IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH MUMBAI

BEFORE SHRI. VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
AND
SHRI. ANIKESH BANERJEE, JUDICIAL MEMBER

ITA No. 3202/MUM/2025
(Assessment Year: 2019-20)

DCIT, Central Circle -1(3), Mumbai Room No. 903, 9th Floor, Pratishtha Bhavan, M.K. Road, Mumbai 400020	Vs.	**Amardeep Constructions** 7/08, Patidar Complex, Kannamwar Nagar No. 2, Near Vikas High School Vikhroli East, Mumbai 400083
स्थायीलेखासं./जीआइआरसं./PAN/GIR No: AAUFA3513A		
(Appellant)		**(Respondent)**

निर्धारितीकीओरसे/ Assessee by:	Shri. J.P. Bairagra& Ms. Rupa Nanda
/Revenue by:	Shri. Surendra Mohan (SR. DR)

Date of Hearing	15.09.2025
Date of Pronouncement	13.10.2025

आदेश/O R D E R

PER ANIKESH BANERJEE [J.M.]:

Instant appeal of the revenue was preferred against the order of the Ld. Commissioner of Income Tax, Appeal 47, Mumbai [hereinafter referred to as "CIT(A)"] order passed u/s. 250 of the Income Tax Act, 1961 (hereinafter referred to as "Act"] order passed for the Assessment Year 2019-20 date of order 06.02.2025. The impugned order was imitated from the order of the Ld. ACIT, Central Circle 1(3), Mumbai (hereinafter referred to as "Ld. AO"], order passed u/s. 143(3) date of order 23.03.2021.

2. The revenue has taken the following grounds:

"1. Whether on the facts and in law, the Ld. CIT(A) erred in deleting the addition of Rs.18,45,47,050/- made by the Assessing Officer, without appreciating that the said addition was based on a voluntary and unambiguous statement recorded under oath u/s 131 of the Act, admitting undisclosed profit from the sale of flats and shops?

2. Whether on facts and in law, the Ld.CIT(A) was justified in holding that Section 43CB of the Income Tax Act, 1961, was inapplicable to the assesse merely because the assesse had historically followed the Project Completion Method, without appreciating that substantial sales had occurred and income had in fact accrued during the relevant year, and that the principle of consistency in accounting methods cannot override the fundamental rule of taxation based on real income that has arisen or accrued?

3. Whether on facts and in law, the Ld. CIT(A) erred in holding that the assesse was entitled to continue following the Project Completion Method (PCM) despite substantial progress in construction and execution of agreements for sale, thereby failing to recognize real income that had accrued during the year?

4. Whether on facts and in law, the Ld.CIT(A) failed to appreciate that the assesse had not filed any formal retraction or credible documentary evidence to negate the voluntary disclosure made by the partner u/s 131, and that such post facto omission in the return of income could not invalidate a valid admission?

5. Whether on facts and in law, the Ld.CIT(A) erred in applying the principle of consistency without examining the materially different facts for A.Y. 2019-20, where large-scale sales and construction activities had taken place, justifying a deviation from past acceptance of the PCM method?

6. Whether on facts and in law, the Ld.CIT(A) erred in not appreciating that income had Clearly accrued to the assessee in the relevant year, as evidenced by execution of sale agreements and receipt of consideration exceeding Rs.230 crores, and failure to recognize such income violates the real income theory?

7. Whether on facts and in law, the Ld. CIT(A) FAILED TO APPRECIATE THAT THE Assessing Officer had rightly estimated income based on percentage completion and the assessee's own statement, in the absence of a credible explanation or quantification by the assessee in its return?

8. Whether on facts and in law, the Ld.CIT(A) failed to consider the risk that in absence of such addition, the admitted income may permanently escape taxation in future years, defeating the principles of fair assessment and tax equity?

