

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI RAHUL CHAUDHARY (JUDICIAL MEMBER)**

**ITA No. 3447/MUM/2025
Assessment Year: 2012-13**

Nirman Realtors and
Developers Ltd.,
401, 402, Apollo Complex, R K
Sing Marg, Off Parsi
Panchayat Road, Andheri
East,
Mumbai-400069.

PAN NO. AACCN 7735 N
Appellant

Circle-2(3)(1),
Aayakar Bhavan,
Mumbai-400020.

Vs.

Respondent

Assessee by : Mr. Asish Thakurdesai
Revenue by : Mr. Leyaqat Ali Aafaqui, Sr. DR

Date of Hearing : 03/12/2025
Date of pronouncement : 22/01/2026

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against order dated 10.01.2025 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment year 2012-13, raising following grounds:

- 1. On facts, in circumstances of the case and in law, the learned CIT-A - NFAC, ought to have held that the*



assessment proceedings u/s 143(3) are invalid and bad in law as the assessing officer who passed the assessment order has not issued a notice u/s 143(2) of the Income Tax Act, 1961.

2. *On facts, in circumstances of the case and in law, the learned CIT-A - NFAC, ought to have deleted the addition of Rs. 1,84,86,824/-.*

2. Briefly stated, facts of the case are that the assessee filed return of income for the year under consideration i.e. AY 2012-13 on 29.03.2014 declaring total income at Rs.1,08,15,970/-. The return of income was processed u/s 143(1) of the Income-tax Act, 1961 (in short 'the Act') accepting the returned income. The case was selected for scrutiny assessment and notice u/s 143(2) of the Act was issued on 22.09.2014, which was duly served upon the assessee. Thereafter, due to cadre restructuring, jurisdiction of the assessee was transferred to the Assistant Commissioner of Income-tax -10(3)(1), Mumbai and a fresh notice u/s 142(1) of the Act dated 19.12.2014 was issued and served upon the assessee. Thereafter, the assessment was completed on 26.03.2015 where, the Assessing Officer disallowed the claim of the loss of the assessee of Rs.1,84,86,824/-. The assessee preferred appeal before the Ld. CIT(A) on the legal ground challenging the validity of the notice u/s 143(2) of the Act by the Jurisdiction Assessing Officer. The Ld. CIT(A) rejected the objection of the assessee. But on the merit of the addition, the Ld. CIT(A) directed the Assessing Officer for verification whether the sales referred by the assessee were including or excluding the refund to the three customers.



3. Aggrieved, the assessee is in appeal before the Income-tax Appellate Tribunal (in short 'the Tribunal') raising the grounds as reproduced above.

4. Before us, the Ld. counsel for the assessee filed a Paper Book containing pages 1 to 76.

5. The learned counsel for the assessee, while pressing Ground No. 1 of the appeal, placed on record a copy of the notice issued under section 143(2) of the Income-tax Act, 1961, dated 21.09.2014, issued by the Deputy Commissioner of Income-tax, Circle-8(2), Mumbai. He also filed a copy of the notice issued under section 142(1) dated 19.12.2014 by the Assistant Commissioner of Income-tax, Circle-10(3)(1), Mumbai.

5.1 The learned counsel for the assessee, while assailing the validity of the assessment under Ground No. 1, submitted that though a notice under section 143(2) of the Income-tax Act, 1961 was issued on 22.09.2014 by the Deputy Commissioner of Income-tax, Circle-8(2), Mumbai, the assessment was ultimately completed by the Assistant Commissioner of Income-tax, Circle-10(3)(1), Mumbai, pursuant to transfer of jurisdiction on account of cadre restructuring. It was contended that since the transferee Assessing Officer did not issue a fresh notice under section 143(2), the assessment framed under section 143(3) of the Act is void ab initio. Reliance was placed on the decision of the Coordinate Bench in *Golf*



View Homes Ltd. v. ACIT in ITA No. 1037 and 1038/Bang/2019 reported in (2021) 88 ITR (Trib.) 0115 (Bangalore),

5.2 The learned Departmental Representative, on the other hand, supported the order of the Commissioner of Income-tax (Appeals) and submitted that the notice under section 143(2) was validly issued by the jurisdictional Assessing Officer within the prescribed time and that the subsequent transfer of jurisdiction did not necessitate issuance of a fresh notice. He further submitted that the judicial precedents relied upon by the assessee had already been duly examined and distinguished by the first appellate authority.

