

IN THE INCOME TAX APPELLATE TRIBUNAL "Guwahati" BENCH, Guwahati
(Through Virtual hearing at Kolkata)

BEFORE SHRI RAJESH KUMAR, AM
AND
SHRI MANOMOHAN DAS, JM

ITA No.274/GTY/2018
(Assessment Year: 2015-16)

Income Tax Officer, Ward 3(4)
Room No.707, 7th Floor, Aayakar
Bhawan Poorva, G.S. Road,
Guwahati-781005, Assam

(Appellant)

M/s S.R.K.M Steels (P) Ltd.
M/s SRKM Steels (P) Ltd. Lokhra
Road, P.O. Sawkuchi, Guwahati-
781034, Assam

(Respondent)

vs.

PAN No. AALCS5046E

Assessee by : Shri Somnath Ghosh, AR
Revenue by : Shri Santosh Kumar karnani, DR

Date of hearing: 17.11.2025
Date of pronouncement: 18.12.2025

ORDER

Per Rajesh Kumar, AM:

This is an appeal preferred by the Revenue against the order of the Commissioner of Income-tax (Appeals), Guwahati-2, (hereinafter referred to as the "Ld. CIT(A)") dated 17.07.2018 for the AY 2015-16.

2. The issue raised by the Revenue in in ground no.1 is against the order of Id. CIT (A) deleting the addition of ₹2,23,94,370/- as made by the Id. AO on the ground that the assessee did not recognize the revenue during the year when the area of flat sold exceeds the threshold limit of 25% as per ICAI guidelines.

2.1. The facts in brief are that the assessee filed the return of income on 29.09.2015, declaring the total income of ₹1,13,010/-. The case

of the assessee was selected for scrutiny. During the course of assessment proceedings, the Id. AO noted that the assessee has incurred more than 38% of the estimated project cost, whereas the assessee has entered into agreements to sell the flats only within 19% of the flats sold. The Id. AO issued notices u/s 133(6) of the Act to five purchasers of flats which were duly complied with by the flat purchasers. According to the Id. AO the assessee had received advances from buyers but had not recognized the Revenue during the instant financial year. Accordingly, the notice was issued on 29.11.2017, requesting the assessee to provide area of flats sold till 31.03.2015, along with the copies of agreements. The Id. AO finally made the addition of ₹2,23,94,373/-, on the ground that the assessee did not recognize the revenue during the year even though the area sold exceeded the threshold limit of 25% as per the ICAI guidelines.

2.2. In the appellate proceedings, the Id. CIT (A) allowed the appeal of the assessee after taking into consideration the reply and the contentions of the assessee by observing and holding as under:-

"I have gone through the assessment order, submissions made by the appellant and the provisions of Accounting Standard 7 & Accounting standard 9. In real estate projects revenue is recognized as per the Percentage of Completion method as specified in Accounting Standard 7 issued by the Institute of Chartered Accountants of India. I have gone through the conditions mentioned in AS 7 for recognition of Revenue. One of them being: At least 25% of saleable project area is secured by contracts or agreements with buyers.

In the case of appellant, the sale percentage has not exceeded 25% and hence the assessee had not recognized the income in the current year. I have gone through the balance sheets & Computation of subsequent years: i.e. AY 2016-17 & AY 2017-18 and found that the appellant is following the same method of accounting every year following the Percentage Completion. Method. Also the appellant had crossed the 25% limit in the AY 2016-17 and recognized revenue. for the year and also paidtax of Rs. 90Lacs. Thus 100% Revenue will be recognized when all the flats would be sold. Thus, the contention of the AO inmaking the addition completely wrong. the completely

ignored the impact of his order in the subsequent assessment years i.e. AV 2016-17 2017-18 and so on

Again there is no dispute that Contracts or 'Agreements as mentioned in the Accounting Standard 7 refers to legally enforceable contract The Guidance Note on Accounting for Real Estate Transactions (Revised 2012) clearly mentions that

".....This agreement for sale is also considered to have the effect of transferring all significant risks and rewards of ownership to the buyer provided the agreement is legally enforceable and subject to the satisfaction of conditions which signify transferring of significant risks and rewards even though the legal title is not transferred or the possession of the real estate is not given to the buyer....."