9. Whether on facts and in law, the Ld.CIT(A) was justified in applying the amended proviso toe Section 43CA(1), allowing a 10% tolerance margin, retrospectively to A.Y.2019-20, despite the amendment being expressly applicable only from A.Y 2021-22 and in the absence of any binding judicial precedent mandating such retrospective application?"

3. Brief facts of the case are that the assessee is a partnership firm engaged in the business of real estate development. The assessee filed an original return of income for impugned assessment year declaring total income of Rs. 67,77,970/-. A survey action was conducted u/s. 133A of the Act on dated 18.02.2019. During the course of survey, it wasnoted that the assessee had sold 182 flats out of 310 flats and 33 out of 37 shopsvaluing at Rs 227.28 cr. and considerable advances had been received in variouspast years. The assessee had not reported or disclosed any income on the sales made.During the course of survey action, Shri Jairam Jetha Gami partner of the firm, in hisstatement recorded u/s 131 of the Act admitted that the estimated total profit wouldbe around 8%. However, no basis of 8% was provided or worked out. The estimated

profit at 8% rate was worked out to Rs 18.18 crore on the turnover amount to 227.28crore. The Ld. AR has submitted that it hasbooked total of Rs. 230,68,38,123/- till 31/03/2019 and the assessee has submitted a'without prejudice contention' that if percent completion method is accepted then atthe most Rs. 7.38 crores (2306838123 X 8 % X 40%)based on 40 % work was completedas on 31/03/2019 can be added. The contention of the assessee to add only 40% isnot acceptable. It is noted that the assessee has not included in its return of income,the profit from project "Anutham" which it had declared in

the Survey proceedings.Hence, the entire sales amount is required to be factored in to work out the profitfrom project “Anutham”. The assessee had accepted the profits @8% of the salebooked till the date of survey u/s 133A of the Act. (i.e.: 18/02/2019). Hence, forthe impugned assessment year, the amount of profit to be workedout would be 8 % of the total sales which the assessee has booked till 31/03/2019.Thus, the amount of profit from project “Anutham” would be Rs. 18,45,47,050/- i.e.:8% of Rs. 230,68,38,123/-.In view of the above, the profit from project “Anutham” amounting to Rs.18,45,47,050/- is hereby added to the total income of the assessee.

Further it was found that the assessee sold a flat no-D-1401for a consideration of Rs. 98,55,500/-. It is found that the stamp duty value of the said property was Rs. 1,05,98,974/- so the difference amount of Rs. 7,43,474/- was added back u/s. 43CA of the Act, with the total income of the assessee. The Ld. AO calculated the net profit in impugned assessment year related to project “Anutham”amount to Rs. 18,45,47,050/- and furtheraddition U/s 43CA of the Act amount toRs.7,43,474/-which comes total amount to Rs. 19,20,68,490/-. The aggrieved assessee filed an appeal before the Ld. CIT(A). Ld. CIT(A) considering the submission of the assessee both the addition was dulydeleted& the appeal of the assessee was allowed. Being aggrieved revenue filed an appeal before us.

4. Ld. DR argued and stated that the partner of the assessee Shri. Jeram Jetha Gami, partner of the assessee firm was recorded on oath u/s. 131 of the Act on 19.02.2019 and declared net profit @8% on the total sales which the assessee has booked till 31/03/2019. So, the addition made by the Ld. AO is justified. The Ld. DR further argued that the addition u/s. 43CA is correctly applicable for assessee. As per the Act, thetolerance limit has been taken at 5%

w.e.f. 1-4-2019 only and further increase in thesafe harbour limit from 5% to 10%, is with effect from 1-4-2021, i.e., AY 2021-22.The difference in valuation on sale of flat is 7% is more than 5%. So, the Ld. AO rightly added amount to Rs. 7,43,474/- with the total income of the assessee.He stands in favour of the impugned assessment order and prayed to reject the impugned appellate order.