6. We have carefully considered the rival submissions and perused the material available on record. It is an undisputed fact that a notice under section 143(2) of the Act was issued on 22.09.2014 by the Deputy Commissioner of Income-tax, Circle-8(2), Mumbai, within the prescribed period of limitation. There is also no dispute that, at the time of issuance of the said notice, the said officer had valid jurisdiction over the assessee.

6.1 It is further noted that, pursuant to cadre restructuring in the Income-tax Department, the jurisdiction over the assessee's case was subsequently transferred to the Assistant Commissioner of Income-tax, Circle-10(3)(1), Mumbai, who thereafter continued the assessment proceedings and completed the assessment under section 143(3) of the Act.



6.2 The sole contention of the assessee is that upon such transfer of jurisdiction, the transferee Assessing Officer was required to issue a fresh notice under section 143(2) of the Act. Admittedly, no such notice was issued by the transferee officer.

6.3 The crucial issue, therefore, is whether the absence of a fresh notice under section 143(2) by the transferee Assessing Officer renders the assessment invalid, when a valid notice had already been issued by the jurisdictional Assessing Officer within the period of limitation.

6.4 The relevant finding of the Ld. CIT(A) of the issue in dispute is reproduced as under:

“4. I have carefully considered the assessment order, the grounds of appeal, and the written submission of the appellant.

In the written submission, the appellant challenged the assessment on the ground that due to cadre restructuring, the jurisdiction of the appellant was changed to ACIT 10(3)(1) Mumbai, and no revised notice under Section 143(2) of the Income Tax Act, which is the foundation of jurisdiction, was served on the appellant. Accordingly, the appellant challenged the proceedings as ab initio, relying on the decision of the Honourable Bangalore Bench of the ITAT in the case of Gulf View Homes Limited vs ACIT(Supra).

With regard to the above, it is noted that as per the assessment order, the appellant's case was selected for scrutiny and a notice under Section 143(2) dated 22/9/2014 was issued and duly served on the appellant to assume scrutiny jurisdiction over the appellant. Subsequently, due to cadre restructuring in the Income Tax Department, the jurisdiction of the appellant changed to ACIT 10(3)(1) Mumbai, and a fresh notice under Section 142(1) dated 19/12/2014 was issued. In response to the same, the authorized representative of the appellant attended the hearing and submitted that the jurisdiction over the company lies with ACIT



10(3)(1) Mumbai and expressed no objection to the assumption of jurisdiction.

However, the appellant now contests the assumption of jurisdiction by ACIT 10(3)(1) Mumbai, citing that no fresh notice under Section 143(2) was issued by the incumbent office. I have also perused the decision of the Honourable Bengaluru Tribunal in the case of Gulf View Homes Limited, relied on by the appellant, and note that in that case, the original notice under Section 143(2) was issued by the transferor Assessing Officer on April 26, 2016, when he had no jurisdiction over the assessee as early as May 27, 2013. Accordingly, the assessment completed by the transferee officer based on the earlier notice issued by the transferring officer was held to be invalid.

However, in the appellant's case, nothing has been brought to my notice to prove that the original notice under Section 143(2) dated 22/9/2014 was issued by the Assessing Officer without jurisdiction as on the date of issue of notice. Rather, it is noted from the assessment order that it was due to the cadre restructuring and the consequent jurisdictional change that the appellant's case moved to ACIT 10(3)(1) Mumbai, and the said transferee officer continued with the assessment with the issue of notice under Section 142(1) of the Act and completed the assessment after hearing the appellant.

