



**IN THE INCOME TAX APPELLATE TRIBUNAL,
CUTTACK BENCH, CUTTACK**

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.362/CTK/2024
Assessment Year : 2016-17

Royal Mahanagar Developers, A/55, Saheed Nagar, Bhubaneswar	Vs.	Deputy Commissioner of Income Tax, Circle-4(1), Bhubaneswar
PAN/GIR No.AAKFR 3842 D		
(Appellant)	..	(Respondent)

Assessee by : Shri D.Parida CA and C.Parida, Adv
Revenue by : Dr. Abani Kanta Nayak, CIT DR

Date of Hearing : 11/11/2024
Date of Pronouncement : 11/11/2024

ORDER

Per Bench

This is an appeal filed by the assessee against the order of the Id CIT(A), NFAC, Delhi dated 5.7.2024 in Appeal No.CIT(A),Bhubaneswar-2/10292/2018-19 for the assessment year 2016-17.

2. Shri D.Parida and Shri C.Parida, Id ARs appeared for the assessee and Dr. Abani Kanta Nayak, Id CIT DR appeared for the revenue.

3. It was submitted by Id AR that the assessee is a partnership firm, which is in the business of construction and sale of flats. It was the submission that there was a survey on the premises of the assessee on 10.2.2016. It was the submission that the assessee had undertaken three projects during the period being Habitat Green, Ideal Pla and De-Habitat. It was the submission that in the course of survey, statements had been recorded wherein, it was mentioned that the construction in respect of project De-Habitat consisting of 138 flats in six blocks had been completed and the uncompleted projects were Habitat Green and Ideal Plaza. It was the submission that the assessee is following completed contract method. When the assessee had filed its return of income for the assessment year 2016-17, the assessee had claimed an expenditure of Rs.3,45,89,573/-. Ld AR drew our attention to pages 22 to 24 of the order of Id CIT(A), which gave the break up of said expenditures amounting to Rs.3,45,89,594/-. It was the submission that as the expenditures had been incurred exclusively for the so called completed project i.e. De-Habitat, the said expenditure was claimed in the profit and loss account. It was the further submission that the assessee had also incurred an expenditure of Rs.3,79,28,686/- in respect of other two projects, which had been claimed as work-in-progress (WIP) including WIP of Rs.47,44,842/-. The total WIP shown in the balance sheet was Rs.4,26,73,528/-. It was the submission that the said expenditure claimed as WIP related to uncompleted projects being Habitat

Green and Ideal Plaza. In the course of assessment, the Assessing Officer disallowed the said expenditures of Rs.3,45,89,573/- on the ground that the project De-Habitat had been completed as early as in the assessment year 2012-13 and, therefore, the said expenditures could at best have been incurred in respect of two uncompleted projects being Habitat Green and Ideal Plaza. It was the submission that a perusal of the nature of expenditures, as extracted in the order of Id CIT(A), at pages 22 to 24 itself clearly showed that the expenditures related to completed project De-Habitat. It was the submission that in page 24 in para 3, the Id CIT(A) has also categorically found that the Assessing Officer had not found adversity in the expenditure incurred of Rs.2,95,48,040/- out of total expenditure of Rs.3,45,89,594/- claimed by the assessee. It was the submission that the difference was in respect of lift costing of Rs.48,46,704/-. It was the submissions that as the said expenditures were incurred for giving final touch to the completed project i.e. De-Habitat, therefore, same is liable to be allowed. Ld AR placed before us the copy of the letter from the TPCODL in respect of granting of power connection to the various flats, which have been connected only during the assessment year 2016-17. Copy of the said letter of TPCODL is as follows:

TPC^{ODL}
TP CENTRAL ODISHA DISTRIBUTION LIMITED
(A Tata Power and Odisha Government Joint Venture)
OFFICE OF THE SUB-DIVISIONAL OFFICER (ELECTRICAL), COMMERCE
PERIPHERAL SUB-DIVISION, SAILESHREEVIHAR, BHUBANESWAR - 751021

No. 1879 Dt. 30/10/24

To
M/s. Royal Mahanagar Developers
Plot No- 241
Saheed Nagar, Bhubaneswar.