5. The Ld. AR argued and filed a paper book, containing page 1 to 383 which is kept in record. The Ld. AR argued for addition related to Rs. 18.45 crore related to calculation of 8% net profit on turn over during the impugned assessment year. He stated that the assessee run the project in the name of "Anutham" at Mulund, Mumbai. During survey it was noted that the assessee had sold 182 flats out of 310 flats and 33 out of 37 shops valuing at Rs. 227.28 crore and considerable advance have been received in difference passed years. During the survey the partner of the partner of the assessee company accepted the net profit 8% rate on the turnover, but during the filing of return the assessee partner retracted the statement and no such income was declared in the ROI. Further stated that the assessee is flowing the Project Completion Method (PCM) and after completion of the said project the assessee declared the profit in respective assessment year.

6. It was further argued thatduring the survey statement of Shri Jeram Jetha Gami partner of M/S Amardeep Constructions was recorded under section 131 of the Act on 18-02-2019. As per the statement the partner stated that till date, the agreement value of flats and shops sold is Rs. 227.28 crores and therefore the estimated profit at 8% works out to Rs. 18.18 crores. Considering the sales, I hereby offer an amount of Rs. 18,25,00,000/- for the impugned assessment year. I further assure that I will pay the tax liability as early as possible as per

question no. 17 of statement recorded.The written submission filed before the CIT(A) dated 27-04-2024, APB page no. 48 to 52, it was submitted that the assessee is following project completion method and the same is accepted in the AY 2017-18. Also, copy of the Assessment Order passed under section 143(3) annexed in APB page no. 167 to 190.In the case of the Builder, the assessee has a choice to follow either project completion method or percentage of work in progress. Since, the project completion method is accepted by the department which the assessee is following in the earlier years. Also, the same cannot be changed year after year for which the reliance is placed on the decisions of the Supreme Court, Bombay High Court, Hon'ble ITAT, the details of which are given in the submission. The project is to be completed in the month of June 2024 on receipt of occupancy certificate from Bombay Municipal Corporation (BMC) and the total profit on the same will be declared as income in the AY 2025-26.

7. The Ld. AR respectfully relied on the decision of High Court of Karnataka in the case of CIT v. Varun Developers 440 ITR 354 wherein it has been held that:

> *"Revenue was of view that as per provisions of Accounting Standard 7, assessee was required to follow percentage computation method - Whether Accounting Standard 7 titled construction contract is applicable only in case of contractors and it does not apply to case of builders and developers Held, yes Whether, further, since assessee had not offered any income from said project in relevant assessment year 2006-07 on basis of project completion method but offered income from this project in assessment year 2007-08 and either method of accounting finally lead to same results in terms of profits and therefore, revenue neutral for assessment year in question, assessee was to be allowed to adopt project completion method -Held, yes "*

8. In Accounting Standard 9 Revenue Recognition and it was also submitted that revise Accounting Standard 7 is not applicable on real estate developer which was also clarify by Expert advisory committee of ICAI in one of the opinions.The revised AS-7 prescribes only percentage completion method for recognition of revenue. However, said revised AS-7 is not applicable on real estate developers which was also clarified by Expert Advisory Committee (EAC) of ICAI in one of its opinions. In this opinion, it was further noted that principles laid down in paras 10 and 11 of AS 9 relating to sale of goods should be applied for recognizing revenue in case of real estate developers thereby resulting into permitting project completion method for recognizing revenue and expenditure by the said developers. The **CBDT** has also clarified in the FAQ issued on 23rd March, 2017 vide **Circular No 10/2017** (Reply to Question No. 12) that this ICDS is not applicable to Real Estate Developers. The Q:12 is as follows:

> *Q:12: Since there is no specific scope exclusion for real estate developers and Build-Operate (BOT) projects from ICDS IV on Revenue Recognition, please clarify whether ICDS III and ICDS IV should be applied by real estate developers and BOT operators. Also, whether ICDS applicable for lease.*
>
> *A:12: At present there is no specific ICDS notified for real estate developers, BOT projects and leases. Therefore, relevant provisions of the Act and ICDS shall apply to these transactions as may be applicable. The CBDT has tacitly accepted that ICDS III not applicable to Real Estate Developers.*

The AS-9 is applicable in case of the real estate developers as the significant risks and rewards are transferred only when the sale is completed, and the occupancy certificate is received from Bombay Municipal Corporation (BMS).