In view of the above, I note that the fact of the appellant's case differ from that in the case of Gulf View Homes Limited, in as much as in that case, the original notice under Section 143(2) issued by the transferor officer itself was invalid for the reason that the said officer had no jurisdiction over the assessee. However, in the appellant's case, the original notice under Section 143(2) was issued by the jurisdictional Assessing Officer, and nothing has been brought on record to show that the said officer had no jurisdiction over the appellant's case. The transfer was effected consequent to the realignment of jurisdiction due to cadre restructuring in the Income Tax Department.

In the above facts and circumstances, I do not find any merit in the appellant's argument challenging the assessment made, and accordingly, I dismiss the same.

4.2. With regard to the addition of Rs. 1,84,86,824 on account of the disallowance of other allowances, the appellant submitted that this claim was due to the reversal of sales booked in the assessment year 2011-12. This reversal was necessitated by the cancellation of bookings from three buyers owing to delays and



other issues related to the joint development agreement entered into by the appellant with the joint developer, Effile Properties Private Limited.

To support this claim, the appellant submitted copies of the ledger accounts for the prospective buyers, namely Ashwini Pathak, Meenal Amit Israni, and Ruthai International. They also provided the sales account for the project "Sea Vista," which reflected the reversal of sales for these buyers. Furthermore, the appellant argued that, as per Accounting Standard 7, expected losses on construction contracts should be recognized as expenses immediately. The appellant also submitted the arbitration order for the prospective buyers to whom the appellant made the settlement of the advances received, along with an affidavit clarifying that the disallowance of Rs.1,84,85,824 was not claimed again in the assessment year 2013-14 or in any subsequent year."

6.5 In our considered view, the validity of a notice under section 143(2) has to be examined with reference to the jurisdiction of the Assessing Officer **as on the date of issuance of the notice**. In the present case, the notice dated 22.09.2014 was issued by an Assessing Officer who undisputedly had lawful jurisdiction over the assessee at that point in time. The subsequent transfer of jurisdiction, occasioned by administrative cadre restructuring, does not invalidate a notice lawfully issued earlier.

6.6 Once scrutiny jurisdiction is validly assumed by issuance of a notice under section 143(2) within the statutory time limit, the Act does not mandate the issuance of a second notice under section 143(2) merely because the case is transferred to another Assessing Officer thereafter. The transferee Assessing Officer is legally competent to continue the proceedings from the stage at which they stood at the time of transfer.



6.7 The reliance placed by the assessee on the decision in *Golf View Homes Ltd.(supra)* is misconceived. In that case, the very notice under section 143(2) was issued by an Assessing Officer who lacked jurisdiction on the date of issuance of the notice, rendering the notice *non-est* in law. It was in that factual context that the assessment was held to be invalid. The relevant finding of the Tribunal in the case of *Golf View Homes Ltd. (supra)* is reproduced as under:

“19.9. We find the facts of the present case are identical to the case already decided by the ITAT Kolkata Bench in the case of Rungta Irrigation Ltd. (supra). The issue in the case before the ITAT Kolkata Bench in the case of M/S.Rungta Irrigation Ltd. Vs. ACIT in ITA No.1224/Kol/2019 order dated 6.9.2019 was whether, non-issue of notice u/s.143(2) by the AO who passed the assessment order will render the order of assessment void or was it a curable defect. It was the plea of the Assessee that as held by the Hon'ble Supreme Court in Hotel Blue Moon 321 ITR 362 (SC), non-issue of notice u/s.143(2) by the AO who passed the order of assessment renders the order of assessment a nullity. The factual details in that case were as follows:

Sl. No. Date Events

- 1. Upto 08.10.2008 DCIT, Circle-15(1), New Delhi was the AO of assessee on the basis of territorial jurisdiction.*
- 2. On 08.10.2008 CIT-V, Delhi transferred the jurisdiction over the assessee's case u/s. 127 to DCIT,Central Circle-1, Ranchi.*
- 3. From 09.10.2008 to 03.11.2017 DCIT, Central Circle-1, Ranchi was the AO of assessee for all proceedings under the Act.*
- 4. 28.07.2016 ACIT, Circle-21(1), New Delhi issued notice u/s. 143(2) to the assessee.*
- 5. 30.06.2017 ACIT, Circle-21(1), New Delhi issued notice u/s. 142(1) to the assessee.*



6. 17.07.2017 Assessee objected to jurisdiction of ACIT, Circle-21(1), New Delhi.

