

IN THE INCOME TAX APPELLATE TRIBUNAL

"H(SMC)" BENCH, MUMBAI

BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER AND

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No. 491/Mum./2026

(Assessment Year : 2013-14)

Veda Real Estate Corporation Pvt. Ltd.

4th Floor, 139, Seksaria Chambers,

Nagindas Master Road, Fort,

Mumbai - 400001.

(PAN: AADCB8408M)

..... Appellant

v/s

Deputy Commissioner of Income Tax,

Central Circle – 8(1),

656, 6th Floor, Aayakar Bhavan,

Maharishi Karve Road,

Mumbai – 400020

..... Respondent

Assessee by : Shri Punit Shah

Revenue by : Shri Pravin Salunkhe SR. DR

Date of Hearing – 17/03/2026

Date of Order – 26/03/2026

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The assessee has filed the present appeal against the impugned order dated 24.11.2025, passed under section 250 of the Income Tax Act, 1961 (*"the Act"*) by the learned Commissioner of Income Tax (Appeal) – 47, Mumbai [*"learned CIT(A)"*], for the assessment year 2013-14.

2. In its appeal, the assessee has raised the following grounds:

"Ground No.1

The CIT (A) - 47, Mumbai (hereinafter referred to as 'CIT (A)) erred in passing the order without considering the detailed written submissions filed by the Appellant on 25" October 2017.

The Appellant submits that the order passed by the CIT(A) is bad in law and pray that the Order passed by CIT (A) be set aside.

Ground No.2

Without prejudice to above the Assessing Officer erred in making addition of Rs.77,82,113 without providing any opportunity of being heard to the Appellant, and submit that the order is in violation of principle of natural justice and bad in law and pray that the same be quashed.

Ground no 3:

Without prejudice to above, the CIT (A) erred in holding that site office and sample flat expenses incurred were in contravention of law and upheld invoking of Explanation 1 to section 37(1) of the Income Tax Act, 1961, without providing the law under which such construction is prohibited. The Appellant submits that provision of Explanation 1 to section 37(1) are not applicable to the facts of their case and pray that the addition of Rs.77,82,113 be deleted.

Ground no 4:

Without prejudice the above, CIT (A) erred in also holding that the expenditure incurred on site and sample flat of Rs. 77,82,113 were pre-operative expenses, without appreciating the facts available on records, which clearly demonstrate that the Appellant was actively engaged in the business of real estate development and the said expenditure were incurred in connection with such activity and pray that the AO directed to delete the addition of Rs. 77,82, 113.

Ground no.5(a):

Without prejudice to above, CIT (A) erred in also holding that the expenditure of Rs.77,82,113 /- incurred on site development expenses and sample flat are capital expenditure in nature, on the ground that Appellant has admitted that the sample flat forms part of capital structure of the project and will be ultimately sold. The Appellant submits that the said finding is factually incorrect and pray that the expenditure of Rs. 77,82,113 is revenue in nature as the expenditure is incurred for the purpose of business and be allowed as deduction and the addition of Rs. 77,82,113 be deleted.

Ground No.5(b):

Without prejudice to the above, the CIT (A) erred in treating the expenditure of Rs. 77,82,113/- incurred on site and sample flat as capital expenditure. Even assuming but without admitting that the same is not allowable as revenue expenditure, the said expenditure shall form part of the project cost, and is intended to be sold in the ordinary course of business in the near future and should be added to the work in progress and allowed as a deduction in computing the profits of the business.

Ground No.6

Without prejudice to above the CIT (A) erred in making disallowance of Rs. 77,82,113. The Appellant submits that disallowance if at all to be made, shall ought to be restricted to Rs. 63,85,958 which is incurred on Sample flat. The balance of the expenditure of Rs 13,96,155 is normal business expense which is incurred for business purpose and the Appellants pray that the AO be given suitable direction in the matter.

The Appellant pray that expenses of Rs. 13,96, 155 to be allowed as deduction."

3. We have considered the submissions of both sides and perused the material available on record. At the outset, we find that the learned CIT(A) passed the order *ex parte* as the assessee did not file any details despite multiple opportunities being granted, in support of the grounds of appeal.

4. During the hearing, the learned Authorised Representative ("learned AR") submitted that the assessee filed the appeal before the learned CIT(A) on 19.04.2016 and filed its written submission along with supporting documents in response to notices issued by the learned CIT(A). It was further submitted that the assessee also filed additional evidence before the learned CIT(A). The learned AR submitted that, after the Covid pandemic period, the assessee's appeal was transferred from learned CIT(A)-3 to learned CIT(A)-50, and thereafter it was again transferred to learned CIT(A)-47, Mumbai, who passed the impugned order. The learned

AR submitted that even though the assessee did not file any details in response to the notices issued by the learned CIT(A)-47, Mumbai. However, the assessee was under the impression that the written submissions and details, along with additional evidence already filed by the assessee in the earlier proceedings before the learned CIT(A), which form part of its record, shall be considered while adjudicating its appeal. However, none of these documents was considered by the learned CIT(A), and its appeal was dismissed. In this regard, the learned AR brought our attention to the written submissions filed by the assessee before learned CIT(A)-3, Mumbai, which form part of the paper book. On perusal of the documents forming part of the paper book, we find that the assessee has already filed an application seeking admission of additional evidence. However, it is evident from the perusal of the impugned order that while deciding the assessee's appeal, the learned CIT(A) did not consider any of the aforesaid submissions nor consider the additional evidence filed by the assessee and proceeded to dismiss the appeal filed by the assessee *vide ex parte* order.

5. Accordingly, in view of the facts and circumstances as noted above, we deem it appropriate to set aside the impugned order and restore the matter to the file of the learned CIT(A) for *de novo* adjudication of the appeal on merits after considering the written submission filed by the assessee. As the matter is restored to the file of the learned CIT(A) for consideration afresh, the learned CIT(A) shall be at liberty to seek remand report from the AO, as per law, in respect of the additional evidence filed

by the assessee. Needless to mention, no order shall be passed without affording reasonable opportunity of hearing to the parties. The assessee is also directed to appear before the learned CIT(A) on all the dates of hearing as may be fixed without any default. As the matter is being restored to the file of the learned CIT(A) for *de novo* adjudication on merits, the other grievances raised by the assessee in the present appeal do not fall for adjudication at this stage. Accordingly, the grounds raised by the assessee are allowed for statistical purposes.

6. In the result, the appeal by the assessee is allowed for statistical purposes.

Order pronounced in the open Court on 26/03/2026

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

**Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER**

MUMBAI, DATED: 26/03/2026

Prabhat

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar
ITAT, Mumbai