Thus, the action of the AO treating merely allotment letters as Agreement to Sale is totally incorrect and is against the Guidance Note issued by ICAI, which is issued only for this type of business. Thus, the method of calculating percentage of flats sold by the AO is totally wrong.

Also on what basis the calculations are made by the AO is also not clear. He had also violated the second condition of AS 7 that: "At least 10% of the total revenue as per agreements of sale or any legally enforceable documents are realized at reporting date in respect of each of the contracts;"

The AO had also recognized revenue of advances received of even those buyers whose 10% of sale value had not been received by the assessee. Thus 1" two conditions of AS 7 had been violated by AO in making the addition.

The action of the LdAO is even violative of the settled principles of Double Taxation and Consistency. The appellant had contended that it is following the Percentage of Completion Method in letter and Spirit and ITR for and wef A/y 2016-17 & 2017-18 have been filed by recognizing the income based on Percentage of Completion Method and in case, the action of the Ld AO would be upheld, this would amount to unsettling the incomes, taxes and other affairs of the appellant for the subsequent assessment years, needless to mention by involving the revenue as well as the appellant in unwanted litigation. In this regard, I derive support from the ratio of the following judicial pronouncements:

The Hon'ble Supreme Court in the case of United Commercial Bank vs. CIT [240 ITR 355(SC)], held that the method followed consistently for thirty years and accepted by Revenue Method was valid and could not be rejected.

In the case of CIT vs. Sarangpur Cotton Mfg. Co. Ltd. 16 ITR 36 (PC)], the Hon'ble Privy Council held as follows:

"The Income Tax Officer is bound by the method of accounting regularly employed by the assessee. It was submitted that if an assessee's method of

accounts has been accepted regularly for a number of years as basis for assessment the Assessing Officer will not be justified if he, for any particular year refuses to accept such method as a basis of assessment for that year. Further the rejection of particular method of accounting if it is unreasonable cannot be justified on the ground that better method could be utilized."

In the case of CIT vs. TATA Iron & Steel Co. Ltd. [106 ITR 363] it was held that it would be difficult for a company which carries on business of the magnitude of the assessee-company to fix in which particular year a particular plant which was obsolete became non-existent, or in which particular year the company became aware of the non-existence of a particular plant. The Tribunal has, in its order, rightly stressed the method of accounting followed by the assessee-company and has come to the conclusion that the method could not be said to be unreasonable even if a better method could, perhaps, be visualized.

The Hon'ble Supreme Court in the case of Radhasoami Satsang vs. CIT (193 ITR 321), held as under:

"..Strictly speaking, res judicata does not apply to the income tax proceedings. Though, each assessment year being a unit, what was decided in one year might not apply in the following, year, where a fundamental aspect permeating through different assessment years has been found as a fact one way or the other and parties have allowed that position to be sustained by not challenging the order, it would not be at all appropriate to allow the position to be changed in a subsequent year"

This view has been followed by the Hon'ble Delhi High Court in the case of CIT vs. Neo Ploy Pack (P) Ltd [(2000) 245 ITR 492] and the Hon'ble Bombay High Court in the case of CIT vs. Gopal Purohit [(2011) 336 ITR 287].

Further, the Hon'ble Supreme Court in the case of CIT vs. Realest Builders and Services Limited ((2008) 307 ITR 202] held, as follows:

"In cases where the department wants to tax an assessee on the ground of the liability arising in a particular year, it should always ascertain the method of accounting followed by the assessee in the past and whether change in method of accounting was warranted on the ground that profit is being underestimated under the impugned method of accounting. If the Assessing Officer comes to the conclusion that there is underestimation of profits, he must give facts and figures in that regard and demonstrate to the Court that the impugned method of accounting adopted by the assessee results in underestimation of profits and is, therefore, rejected. Otherwise, the presumption would be that the entire exercise is revenue neutral. In the instant case, that exercise had never been undertaken. The Assessing Officer was required to demonstrate both the methods, one adopted by the assessee and the other by the department. In the circumstances, there was no reason to interfere with the conclusion given by the High Court"