9. The assessee is following project completion method since its inception according to which, all costs related to the project are accumulated under the head "work in progress" and on completion, such cost as set off against revenue to determine the "income" liable for tax. Similarly, advances received against sale of flats are accumulated as booking advances on the liability side of Balance sheet and revenue is recognized on the completion of construction. The year wise advance received against sale and expenditure incurred on the project by the assessee. The advance received and closing WIP for A.Y. 2019-20 to 2024-25 are enclosed as under:

AY	Advance received	Closing WIP
2019-20	1,50,25,87,619	1,85,32,81,609
2020-21	1,94,76,59,401	2,15,06,42,662
2021-22	2,53,84,31,112	2,56,40,68,603
2022-23	2,95,38,54,209	3,16,92,78,713
2023-24	3,68,83,26,163	3,71,59,45,598
2024-25	3,74,04,91,943	3,75,06,59,561

It is further submitted that decision of coordinate bench of Mumbai ITATBench-C in the case of Prem Enterprises vs ITO, 25 taxmann.com 179, (Copy enclosed as Annexure-3-page no. 79 to 83of paper book), wherein it has been held where assessee engaged in construction business, maintained its books of account in accordance with AS-9 on work completion basis, there was no justification in substituting same with AS-7 and in determining taxable income on estimate basis.

10. The project “Authum” is completed on 31-03-2025. The Occupancy Certificate is obtained from BMC. For AY 2025-26, the assessee company declared the profit on completion of project at Rs. 12,72,00,000/- on which tax payable comes to Rs. 4,44,38,488/- and after deducted TDS of Rs. 3,15,80,964/- and balance tax payable of Rs. 1,40,21,120/-. The assessee followed the project completion method, since the construction of project for A.Y. 2016-17 as same has been accepted by the department till the A.Y. 2024-25 even the Ld. AOaccepted the project completion method in scrutiny assessment order passed for the A.Y. 2017-18.The assessee company had received the advances on which the purchasers deducted TDS. However, the assessee company had not claimed credit for the TDS in the respective years, as the income was not offered for tax due to the Project Completion Method being followed, Instead, the appellant company intends to claim the accumulated TDS when the income is actually recognized, consistent with the completion of the project. Thus, all TDS amounts since AY 2017 have been accumulated and remain unclaimed amount to Rs. 3.38 crore.The Ld. AR respectfully relied on the decision of the Hon’ble Gujarat High Court in the case of **Manjusha Estates (P) Ltd. vs Income Tax Officer 393 ITR 644**, wherein it has been held that Tribunal was not right in law in rejecting project completion method which was followed consistently by assessee and instead applying work-in-progress method and taxing 80 per cent thereon as net profit.

11. Regarding the statement recorded under section 131 during survey 133A of the Act, the Ld. AR respectfully relied on the following decision of:

(a) Hon’ble Madras High Court in the case of **S. Khader Khan Son vs Commissioner of Income Tax 300ITR 157** wherein it has been

held that section 133A does not empower any ITO to examine any person on oath; so, statement recorded under section 133A has no evidentiary value andany admission made during such statement cannot be made basis of addition.

(b) The same decision Hon'ble Madras High Court affirmed by theHon'ble Supreme Court of India in the case of **CIT vs S. Khader Khan Son 352 ITR 480** wherein it has held that whether section 133A does not empower any ITO to examine any person on oath; so statement recorded under section 133A has no evidentiary value and any admission made during such statement cannot be made basis of addition.