Sub: - Regarding submission of details information of consumers De-Habitat Residential Apartment at-
Shree Vihar, Chandrasekharapur, Bhubaneswar.

Ref:- Your Letter No- Nill, dt.29.10.2024.

Sir,

With reference to the subject cited above, I am submitting herewith the details information of following consumers are given below of De-Habitat Residential Apartment at- Shree Vihar, Chandrasekharapur, Bhubaneswar.

Sl.No.	Flat Owners Name	Flat No.	Consumer No.	Date of Power supply
1	Anil Kumar Dash	201- A	80030180303	05.03.2016
2	Sushanta Kumar Mahanta & Rati Narayan Mahanta	306- C	80029634443	12.12.2015
3	Hara Prasad Mishra	305- C	80029705409	22.04.2016
4	Minati Mohanty	207- D	80029912963	02.05.2016
5	Mamata Acharya	201- E	80029958602	22.11.2015
6	Ram Nath Mishra	202- E	80029642271	08.10.2015
7	Jamuna Kumari & Rabi Narayan Mahanta	104- F	80030177655	05.03.2016
8	Kritibash Mohanty	205- F	80029967629	22.11.2015
9	Smitarani Parija & Gangadhar Khendual Singh	206- F	80030004289	24.09.2015
10	Kalakar Acharya	207- F	80029914159	21.07.2015
11	Satyabrata Mohanty & Bidyut Prava Mohanty	301- F	80029977016	26.08.2015
12	Radhasyam Mohapatra	202- G	80029860196	22.06.2016
13	Manoranjana Jena	204- G	80029995992	24.09.2015
14	Ramesh Kumar Panda	302- G	80029995927	24.09.2015
15	Suravi Dash	303- G	80029995836	24.09.2015
16	Sanjukta & Sanjaya Kumar Sahu	304- G	80029936335	21.07.2015
17	Niranjan Mohapatra & Pradip Kumar Panigrahi	104- C	80029976430	03.12.2015

Yours faithfully

Dy. Manager (Commerce)
Periphery Sub-Division, BBSR.
20/10/24

4. In reply, Id CIT DR submitted that the total expenditures claimed by the assessee was Rs.7,25,18,279/-, which has been extracted by the Assessing Officer in para 6.4 of the assessment order. It was the further submission that however, the assessee has shown WIP only of Rs.4,26,73,528/- and if the WIP as disclosed in the earlier years is taken into consideration, then there was understatement of closing WIP of Rs.3,45,89,573/-. It was the submission that the assessee has not been able to explain as to why said amount is showing short in the WIP. It was the submission that this expenditure which has been claimed in the profit and loss account actually relates to two on-going projects of the assessee being Habitat Green and Ideal Plaza. It was the submission that the assessee is not maintaining separate books of account for the projects independently. The fact that the project De-Habitat has been completed for the assessment year 2012-13 itself shows that no further expenditure was called for in respect of the said project. Therefore, the Assessing Officer had rightly made the addition and the Id CIT(A) had rightly confirmed the same.

5. We have considered the rival submissions. A perusal of the order of Id CIT(A) at pages 22 to 24 which is also supported by ledger extract found at page 250 of PB shows the cost incurred at Rs.1,68,75,000/- is of land cost in respect of De-Habitat project. Copy of the ledger extract reads as follows:

Royal Mahanagar Developers Fy_2015.16

Purchase of Construction Materials
Group Summary
1-Apr-2015 to 31-Mar-2016

Page 1

Particulars	Closing Balance	
	Debit	Credit
Land Cost (De Habitat Project)	1,68,75,000.00	
Lift (De Habitat Project)	48,46,704.00	
Purchase@13.5% (De Habitat Project)	19,20,385.74	
Purchase@13.5% (Habitat Green)	16,61,422.23	
Purchase@13.5% (Ideal Plaza)	43,77,317.11	
Purchase@14.5% (De Habitat Project)	5,74,202.43	
Purchase@14.5% (Habitat Green)	3,88,349.14	
Purchase@14.5% (Ideal Plaza)	2,70,490.36	
Purchase@5% (De Habitat Project)	31,89,172.22	
Purchase@5% (Habitat Green)	39,43,264.77	
Purchase@5% (Ideal Plaza)	82,21,287.33	
Purchase De Habitat Project	29,05,896.00	
Purchase (Habitat Green)	20,29,670.40	
Purchase (Ideal Plaza)	26,36,181.00	
Transporting, Loading & Unloading (Habitat Green)	21,784.20	
Transporting, Loading & Unloading (Ideal Plaza)	84,652.37	
Transport, Loading & Unloading (De Habitat Project)	3,200.00	
Value Added Tax	18,12,153.34	
Grand Total	5,57,61,132.64	

6. Admittedly, the assessee is following completed contract method. It is also an admitted fact that the project De-Habitat is completed, that does not mean that no further expenditure can be incurred in respect of said project. There might be certain defects which have been pointed out by the purchasers of the flats, which would require to be corrected. These would incur expenditures. There might be finishing touches which are required to be done which would require expenditure. A completed project should not be confused with the completed contract. A completion of the project is when the building was completely handed over to the purchasers/residents of that project. Even under Rule of RERA, the liability of the building

continues with the builder till the project is handed over to the purchasers. That does not mean that just because there are sale of the flats or that after a few years, there are expenditures incurred in respect of the project, no further expenditure can be incurred. In any case, the land cost has been clearly mentioned for De-Habitat project. The payment has also been made to the owners of the land from whom, the assessee had purchased land for De-Habitat project. A perusal of the order of Id CIT(A) also clearly shows that in page 24 para 3, Id CIT(A) has categorically given a finding that the Assessing Officer has not found any adversity for the expenditure amounting to Rs.2,95,48,040/-. We are now left with only cost of the lift. Here, it would be worthwhile to mention here that the project cost of De-Habitant has already been incurred to an extent of Rs.20,30,52,676/- whereas WIP disclosed by the assessee in respect of other two projects combined is only Rs.4,26,73,528/-. It is well known fact that no builder would purchase a lift till the structure is complete. Obviously, with an expenditure of Rs.4,26,73,528/-, even the structure of two uncompleted projects would not have been reached in a level where a lift can be installed. A perusal of the copy of invoice from Kone Elevator India (P) Ltd., shows that lift has been purchased for the site of De-Habitat. Obviously, the bill is raised by the supplier of lift and the address of the lift has been mentioned by the supplier of the lift. The said address is De-Habitat. The address of other two projects are nowhere mentioned near the site address

of De-Habitat. Thus, the lift has also been purchased only for the project De-Habitat. This being so, we are of the view that the expenditure of Rs.3,45,89,573/- claimed by the assessee in respect of so called completed De-Habitat is allowable expenditure and the Assessing Officer is consequently directed to allow the same.

7. Our view is also supported by another fact that in the course of survey, books of account were very much found and no incriminating materials were found against the assessee and these expenditures were very much available in the books and same has also been enquired into in the course of survey. However the books of account have not been rejected nor brought into question by invocation of section 145(3) of the Act. In these circumstances, the expenditures as claimed by the assessee is allowed.

8. In the result, appeal of the assessee allowed.

Order dictated and pronounced in the open court on 11/11/2024.

Sd/-

(Manish Agarwal)
ACCOUNTANT MEMBER

sd/-

(George Mathan)
JUDICIAL MEMBER

Cuttack; Dated 11/11/2024
B.K.Parida, SPS (OS)

Copy of the Order forwarded to :

1. Royal Mahanagar Developers, A/55, Saheed Nagar, Bhubaneswar
2. The Respondent: Deputy Commissioner of Income Tax, Circle-4(1), Bhubaneswar
3. The CIT(A)- NFAC, Delhi
4. Pr.CIT-2, Bhubaneswar
5. DR, ITAT,
6. Guard file.
//True Copy//

By order

Sr.Pvt.Secretary
ITAT, Cuttack