The Hon'ble Supreme Court in the case of CIT vs. Bilahari Investment P. Ltd. [299 ITR 1 (SC)] held, as follows:

"Every assessee is entitled to arrange its affairs and follow the method of accounting, which the Department has earlier accepted. It is only in those cases where the Department records a finding that the method adopted by the assessee results in distortion of profits that the Department can insist on substitution of the existing method."

In the case of CIT vs. Jagatjit Industries Ltd. ((2011) 399 ITR 382 (Del.)), the Hon'ble Delhi High Court held as follows:

"If a particular accounting system has been followed and accepted and there is no acceptable reason to differ with it, the doctrine of consistency would come into play. The method of accounting cannot be rejected."

Further, the Hon'ble Supreme Court in the case of Berger Paints India Ltd. vs. CIT ((2004) 266 ITR 99 at page 103 (SC)), has noted with approval, the observations of the Hon'ble Special Bench of the ITAT in the case of Indian Communication Network Pvt. Ltd. vs. IAC (1994) 206 ITR (AT) 96 (Delhi)]. At page 114, it observed that:

"Before we part with the ground, we cannot help feeling that the litigation between the parties could have been avoided since it was quite immaterial, whether full deduction was allowed in one year or partly in one year and partly in the next, since the assessee is a company and rate of tax is uniform. The gain to one and the loss to the other is illusory since what is deferred in one year, would have to be discharged in the next. In that sense, nobody has won and nobody has lost."

In the case of CIT vs. Excel Industries Ltd 358 ITR 295), the Hon'ble Supreme Court had held as follows:

"32. Thirdly, the real question concerning us is the year in which the assessee is required to pay tax. There is no dispute that in the subsequent accounting year, the assessee did make imports and did derive benefits under the advance licence and the duty entitlement pass book and paid tax thereon. Therefore, it is not as if the Revenue has been deprived of any tax. We are told that the rate of tax remained the same in the present assessment year as well as in the subsequent assessment year. Therefore, the dispute raised by the Revenue is entirely academic or at best may have a minor tax effect. There was, therefore, no need for the Revenue to continue with this litigation when it was quite clear that not only was it fruitless (on merits) but also that it may not have added anything much to the public coffers."

In view of the above discussion, it is clear that the provisions of AS-9 issued by ICAI cannot be made applicable to the appellant for the above assessment year moreso, when the appellant is not fulfilling any of the twin conditions laid out therein. I further find, even presuming, that the provisions of AS-9 have been correctly invoked by the Ld AO, the same would tantamount of Double Taxation, moreso, when the appellant had offered the corresponding Revenue in subsequent years. Hence I hereby delete the addition made by the AO. This ground of appeal is allowed."

2.3. After hearing the rival contentions and perusing the materials available on record, we find that the assessee is following the project completion method and has been offering to tax the income earned from the sale of flats in the housing project. Whereas the Id. AO has invoked the percentage completion method as against the accounting policy adopted by the assessee and made the said addition on the ground that the assessee during the year has sold more than 25% of the total area and therefore, according to AO, the Revenue calculated at ₹2,23,94,370/- was not recognized. We note that the assessee has already offered sale of flats in the subsequent assessment years when the project was completed as per accounting standard-9 and offered to tax accordingly. Therefore, if the addition made by the Id. AO is restored then it would result in double taxation of the same income which is not permissible under the Act. Therefore, the Id. CIT (A) has rightly allowed the policy of the assessee by giving a very comprehensive findings in the appellate order. The Id. CIT (A) also noted that if the addition made by the Id. AO is sustained it would tantamount to double taxation more so when the assessee has offered Revenue/ sales in subsequent years to tax. The case of the assessee find support from the decision of Radhasoami Satsang vs. CIT (supra) and CIT vs. Excel Industries Ltd (supra). In both the above decisions above it has been held that the revenue cannot take a stance in variance to the one as followed in the earlier assessment years unless there is change in the facts of the current year. Therefore, following the rule of consistency, the project completion method followed by the respondent is to be accepted since there is no change in facts and circumstances over the years. Consequently, we upheld the order of Id. CIT (A) by dismissing the ground no.1.