12. Ld. AR argued a relied on the impugned appellate order the relevant paragraphs are reproduces as below:

"5.16……

Finding:

6.2. I have considered the facts of the case and the submissions made by the appellant. Briefly, the facts are that, the appellant had declared a profit of Rs. 11,70,84,960/- in its return of income in the relevant year on the basis of project completion method. During the course of assessment proceedings, the AO observed that the appellant had offered profits for taxation in respect of project "Armada" situated at Wakad, Pune on piecemeal basis from AY 2019- 20 to AY 2021-22. The current status as on 31.03.2020 in respect of completion and the profits shown in the return of income related to the above project is tabulated as below.

Further, the appellant was issued notice u/s 142(1) on 25.08.2022 asking whether revenue was offered in accordance to section 43CB. In response to the same, appellant stated in its submission dated 08.09.2022 that the firm is a promoter, builder and developer and not executing any type of construction contract hence section 43CB is not applicable to it. The said section is applicable to a construction contractor. The appellant also stated that it has adopted completed contract method for recognition of revenue since last more than 15 years /beginning of the firm and

was duly accepted by the department as well as in all earlier year assessment. Under the completed contract method, the revenue on account of sales is recognized in P&L account on the basis of possession given to customers with undisputed amount of consideration. Vide notice u/s 142(1) issued to the appellant on 16.09.2022 the AO had asked for a sample copy of prospective buyer agreement duly signed by the buyer and to provide the details about the project cost and project revenue. In response to the same, the appellant had submitted the reply on 19.09.2022 providing one sample buyer agreement and project details. The AO calculated profit of the said project with respect to the section 43CB of the Act as per percentage of completion method of accounting as under.

As per working in the above chart, the profit for A.Y. 2020-21 on the basis of percentage completion method is Rs. 13,67,96,960/. Later on, the AO issued a show cause notice to the appellant on 20.09.2022, asking it as to why the difference of Rs. 1,97,12,000/- (Rs. 13,67,96,960 – Rs. 11,70,84,960) should not be made taxable. In response to the show cause notice, the appellant had filed submission. However, same was not acceptable by the AO. Accordingly, the same was added to the total income of the appellant.

6.3 During the appellate proceedings, the appellant submitted that the appellant firm since its inception is following Project Completion method and the same is accepted by the department in all earlier assessments. Following the Principle of Consistency Rule without any change in law and facts, the method consistently adopted by the appellant cannot be changed. The appellant has relied upon the following judgments.

1. Decision of Gujarat High Court in the case of Manjusha Estates (P) Ltd Vs ITO reported in (2017) 393 ITR 644.

2. Decision of ITAT- Mumbai in the case of Prem Enterprises ITO reported in (2012) 25

3. Decision of High Court of Punjab & Haryana in the case of CIT Vs. Principal Officer, Hill view Infrastructure reported in (2016) 384 ITR 451 -Follows CIT Vs. Bilahari Investment (P) Ltd. reported in (2008) 299 ITR 1 (SC)

4. Decision of ITAT-Mumbai in the case of Hardware Infrastructure P. Ltd

5. Decision of ITAT- Ahmedabad in the case of Unity Constructions V/sITO

6. Decision of Delhi High Court in the case of Manish BuildwellPvt. Ltd.reported in (2016) 16 com27 (Del)

7. Decision of Ashoka Hitech Builders Pvt Ltd Vs DCIT (Indore ITAT)

There are many such judgements wherein it is held that the method of accounting followed by the appellant and accepted by the department isbinding upon the AO unless a change in law or facts is there. However,in this case, it is seen that the ***appellant has followed the project completion method since last 15 years and the department hasalso accepted the same even in AY 2018-19 and earlier yearassessments and hence it cannot be changed now.*** *Accordingly, the addition of Rs. 1,97,12,000/- made by the AO is to be deleted.Therefore, this ground raised by the appellant is hereby allowed."*

