and further mandated by ICAI by way of a Guidance Note on recognition of revenue by real estate developers. The Ld. AR stated that, following this method of accounting, the profit arising from these projects have fully been offered to tax in other years and therefore, the advances as outstanding in the Balance Sheet could not be brought to tax again

since the same would amount to double taxation. To support the same, Ld. AR referred to the pleadings made before Ld. CIT(A).

4. From assessee's submissions, it is quite clear that all the three projects were stated before 2011 and the same have already been completed on 30-04-2012, 25-02-2013 and 17-05-2014 respectively. The assessee has recognized revenue on sale basis which is recognized method of accounting for such projects. It is another submission that following this method of accounting, the entire revenue arising there-from has already been offered to tax in earlier years. Adding customers' advances to the income of the assessee would amount to double taxation which is impermissible. We find force in these submissions of Ld. AR. The provisions of Sec. 43CB are applicable only w.e.f. 01-04-2017 and the same could not be pressed into service for such projects. Therefore, Ld. AO is directed to verify that fact that following this particular method of accounting, the revenue on these projects has been offered to tax in other years. If the same is found to be correct, the impugned addition would stand deleted. The assessee is directed to file the requisite details of the same. The corresponding grounds stand allowed for statistical purposes.

5. The Ld. AR fairly stated that the issue of late payment of ESI / PF stood covered against the assessee by the decision of Hon'ble Apex Court in the case of **Checkmate Services P. Ltd Vs. CIT (2022) 143 Taxmann.com 178 (SC)**.

6. The appeal stand partly allowed for statistical purposes.

*Order pronounced u/r 34(4) of Income Tax (Appellate Tribunal) Rules, 1963.*

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

*Sd/-*  
**(MANOJ KUMAR AGGARWAL)**  
लेखा सदस्य / ACCOUNTANT MEMBER

Dated: 28-03-2025

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF

ASSISTANT REGISTRAR

ITAT AGRA