7. 07.08.2017 Show Cause Notice/proposal for centralization of assessee's case at Kolkata Issued by Pr. CIT7, Delhi.

8. 16.08.2017 Assessee objected to the jurisdiction of Pr. CIT7, New Delhi.

9. 24.10.2017 Pr. CIT, Central Patna issued Show Cause Notice for centralization of assessee's case under the charge of Pr. CIT, Central 2, Kolkata.

10. 03.11.2017 Pr. CIT, Central Patna passed order u/s. 127 centralizing the assessee's case with ACIT, Central Circle-3(1), Kolkata under the charge of Pr. CIT, Central 2, Kolkata.

11. 09.11.2017 ACIT, Central Circle-3(1), Kolkata intimates the assessee u/s. 129 being the succeeding AO for AY 2015-16.

12. 05.12.2017 Notice u/s 142(1) issued by ACIT, Central Circle-3(1), Kolkata for AY 2015-16.

13. 29.12.2017 Assessment order framed u/s. 143(3) of the Act by ACIT, Central Circle-3(1), Kolkata for AY 2015-16

19.10. According to the revenue as per section 127 of the Act, which deals with transfer of jurisdiction of a case specifically provides in sub-section (4) of section 127 that there is no necessity to re-issue of any statutory notices already issued by the AO from whom the case is transferred. The Tribunal held that after the order of the CIT-V, New Delhi dated 08.10.2008 transferring the jurisdiction of the assessee's case to DCIT, Central Circle, Ranchi, the CIT, Delhi became functus officio and thereby his subordinate officers viz., ACIT, Circle 21(1), New Delhi, could not have issued notice u/s. 143(2) dated 28.07.2016 and in that view of the matter the notice issued by the ACIT, Circle-21(1), New Delhi u/s 143(2) was without jurisdiction and, therefore, non-est in the eyes of law. The Tribunal held that the ACIT, Central Circle-3(1), Kolkata who framed the assessment order dated 29.12.2017 pursuant to transfer of case ordered by PCIT, Central Patna dated 03.11.2017 u/s. 127 of the Act, without there being valid issuance of notice u/s 143(2) of the Act and therefore the said order is bad in law as held by the Hon'ble Supreme Court in CIT V Hotel Blue



Moon (2010) 321 ITR 362 (S.C) wherein the Hon'ble Supreme Court has held that issue of a legally valid notice u/s. 143(2) is mandatory for usurping jurisdiction to frame scrutiny assessment u/s. 143(3) of the Act and absence of a valid notice u/s 143(2) is not a curable defect. The Tribunal also noticed that it's view in the case of Hotel Blue Moon (supra) was reiterated by the Hon'ble Apex Court in the case of CIT Vs Laxman Das Khandelwal(108 taxmann.com 183). The relevant observations of the Hon'ble Supreme Court were extracted and are as follows:

"5. At the outset, it must be stated that out of two questions of law that arose for consideration in Hotel Blue Moon's case the first question was whether notice under Section 143(2) would be mandatory for the purpose of making the assessment under Section 143(3) of the Act. It was observed:-

"3. The Appellate Tribunal held while affirming the decision of CIT (A) that non-issue of notice under Section 143(2) is only a procedural irregularity and the same is curable. In the appeal filed by the assessee before the Gauhati High Court, the following two questions of law were raised for consideration and decision of the High Court, they were:

"(1) Whether on the facts and in circumstances of the case the issuance of notice under Section 143(3) of the Income Tax Act, 1961 within the prescribed time-limit for the purpose of making the assessment under Section 143(3) of the Income Tax Act, 1961 is mandatory? And

(2) Whether, on the facts and in the circumstances of the case and in view of the undisputed findings arrived at by the Commissioner of Income Tax (Appeals), the additions made under Section 68 of the Income Tax Act, 1961 should be deleted or set aside?"