4. Mr. Murkunde vehemently argued in support of the Revenue's appeal above extracted pleadings that the CIT(A) has erred in law and on facts in deleting theimpugned addition. He could hardly dispute the clinching fact that ***this is notthe first year of the assessee having adopted Project Completion Method****["PCM"] as it has come on record that the very method of accounting standsaccepted in preceding assessment years; and more particularly, in assessmentyear 2018-19. We wish to make it clear that this is not even the Revenue's case in it's pleadings that the relevant facts herein stand as an exception tothose involved in the said preceding assessment year(s). Faced with thissituation and keeping in mind the fact that the Ld. CIT(A) has alreadyconsidered a catena of case law having decided the very issue in assessee'sfavour, we see no merit in the Revenue's instant sole substantive grievance.The same stands declined therefore. Ordered accordingly."*

5.17 It can be seen that the Hon'ble Tribunal has discussed all the relevant issues indetail, relating to, applicability of section 43CB in such case where project completion method has been followed in earlier years and the same has been accepted by thedepartment, applicability in a standalone year when project completion method wasaccepted in other years, applicability in a case when the project started much beforeAY 2017-18, CBDT Circular No. 10/2017 which clarified

that no specific ICDS wasnotified for real estate developers, the 2017 proposed ICDS by CBDT which is stillunder discussion etc.

5.18 Considering the above facts, the judicial precedents and the detaileddiscussions, I am of the opinion that since the appellant has been consistentlyfollowing project completion method and the methodology has not been challenged bythe AO in any other year from AY 2016-17 to AY 2024-25, even after the survey,except the present AY, the applicability of percentage completion method for onesingle AY is incorrect and not justified. Accordingly, this ground of appeal is ***allowed."***

13. In argument related to Section 43CA of the Act the Ld. AR stated that though the safe harbour limit was increased 10% in Finance Act, 2020with effect from 1-4-2021, i.e., AY 2021-22. The tolerance limit of 10% is retrospectively affected related to impugned assessment year. He invites our attention in the impugned appellate order para 6.5 to 6.10 which is reproduces as below:

"6.5 I have carefully perused the relevant provisions, the case laws quoted by the appellant and other judicial precedents. It is noted that although as per the Act, the tolerance limit has been taken at 5% w.e.f. 1-4-2019 only and further increase in the safe harbour limit from 5% to 10%, is with effect from 1-4-2021, i.e., AY 2021-22, the various Hon'ble courts have held that since the amendment is curative in nature it would be applied retrospectively.

6.6 In this regard it is also noted that the Hon'ble Madras High Court in the case of CIT v. VummudiAmarendran [2020] 120 taxmann.com 171/277 Taxman 243/429 ITR 97 held that Proviso to section 50C (1) should be taken to be effective from date when proviso was introduced.

6.7 Further Hon'ble Supreme Court in the case of Allied Motors (P.) Ltd. v. CIT [1997] 91 Taxman 205/224 ITR 677/139 ITR 364 has held that:

> *"Accordingly, we hold that the insertion of third proviso (noted above) to section 50C of the Act is declaratory and curative in nature. That is, the third proviso to section 50C of the Act relates to computation of value of property as explained by us above, hence it is not a substantive amendment, it is only a procedural amendment therefore the Coordinate Benches of the ITAT used to ignore the variation up to 10%, therefore, the said amendment should be retrospective. Quite clearly therefore, even when the statute does not specifically state so, such amendments, in the light of the detailed discussions*

above, can only be treated as retrospective and effective from the date related statutory provisions wasIntroduced.