3. The issue raised in ground no.2, is against the order of Id. CIT (A), deleting the addition of ₹3,93,600/- made by the Id. AO u/s 36(1)(iii) read with section 40A(2)(a) of the Act as interest receivable from the related party.

3.1. The facts in brief are that during the assessment proceedings the Id. AO had observed that the assessee had made payment of ₹4,20,61,352/- to M/s Shri Ram Keshrimal, who is a related party within the meaning of Section 40A(2)(b) of the Act. The Id. AO noted that during the year the assessee made payment of the above amount to M/s Shri Sriram Keshrimal against the purchase of ₹98,11,275/- which is not reasonable. Accordingly, the Id. AO noted that the assessee failed to provide the interest receivable by him from M/s Shri Sriram Keshrimal on day-to-day basis and accordingly, computed the addition at ₹3,93,600/- on account of interest receivable from the related party and added the same in the income of the assessee.

3.2. In the appellate proceedings, the Id. CIT (A) allowed the appeal of the assessee by observing and holding as under:-

"I have gone through the assessment order, submission of the assessee and the balance confirmation of loan accounts and ledger of Sriram Keshrimal submitted by the appellant. From the ledger account it is clear that funds are advanced and received as when required by both the parties and sometimes some statutory payments are also made on behalf of each other and there are some purchase transactions also. Thus all the transactions seem to be in the nature of current account transactions only. Sometimes money is advanced by the appellant, then is received back and again advanced. Also there is a Payable balance at the end of the year. Thus these transactions can in no way be in the nature of Loan & Advances on which Interest is required to be charged. Moreover the AO had also not provided any calculation for the disallowance, but had disallowed the entire Interest paid by the appellant on Loans Liability acquired by assessee which is also wrong. Also there is no relation found from the ledger confirmations of the loan accounts and Sriram Keshrimal as regards to date of loan received and then advanced to Sriram Keshrimal. As such the disallowance of interest paid by assuming any purported interest income is not understandable.

The appellant had also contended that the disallowance of Interest is not claimed as expense in the Profit & Loss Account of the appellant but the appellant had capitalized it and shown as Building-in-construction in the Balance Sheet. I have gone through the balance sheet & Profit & Loss Account and found the contention of the assessee to be true. Thus, the action of Ld. AO adding the disallowance amount to the profit of the assessee is also wrong. Hence, I hereby delete the disallowance of interest made by the AO. This ground of appeal is, accordingly, allowed."

3.3. After hearing the rival contentions and perusing the materials available on record, we find that the assessee was maintaining a current account with M/s Shri Sriram Keshrimal and frequently receiving and paying money as and when required. We note that sometimes the assessee makes payment for the purchase made from the said related party. We note that the Id. AO disallowed the entire amount of interest paid on the loans. We also note that the assessee has not claimed any interest in the profit and loss account but capitalized the interest under the head building under the construction in the balance sheet. Therefore, the order of the Id. AO was rightly reversed by the Id. CIT (A) on this issue and consequently, we uphold the order of Id. CIT (A) by dismissing the appeal of the Revenue.

3.4. The ground no.2 of the Revenue's appeal is dismissed.

4. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 18.12.2025.

Sd/-
(MANOMOHAN DAS)
(JUDICIAL MEMBER)

Sd/-
(RAJESH KUMAR)
(ACCOUNTANT MEMBER)

Kolkata, Dated: 18.12.2025

Sudip Sarkar, Sr.PS



Copy of the Order forwarded to:

1. The Appellant
2. The Respondent
3. CIT
4. DR, ITAT,
5. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar
Income Tax Appellate Tribunal, Guwahati