4. The High Court, disagreeing with the Tribunal, held, that the provisions of Section 142 and sub-sections (2) and (3) of Section 143 will have mandatory application in a case where the assessing officer in repudiation of return filed in response to a notice issued under Section 158-BC(a) proceeds to make an inquiry. Accordingly, the High Court answered the question of law framed in affirmative and in favour of the appellant and against the Revenue. The Revenue thereafter applied to this Court for special leave under Article 136, and the same was granted, and hence this appeal.



13. The only question that arises for our consideration in this batch of appeals is: whether service of notice on the assessee under Section 143(2) within the prescribed period of time is a prerequisite for framing the block assessment under Chapter XIV-B of the Income Tax Act, 1961?

27. The case of the Revenue is that the expression "so far as may be, apply" indicates that it is not expected to follow the provisions of Section 142, sub-sections (2) and (3) of Section 143 strictly for the purpose of block assessments. We do not agree with the submissions of the learned counsel for the Revenue, since we do not see any reason to restrict the scope and meaning of the expression "so far as may be, apply". In our view, where the assessing officer in repudiation of the return filed under Section 158-BC(a) proceeds to make an enquiry, he has necessarily to follow the provisions of Section 142, sub-sections (2) and (3) of Section 143."

6. The question, however, remains whether Section 292BB which came into effect on and from 01.04.2008 has effected any change. Said Section 292BB is to the following effect:-

"292BB. Notice deemed to be valid in certain circumstances.—Where an assessee has appeared in any proceeding or cooperated in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice under any provision of this Act, which is required to be served upon him, has been duly served upon him in time in accordance with the provisions of this Act and such assessee shall be precluded from taking any objection in any proceeding or inquiry under this Act that the notice was - (a) Not served upon him; or (b) Not served upon him in time; or (c) Served upon him in an improper manner: Provided that nothing contained in this section shall apply where the assessee has raised such objection before the completion of such assessment or reassessment."

7. A closer look at Section 292BB shows that if the assessee has participated in the proceedings it shall be deemed that any notice which is required to be served upon was duly served on the assessee would be precluded from taking any objections that the notice was

(a) not served upon him; or

(b) not served upon him in time; or



(c) served upon him in an improper manner.

According to Mr. Mahabir Singh, learned Senior Advocate, since the Respondent had participated in the proceedings, the provisions of Section 292BB would be a complete answer. On the other hand, Mr. Ankit Vijaywargia, learned Advocate, appearing for the Respondent submitted that the notice under Section 143(2) of the Act was never issued which was evident from the orders passed on record as well as the stand taken by the Appellant in the memo of appeal. It was further submitted that issuance of notice under Section 143(2) of the Act being prerequisite, in the absence of such notice, the entire proceedings would be invalid.

8. The law on the point as regards applicability of the requirement of notice under Section 143(2) of the Act is quite clear from the decision in Blue Moon's case². The issue that however needs to be considered is the impact of Section 292BB of the Act.

9. According to Section 292BB of the Act, if the assessee had participated in the proceedings, by way of legal fiction, notice would be deemed to be valid even if there be infractions as detailed in said Section. The scope of the provision is to make service of notice having certain infirmities to be proper and valid if there was requisite participation on part of the assessee. It is, however, to be noted that the Section does not save complete absence of notice. For Section 292BB to apply, the notice must have emanated from the department. It is only the infirmities in the manner of service of notice that the Section seeks to cure. The Section is not intended to cure complete absence of notice itself.