Viewed thus, the third proviso to section 50C should be treated as curative in nature and with retrospective effect from 1st April 2003, i.e., the date effective from which Section 50C was introduced. (Emphasis supplied)"

6.8 The Hon'ble ITAT Pune in the case of Sai Bhargavanath Infra v. Asstt. CIT (2022) 144 taxmann.com 168has held that first proviso to section 43CA inserted by Finance Act, 2020 w.e.f 1.04.2021 is applicable retrospectively and thus where difference recorded between sale value of flats sold by assessee and stamp value ofsuch flats was within 10 per cent margin, no addition was to be made.

6.9 It is further noted that section 43CA, 50C and 56 of the act are analogous sections having similar provisions of taxing incomes arising out of transactions inimmovable property but taxing different type of assets. The different sections have provisions to tax income from capital gains (section 50C), business profits (section 43CA) and other sources (section 56) arising out of transactions in immovableproperty.

6.10 In the light of the above, respectfully following the judicial precedents, I am of the opinion that as the variation is only 7%, the same is within the safe harbour limitof 10%. Accordingly, the contentions of the appellant are accepted and the AO isdirected to delete the addition of Rs.7,43,474/- made on account of difference of saleconsideration and value adopted by stamp valuation authority. Accordingly, ***theground of appeal no. 5 is allowed."***

14. After considering the rival submissions, the material available on record, and the judicial precedents cited, we observe that the assessee has been consistently following the Project Completion Method (PCM) for recognition of revenue since inception, and the same method has been accepted by the Department in all preceding assessment years, including A.Y. 2018-19. The Ld. AO, in the impugned year, has not pointed out any change in the factual or legal position warranting deviation from the consistently accepted accounting method. Therefore, the application of the Percentage Completion Method by the Ld. AO only for the impugned assessment year is unjustified. We respectfully follow the order of the Hon'ble Karnataka High Court in the case of **Varun Developers** (supra), Hon'ble Gujrat High Court in the case of **Manish**

Build Well (supra) and order of Coordinate bench of ITAT-Mumbai in case of the **Prem enterprise** (supra) where the assessee followed the AS-9 in work completion method for recognition of revenue. There is no justification in substituting to AS-7 on estimated basis. Further, the addition made merely on the basis of a statement recorded during survey proceedings under section 133A/131 of the Act, without any corroborative evidence, cannot be sustained in view of the settled legal position laid down by the Hon'ble Supreme Court in **S. Khader Khan Son** (supra).

We also find merit in the reasoning of the Ld. CIT(A) that the tolerance limit of 10% introduced by the Finance Act, 2020 to section 43CA is curative in nature and, therefore, applicable retrospectively. We respectfully considering the order of coordinate bench of ITAT-Pune in**Sai Bhargavanath Infra** (supra) that the first proviso of Section 43CA inserted by Finance Act, 2020 with effect from 01.04.2021 is applicable retrospectively. Since the variation between the sale consideration and the stamp duty valuation is only 7%, which is within the permissible tolerance limit, the addition made under section 43CA of the Act is also unsustainable. Accordingly, we uphold the findings of the Ld. CIT(A) in deleting both the additions amount to Rs.18,45,47,050/- made towards alleged undisclosed profit from the project "Anutham," and the addition of Rs.7,43,474/- made under section 43CA of the Act.

15. In the result, appeal of the revenue bearing **ITA No. 3202/Mum/2025** is dismissed.

Order is pronounced in the open court on 13.10.2025

Sd/-/-	Sd/-
VIKRAM SINGH YADAV	**ANIKESH BANERJEE**
(ACCOUNTNAT MEMBER)	**(JUDICIAL MEMBER)**

Place: Mumbai
Dated:13.10.2025
Divya R. Nandgaonkar
Stenographer

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to:
1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent**.**
3. आयकरआयुक्त / CIT
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरणDR, ITAT, Mumbai
5. गार्डफाईल / Guard file**.**

सत्यापितप्रति //True Copy//
आदेशानुसार / BY ORDER,

सहायकपंजीकार (Asstt. Registrar)
आयकरअपीलीयअधिकरण / ITAT, Bench,
Mumbai.