10. Since the facts on record are clear that no notice under Section 143(2) of the Act was ever issued by the Department, the findings rendered. by the High Court and the Tribunal and the conclusion arrived at were correct. We, therefore, see no reason to take a different view in the matter."

6.8 In contrast, in the present case, no material has been brought on record to demonstrate that the original notice under section 143(2) dated 22.09.2014 was issued without jurisdiction.



On the contrary, the transfer of jurisdiction occurred only subsequently due to administrative restructuring, and the transferee Assessing Officer lawfully continued the proceedings after issuing notice under section 142(1) and granting adequate opportunity of hearing.

6.9 The findings recorded by the Commissioner of Income-tax (Appeals), distinguishing the facts of the present case from those in *Golf View Homes Ltd.(supra)*, are well reasoned and in accordance with law.

6.10 In view of the foregoing discussion, we find no infirmity in the impugned order of the Commissioner of Income-tax (Appeals) on this issue. The assessment having been preceded by a valid notice under section 143(2) issued by the jurisdictional Assessing Officer within limitation, the absence of a fresh notice by the transferee Assessing Officer does not render the assessment invalid.

6.11 The ground No. 1 of the appeal of the assessee is accordingly dismissed.

7. In Ground No. 2, the assessee challenges the action of the learned Commissioner of Income-tax (Appeals) in not granting full relief in respect of the claimed loss of **Rs. 1,84,86,824/-** arising from reversal of sales in its real estate project at Mahalaxmi.



7.1 During the course of assessment proceedings, the Assessing Officer noted that the assessee had claimed a deduction of **Rs. 1,84,86,824/-** under the head “Other Allowances” in relation to its project *Mahalaxmi*. The assessee explained that it follows the **Percentage Completion Method** and had recognized revenue at 30% in Assessment Year 2011–12 in respect of bookings made by three prospective buyers.

7.2 Subsequently, owing to delays in project execution and related issues under the Joint Development Agreement with **M/s Eiffel Properties Pvt. Ltd.**, the said buyers cancelled their bookings, and the assessee refunded the advances received. As a result, the assessee reversed the corresponding sales and claimed the resultant loss of Rs.1,84,86,824/-.

7.3 The Assessing Officer, however, disallowed the claim on the ground that the assessee failed to produce documentary evidence establishing cancellation of bookings and genuineness of the claim.

7.4 Before the learned CIT(A), the assessee reiterated that the claim represented reversal of sales already recognized in earlier years. In support of its claim, the assessee furnished ledger accounts of the concerned buyers, namely **Ashwini Pathak, Meenal Amit Israni**, and **Ruthai International**, along with the sales ledger of the project *Sea Vista*. The assessee further submitted that, in accordance with Accounting Standard–7, expected losses on



construction contracts are required to be recognized at the earliest possible stage.

7.5 An affidavit was also filed confirming that the impugned amount had not been claimed again in any subsequent assessment year.

7.6 Upon examination of the records, the learned CIT(A) accepted in principle that reversal of sales and the consequential loss is allowable. However, he observed that only the reversal pertaining to **Meenal Amit Israni** (Rs. 95,85,000/-) fell within the relevant assessment year, whereas reversals relating to the other two parties were recorded in subsequent years.

7.7 Further, the CIT(A) noted that if the assessee had already accounted for net sales after adjusting sale reversals, allowing an additional deduction would result in **double benefit**. Accordingly, he directed the Assessing Officer to verify whether the Profit & Loss Account reflected **gross sales** or **net sales** before allowing any relief. The relevant finding of the Ld. CIT(A) is reproduced as under:

“Upon thorough examination of the appellant's submission and the provided documents, including the ledger copies and sales account, it is noted that the appellant credited Rs.6,39,00,000 to the sale of Project Sea Vista Ledger. Against this, an amount of Rs. 1,00,35,000 is debited as sales returns due to flat cancellations by two parties: Meenal Amit Israni with Rs.95,85,000 and Madhav Desai with Rs.4,50,000. The net sale as of 31/03/2012, based on the closing balance, was Rs.5,38,65,000.



Further verification of individual ledger accounts submitted by the appellant, namely those of Ashwini Pathak, Meenal Amit Israni, and Ruthai International, revealed that the reversal of sale was accounted for on 10th May 2012 for Rs.67,50,000 in the case of Ashwini Pathak and on 31/03/2014 for Rs.93,00,000 in the case of Ruthai International. These reversals of sales are duly reflected in the Project Sea Vista Ledger account on the aforementioned dates.

These facts clearly indicate that the reversals of sales for Ashwini Pathak and Ruthai International were carried out in subsequent years, which are not relevant for the assessment year 2012-13 under consideration. However, among the three parties for whom the sale reversal was claimed by the appellant, the reversal of Rs.95,85,000 for Meenal Amit Israni was made on 31/03/2012, which is relevant to the assessment year 2012-13 and is, therefore, eligible for deduction during the assessment year under consideration.

Upon reviewing the sales account for Project Sea Vista, the net sale for the project was shown as Rs.5,38,65,000, excluding the above sale reversals. If the income from sales accounted in the profit and loss account represents sales net of the sale reversal of Rs.1,00,35,000, the deduction claimed by the appellant amounts to double deduction. Consequently, the appellant may not be entitled to the allowance claimed in the profit and loss account.

Conversely, if the appellant credited its profit and loss account with the gross sales of Project Sea Vista at Rs.6,39,00,000 before the reversal of Rs.1,00,35,000, the appellant may claim a deduction of Rs.95,85,000. Since this issue requires factual verification with the appellant's accounts, the assessing officer is directed to verify the same and allow relief to the appellant if the gross sales of Rs.6,39,00,000 are credited to the profit and loss account without setting off the sales returns on flat cancellation of Rs. 1,00,35,000.

5. Subject to the above observations and directions to the assessing officer, the appeal is partly allowed.”

7.8 We have considered the rival submissions and perused the material on record. It is undisputed that the assessee follows the **Percentage Completion Method**, whereby revenue is recognized in proportion to project completion. It is also evident that revenue had



already been recognized in earlier years in respect of bookings that were subsequently cancelled.

7.9 Where revenue has been recognized in an earlier year and the underlying transaction is later reversed due to cancellation, **the corresponding reversal must necessarily be factored into the computation of income** for the year in which the cancellation occurs, in order to ensure correct determination of taxable profits. However, the allowability of the claim depends upon **factual verification**, particularly on: (i) The year in which the sales reversal was recorded, (ii) Whether the Profit & Loss Account reflects gross or net sales, and (iii) Whether allowing the claim would result in duplication of deduction.

7.10 The Ld. CIT(A) has correctly appreciated this legal position and has, therefore, directed factual verification to determine: (i) whether the profit and loss account reflects gross sales, or (ii) whether sales reversals have already been adjusted in the net sales figure.

7.11 Since the issue turns on factual verification of accounts and accounting treatment adopted by the assessee, and appropriate directions have already been issued by the Ld. CIT(A), we consider it just and proper to restore the matter to the file of the Assessing Officer for fresh verification. The Assessing Officer shall:



1. Verify the accounting treatment of revenue under the percentage completion method;
2. Examine whether sales from the three buyers were recognized earlier and reversed in the year under consideration;
3. Verify the genuineness of bookings and cancellation agreements;
4. Ascertain whether the profit and loss account reflects gross sales or net sales after reversal; and
5. Allow the claim strictly in accordance with law, ensuring that **no double deduction** is granted.

7.12 Accordingly, the ground No. 2 of the appeal of the assessee is allowed for statistical purposes.

8. In the result, the appeal of the assessee is allowed partly for statistical purposes.

Order pronounced in the open Court on 22/01/2026.

**Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;
Dated: 22/01/2026
Rahul Sharma, Sr. P.S.



Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai