

**आयकर अपीलीय अधिकरण, हैदराबाद पीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**Hyderabad ‘ B ‘ Bench, Hyderabad**

**Before Shri Vijay Pal Rao, Vice-President**  
**A N D**  
**Shri Madhusudan Sawdia, Accountant Member**

आ.अपी.सं / **ITA No.572/Hyd/2024**  
(निर्धारण वर्ष / Assessment Year: 2017-18)

VITP Private Ltd (in the case of Flagship Developers (P) (Ltd) Hyderabad PAN:AACCV2672G	Vs.	Dy. Commissioner of Income Tax, Circle 8(1) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Advocate Tanmayee Rajkumar	
राजस्व द्वारा/Revenue by::	Shri Kumar Pranav, CIT(DR)	
सुनवाई की तारीख/Date of hearing:	20/11/2024	
घोषणा की तारीख/Pronouncement:	02/01/2025	

**आदेश/ORDER**

**Per Vijay Pal Rao, Vice President**

This appeal by the assessee is directed against the revision order dated 30/03/2024 of the learned Pr.CIT Hyderabad-2, u/s 263 of the I.T. Act, 1961 for the A.Y.2017-18.

2. The assessee M/s. Flagship Developers (P) Ltd is a company and engaged in the business of developing and operating

information technology/information technology enables services (IT/ITES) Parks in Special Economic Zones. The assessee filed its original return of income for the year under consideration on 18/01/2017 declaring loss of Rs.50,54,26,119/- under the head profit & gain from business/profession. Thereafter, the assessee filed its revised return of income for the year under consideration on 20/02/2019 declaring loss of Rs.42,59,74,773/-. The case of the assessee was selected for scrutiny through CASS. However, in the meantime, the assessee merged with M/s. VITP (P) Ltd as per the scheme of amalgamation approved by the NCLT Hyderabad vide order dated 17/07/2018 w.e.f. 03/02/2017 as per the scheme of amalgamation. The assessment was completed u/s 143(3) r.w.s. 144C(3) of the I.T. Act, 1961 whereby the Assessing Officer has made addition on account of transfer pricing adjustment of Rs.4,38,98,630/-. Thereafter, on examination of the record, the learned Pr. CIT observed that the depreciation as per the book was Rs.12,71,86,377/- but the assessee claimed the same at Rs.17,60,01,521/- in the ITR. Hence the learned Pr. CIT was of the view that an excess claim of depreciation to the extent of Rs.4,88,15,144/- has been allowed by the Assessing Officer while framing the assessment which has resulted in short computation of the book profit. Accordingly, the learned Pr. CIT initiated proceedings u/s 263 of the Act by issuing show cause notice dated 8/3/2024 and 22/03/2024. The assessee filed its reply to the show cause notice and pointed out that the amount of depreciation as referred in the show cause notice amounting to

Rs.12,71,86,373/- is in fact the book depreciation as debited to the P&L Account of M/s VITP Pvt. Ltd as per the revised financial statement of the said company after amalgamation. The assessee also given the reconciliation of these amounts of depreciation and explained that there is no discrepancy in the depreciation claimed by the assessee while computing the book profit as per section 115JB of the I.T. Act, 1961. The learned Pr. CIT was not impressed with the reply of the assessee and held that the order passed by the Assessing Officer without making any inquiry or verification which should have been made is erroneous in so far it is prejudicial to the interest of the Revenue as the Assessing Officer has failed to verify the issue of excess claim of depreciation made by the assessee in ITR as compared to the depreciation shown in its books. Accordingly, the assessment order was set aside with the direction to the Assessing Officer to make requisite inquiry and proper verification with regard to the issue of excess claim of depreciation.

3. Aggrieved by the impugned order, the assessee filed the present appeal.

4. The learned AR of the assessee submitted that the only issue taken by the learned Pr. CIT in the show cause notice is regarding an excess claim of depreciation. It has been duly replied by the assessee and also explained that there is no discrepancy in the claim of depreciation. The learned AR has pointed out that the

assessee has shown the book depreciation of Rs.24,04,18,433/- which was claimed as deduction in computation of book profit u/s 115JB of the Act. The said claim is in consonance with the depreciation debited in the audited book profit & loss account of the Flagship Developers (P) Ltd (FDPL). The learned AR has further submitted that initially, the accounts were prepared for the financial year 1/4/2016 to 31/03/.2017. However, subsequently, after the approval of the scheme of amalgamation, the revised post-merger audited profit & loss account was prepared and also a revised return of income was filed for the period 1/4/2016 to 1/02/2017 showing the book depreciation of Rs.20,63,39,415/- which was also claimed as deduction in computation of book profit u/s 115JB of the I.T. Act, 1961. Therefore, even in the revised return of income based on the post merged revised audited accounts of FDPL was in consonance with the book depreciation.

4. The learned AR has further contended that this issue was examined and verified by the Assessing Officer during the assesment proceedings. He has referred to the notice issued by the Assessing Officer u/s 142(1) dated 4/3/2021 whereby the Assessing Officer inquired the claim of book depreciation with the depreciation debited to the P&L Account of FDPL. The said notice issued was duly replied by the assessee by providing the requisite details vide submissions dated 10/03/2021. The Assessing Officer after verification of the details has allowed the claim of

book depreciation in case of FDPL and therefore, there is no question of lack of inquiry on the part of Assessing Officer on this issue. He has also referred to the P&L Account placed at page No.548 of the paper book as well as return of income filed u/s 139 placed at page No.355 of the paper book and referred to the entry No.44 showing the claim of depreciation while computing the book profit which is the same as debited in the P&L Account. The learned AR has referred to the revised return of income placed at page 470 of the paper book and again referred to the entry No.44 of the return of income and submitted that the amount of depreciation claimed by the assessee is in accordance with the revised financial accounts showing the book depreciation at Rs.20,63,39,415/-. The learned AR has then submitted that all these facts and details were explained by the assessee in the reply to the show cause notice u/s 263 which were also part of the impugned order in Para No.7 whereby the learned Pr. CIT reproduced all these facts and financial details from the books of VITP (P) Ltd and not from the books of the FDPL. Thus, the findings of the learned Pr. CIT while passing the impugned order is based on incorrect facts and details, not sustainable and liable to be quashed.

5. Alternatively, the learned AR has submitted that the impugned order has been passed against a non-existing entity when the assessee FDPL already got merged with VITP (P) Ltd as per the scheme of amalgamation approved by the NCLT vide order

dated 17/07/2018 w.e.f. 03/02/2017. In support of his contention, he has relied upon the judgment of the Hon'ble Supreme Court in the case of Pr. CIT vs. Maruti Suzuki India Ltd (2019) 107 Taxmann.com 375 (S.C).

6. On the other hand, the learned DR has submitted that the order of the Assessing Officer is completely silent on the issue of claim of depreciation and therefore, there is a lack of inquiry as well as non-application of mind on the part of the Assessing Officer while passing the assessment order and allowing the claim of depreciation while computing the book profit. He has relied upon the impugned order of the learned Pr. CIT and contended that the case was selected for scrutiny under CASS and one of the issue was large claim of refund. Thus, the Assessing Officer ought to have examined the excess claim of depreciation on the part of the assessee and failure to conduct an inquiry on the part of the Assessing Officer renders the assessment order erroneous in so far as it is prejudicial to the interest of the Revenue.

7. In the rejoinder, the learned AR has submitted that the special purpose financial statements were prepared on 23/11/2018 placed at page 173 to 176 of the paper book and the amount of depreciation in those special purpose financial statements also shown at Rs.20,63,39,415/-. He has again referred to the notice issued by the Assessing Officer u/s 142(1) and submitted that the Assessing Officer has duly inquired about

the claim of depreciation and only on the satisfaction of the claim, it was allowed.

8. We have considered the rival submissions and perused the material available on record. The learned Pr. CIT has initiated the proceedings u/s 263 of the I.T. Act, 1961 only on the issue of excess claim of depreciation on the part of the assessee while computing the book profit u/s 115JB of the Act as reflected from the show cause notice dated 8/3/2024 as under:

<p style="text-align: center;">GOVERNMENT OF INDIA MINISTRY OF FINANCE INCOME TAX DEPARTMENT OFFICE OF THE PRINCIPAL COMMISSIONER OF INCOME TAX PCIT, Hyderabad-2</p>			
<p>To: FLAGSHIP DEVELOPERS PRIVATE LIMITED PLOT NO 17, SOFTWARE UNITS LAYOUT MADHAPUR Hyderabad, Telangana India</p>			
PAN/TAN: AAACF9235B	AY: 2017-18	DIN & Notice No : ITBA/REV/F/REV1/2023- 24/1062264595(1)	Dated: 08/03/2024
<b><u>NOTICE FOR THE HEARING</u></b>			
<b><u>M/s/Mr/Ms</u></b>			
<p><b>Subject:</b> Notice for Hearing in respect of Revision proceedings u/s 263 of the <b>THE INCOME TAX ACT, 1961</b> – Assessment Year <b>2017-18</b>.</p>			
<p>In this regard, a hearing in the matter is fixed on <b>13/03/2024</b> at <b>11:00 AM</b>. You are requested to attend in person or through an authorized representative to submit your representation, if any alongwith supporting documents/information in support of the issues involved (as mentioned below). If you wish that the Revision proceeding be concluded on the basis of your written submissions/representations filed in this office, on or before the said due date, then your personal attendance is not required. You also have the option to file your submission from the e-filing portal using the link: <a href="http://incometaxindiaefiling.gov.in">incometaxindiaefiling.gov.in</a></p>			
<p>During the scrutiny of annual account and profit and loss account for the year ended 31.03.2017, it was seen that there is depreciation as per book amounting to Rs 12,71,86,377/- but it was claimed in the ITR as Rs 17,60,01,521/-. Hence there was claim of Depreciation Depreciation of Rs 4,88,15,144 (Rs 176001521-127186377) as per books and any other reason if found.</p>			
<p>In view of the above, the assessment order u/s 143(3) rws 144 dated 28/06/2021 for the AY 2017-18 was erroneous and prejudicial to the interest of revenue.</p>			
<p>PEERYA PATHILAVATH PCIT, Hyderabad-2</p>			

9. Thus, the learned Pr. CIT has observed that the assessee has claimed depreciation in ITR at Rs.17,60,01,521/- as against the depreciation as per the books amounting to Rs.12,71,86,377/-. The assessee filed its reply dated 13/03/2024 explaining all the facts relating to the merger of the assessee with VITP (P) Ltd as per the scheme of amalgamation approved by the NCLT Hyderabad vide order dated 17/07/2018 w.e.f. 3/2/2017. The assessee has specifically pointed out the facts regarding the claim of depreciation in para 2 of the reply as under:

*"2. Our Submission:*

*Issue: During the scrutiny of annual account and profit and loss account for the year ended 31.03.2017, it was seen that there is depreciation as per book amounting to Rs 12,71,86,377/- but it was claimed in the ITR as Rs 17,60,01,521/-. Hence there was claim of Depreciation of Rs 4,88,15,144 (Rs 176001521-127186377) as per books and any other reason if found.*

*In this regard, we wish to submit that in the Return of income filed u/s 139(1) of the Act in the case of FDPL under PAN: AAACF9235B. book depreciation of INR 24,04,18,433 was claimed as deduction in the computation of book profit u/s 115JB of the Act (refer page 8 and 53 of Annexure 2) which is in consonance with depreciation debited in the audited profit and loss account of FDPL (refer page 2 of Annexure 11) prepared for the financial year April 1, 2016 to March 31, 2017. A copy of the subject financial statements in the case of FDPL has been enclosed as Annexure 11.*

*Further. in the revised Return of income filed in the case of FDPL for the period April 1, 2016 to February 1.2017. a book depreciation of INR 20,63,39,415 was claimed as deduction in the computation of book profit u/s 115JB of the Act (Refer page 5 and 50 of Annexure 6) which is in consonance with depreciation debited in the post-merger audited profit and loss account of FDPL (refer page 2 of Annexure 7).*

*Further, we wish to submit that there is no basis for determination of book depreciation amounting to INR*



*12,71,86,373 and book depreciation amounting to INR 17,60,01,521 as mentioned by your goodself in the Subject Notice (copy enclosed as Annexure 1) and accordingly your goodself has grossly erred in facts in considering a book depreciation of INR 12,71.86,373 as debited to the Profit and Loss Account of FDPL for AY 2017-18.*

*Further, we also wish to submit that during the course of scrutiny assessment proceedings u/s 143(3) of the Act. the Ld. AO vide notice dated March 4, 2021 issued under Section 142(1) of the Act has duly enquired about the claim of book depreciation being debited to the Profit & Loss account of FDPL. against which, the Company had duly furnished its response providing the requisite details. A copy of the said submission dated March 10, 2021 furnished before the Ld. AO along with notice dated March 4, 2021 has been enclosed as Annexure 12 for your kind consideration. Thus. we wish to submit that the claim of book depreciation in the case of FDPL has been duly allowed in the subject Assessment Order after undertaking appropriate inquiries/ verification by the Ld. AO.*

*Thus, we wish to reiterate that there is no claim of excess book depreciation in the hands of FDPL [under PAN: AAACF9235B] for the purposes of computation of its book profit u/s 115JB of the Act for AY 2017-18. Thus, we wish to submit that there is no under- statement of book profit u/s 115JB of the Act as contested by your goodself in the aforesaid notice issued under Section 263 of the Act for the subject AY. Accordingly, the revision proceedings initiated by your goodself due to the aforesaid issue is bad in law and on facts and hence not tenable and ought to be dropped.”*

10. The assessee has brought to the notice of the learned Pr. CIT that initially the book depreciation of Rs.24,04,18,433/- was claimed as deduction on the computation of book profit u/s 115JB which is in consonance with the depreciation debited in the P&L Account. Since there was a merger of the assessee with VITP (P) Ltd, therefore, a revised return of income was filed by the assessee for the period from 1/4/2016 to 1/2/2017 wherein the book depreciation of Rs.20,63,39,415/- was claimed as deduction

for the computation of book profit u/s 115JB of the I.T. Act, 1961. All these facts are also reflected in the return of income filed by the assessee u/s 139(1) of the Act and placed at Page No.355 onwards of the paper book and as per the entry No.44 of the return of income, the depreciation was claimed at Rs.24,04,18,433/-. For ready reference, the relevant part of the return of income is reproduced as under:

Acknowledgement Number : 308443501181117		Assessment Year : 2017-18	
ii	Others (more than Rs. 1 lakh) where PAN is not available	ii	0
iii	Others (amounts less than Rs. 1 lakh)	iii	0
iv	Total Bad Debt (39i) (All PAN) + 39ii + 39iii)	39iv	0
40	Provision for bad and doubtful debts	40	460060
41	Other provisions	41	0
42	Profit before interest, depreciation and taxes [4 ? (5iv + 6 + 7viii + 8 to 13 + 14xi + 15v + 16 to 21 + 22iii + 23iii + 24iii + 25 to 35 + 36vi + 37 + 38 + 39iv + 40 + 41)]	42	315186302
43	Interest		
i	Paid outside India, or paid in India to a non-resident other than a company or a foreign company	i	192639302
ii	To others	ii	251517937
iii	Total (i + ii)	43iii	444157439
44	Depreciation and amortisation	44	240418433
45	Profit before taxes (42 - 43iii - 44)	45	-369389570
<b>PROVISIONS FOR TAX AND APPROPRIATIONS</b>			
46	Provision for current tax	46	0
47	Provision for Deferred Tax and Deferred Liability	47	0
48	Profit after tax (45 - 46 - 47)	48	-369389570
49	Balance brought forward from previous year	49	0
50	Amount available for appropriation (48 + 49)	50	-369389570
51	Appropriations		
i	Transfer to reserves and surplus	51i	0
ii	Proposed dividend/ Interim dividend	51ii	0
iii	Tax on dividend/ Tax on dividend for earlier years	51iii	0
iv	Any other appropriation	51iv	0
v	Total (51i + 51ii + 51iii + 51iv)	51v	0
52	Balance carried to balance sheet in proprietor's account (50 ? i)	52	-369389570
<b>NO ACCOUNT CASE</b>			
53	In a case where regular books of account of business or profession are not maintained, furnish the following information for previous year 2016-17 in respect of business or profession		
a	Gross receipts	53a	0
b	Gross profit	53b	0
c	Expenses	53c	0
d	Net profit	53d	0
<b>Part A Other Information (optional in a case not liable for audit under section 44AB)</b>			
1	Method of accounting employed in the previous year	1	Mercantile
2	Is there any change in method of accounting	2	No

11. Thereafter, the assessee has filed the revised return of income placed at page No.470 of the paper book and relevant entry No.44 is showing the claim of depreciation as under:

Acknowledgement Number : 423805111200219

Assessment Year : 2017-18

42	Profit before interest, depreciation and taxes: [4 + 25iv + 6 + 79ii + 8 to 13 + 14xi + 35v + 16 to 21 + 22iii + 23iii + 24iii + 25 to 35 + 36vi + 37 + 38 + 39iv + 40 + 41]		42	248711482
43	Interest			
	i	Paid outside India, or paid in India to a non-resident other than a company or a foreign company	i	0
	ii	To others	ii	357953279
	iii	Total (i + ii)	43iii	357953279
44	Depreciation and amortisation		44	206339415
45	Profit before taxes (42 - 43iii + 44)		45	-315581212
PROVISIONS FOR TAX AND APPROPRIATIONS				
46	Provision for current tax		46	0
47	Provision for Deferred Tax and Deferred Liability		47	0
48	Profit after tax (45 - 46 - 47)		48	-315581212
49	Balance brought forward from previous year		49	-207782214
50	Amount available for appropriation (48 + 49)		50	-523363426
51	Appropriations			
	i	Transfer to reserves and surplus	51i	0
	ii	Proposed dividend/ Interim dividend	51ii	0
	iii	Tax on dividend/ Tax on dividend for earlier years	51iii	0
	iv	Any other appropriation	51iv	0
	v	Total (51i + 51ii + 51iii + 51iv)	51v	0
52	Balance carried to balance sheet in proprietor's account (50 ?i)		52	-523363426
NO ACCOUNT CASE				
53	In a case where regular books of account of business or profession are not maintained, furnish the following information for previous year 2016-17 in respect of business or profession.			
	a.	Gross receipts	53a	0
	b.	Gross profit	53b	0
	c.	Expenses	53c	0
	d.	Net profit	53d	0
Part A OI-Other Information (optional in a case not liable for audit under section 44AB)				
1	Method of accounting employed in the previous year		1	Mercantile
2	Is there any change in method of accounting		2	No
3	Effect on the profit because of deviation, if any, as per Income Computation Disclosure Standards notified under section 145(2) (column 11(iii) of Schedule ICDS)		3	0
4	Method of valuation of closing stock employed in the previous year			
	a	Raw Material (if at cost or market rates whichever is less write 1, if at cost write 2, if at market rate write 3)	4a	1. Cost or market rate, whichever is less

12. Thus, in the original return of income as well as in the revised return of income, the claim of the assessee is not as stated by the learned Pr. CIT in the show cause notice wherein the learned Pr. CIT has alleged that the assessee has claimed depreciation of Rs.17,60,01,521/- in the ITR which is not the correct facts as emerged from the record. Since those figures, as taken by the learned Pr. CIT are part of the return of income of the VITP and not of FDPL which was subjected to revision u/s 263 of the I.T. Act, 1961. Further, we note that the P&L Account placed at page 548 of the paper book also reflects the claim of depreciation of Rs.24.04 crores. The claim of depreciation was revised in pursuant to the merger and consequently, the revised financial statements prepared for the special purpose for the period from 1/4/.2016 to 1/2/2017 wherein the assessee has claimed the book depreciation of Rs.20,63,39,415/- and hence, there was no discrepancy in the claim of the assessee on account of depreciation while computing the book profit.

13. We further note that in the return of income in case of VITP (P) Ltd, the depreciation and amortization as per entry No.44 of the return of income is shown at Rs.17,60,091,521/- and this amount was taken by the learned Pr. CIT while invoking the provisions of section 263 of the Act. For ready reference, the relevant part of the return of income in case of VITP (P) Ltd is reproduced as under:

Acknowledgement Number : 383015701301118

Assessment Year : 2017-18

43	Interest			
	i	Paid outside India or paid in India to a non-resident other than a company or a foreign company	i	0
	ii	To others	ii	125412097
	iii	Total (i + ii)	43iii	125412097
44	Depreciation and amortisation.		44	176001521
45	Profit before taxes (42 - 43iii - 44)		45	529560033
<b>PROVISIONS FOR TAX AND APPROPRIATIONS</b>				
46	Provision for current tax		46	114067233
47	Provision for Deferred Tax and Deferred Liability		47	142327540
48	Profit after tax (45 - 46 - 47)		48	273163160
49	Balance brought forward from previous year		49	0
50	Amount available for appropriation (48 + 49)		50	273163160
51	Appropriations			
	i.	Transfer to reserves and surplus	51i	0
	ii	Proposed dividend/ Interim dividend	51ii	0
	iii	Tax on dividend/ Tax on dividend for earlier years	51iii	0
	iv.	Any other appropriation	51iv	3645784
	v.	Total (51i + 51ii + 51iii + 51iv)	51v	3645784
52	Balance carried to balance sheet in proprietor's account (50 ? 1).		52	269519376
<b>NO ACCOUNT CASE</b>				
53	In a case where regular books of account of business or profession are not maintained, furnish the following information for previous year 2016-17 in respect of business or profession.			
	a.	Gross receipts	53a	0
	b.	Gross profit	53b	0
	c.	Expenses	53c	0
	d.	Net profit	53d	0
<b>Part A OI-Other Information (optional in a case not liable for audit under section 44AB)</b>				
1	Method of accounting employed in the previous year		1	Mercantile
2	Is there any change in method of accounting		2	No
3	Effect on the profit because of deviation, if any, as per Income Computation Disclosure Standards notified under section 145(2) (column 11 (iii) of Schedule B-125)		3	0
4	Method of valuation of closing stock employed in the previous year			
	a	Raw Material (if at cost or market rates whichever is less write 1, if at cost write 2, if at market rate write 3)	4a	1. Cost or market rate, whichever is less
	b	Finished goods (if at cost or market rates whichever is less write 1, if at cost write 2, if at market rate write 3)	4b	1. Cost or market rate, whichever is less
	c	Is there any change in stock valuation method	4c	No

14. From these facts, as discussed above, it is clear that the learned Pr. CIT invoked the provisions of section 263 on the basis of incorrect facts, whereas the claim of depreciation in the return of income filed by the assessee i.e. FDPL was found in order by the Assessing Officer as per the details furnished by the assessee. We also notice that there is no discrepancy in the claim of the assessee in the book depreciation while computing the book profit u/s 115JB of the Act as the amount of claim is same as reflected in the P&L Account. Further, all these details were available before the learned Pr. CIT as well as before the Assessing Officer. However, without considering the facts and details objectively, the learned Pr. CIT has passed the impugned order and directed the Assessing Officer to re-verify the claim of the assessee. It is pertinent to note that as per the order sheet in details and office note of the National E-Assessment Centre, the Regional Assessing Officer of the Assessment Unit has admitted the fact that the assessment order passed in the case of the assessee is not sustainable being passed against the non-existing entity. The office note dated 23/06/2021 is reproduced as under:

*"Notings/Remarks: OFFICE NOTE: The assessment has been Completed keeping in mind the repeated directions from NeAC, the CBDT through webinars and minutes of meetings and higher authorities, wherein it has been stated that in view of the Covid-19 pandemic and the data driven assessment scheme of the Faceless Assessment Scheme, 2019, the assessment has to be limited to the discrepancies as red flagged for enquiry and investigation through CASS and to legacy issues. The assessee company is engaged in the business of developing and operating Information Technology/Information Technology Enabled Services ("IT/ITES") parks in Special Economic Zone ("SEZ") land. This company has got amalgamated into the resulting company*

*after the NCLT amalgamation order. Details: My assessee: Flagship developers Pvt Ltd (Non-Existent) PAN of merged company: AAACF9235B NAME and PAN Of resulting company: VITP PVT Ltd:- AACCV2672G The assessee got merged into the resulting company on 3rd February 2017. The intimation for the same was provided to the then Assessing officer with a request that the matters pending in case of Flagship may be considered in the hands of the resulting company. DATE OF NCLT ORDER: 21/02/2018 DATE OF APPLICATION OF AMALGAMATION SECHHEME: 03.02.2017. As per the Maruti Suzuki Case, the notices sent to the assessee sent after amalgamation are invalid and therefore the order if passed will be bad in law. Still this office is passing the draft order with TP addition as suggested by the TPO Only so that income does not escape assessment. This order should be considered in the name of the resulting company. The information regarding the amalgamation issue has also been sent to the JAO of both the PANs involved. The case was selected for scrutiny and following issues were taken care of: With respect to 'any other amount allowable as deduction' the following questions were asked:*

*3. In respect of your reply regarding "any other amount allowable as deduction" made as per Schedule BP of ITR, please furnish the following information:*

*a) A brief note explaining the nature of such deduction as to how such amount is allowable as deduction along with documentary evidences*

*b) Provide the sections/sub-section of IT act under which such amount is claimed. c) Also highlight previous deductions, if any made in respect of same and whether the same is made part of income in the P&L A/c in preceding years if yes highlight the same.*

*d) Kindly explain why notional rent and marketing fee should be allowed as deduction, provide documentary proof to support your claim. ... “*

15. Accordingly, in the facts and circumstances as discussed above, the impugned order passed by the learned Pr. CIT u/s 263 of the I.T. Act, 1961 is based on incorrect facts is not sustainable in law and liable to be quashed. We order accordingly.

16. In the result, appeal filed by the assessee is allowed.

Order pronounced in the Open Court on 2<sup>nd</sup> January, 2025.

Sd/-

Sd/-

<b>(MADHUSUDAN SAWDIA)</b> <b>ACCOUNTANT MEMBER</b>	<b>(VIJAY PAL RAO)</b> <b>VICE-PRESIDENT</b>
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Hyderabad, dated 2<sup>nd</sup> January, 2025.

***Vinodan/sps***

Copy to:

S.No	Addresses
1	VITP (P) Ltd (In the case of Flagship Developers (P) Ltd, Capella Block, 5 <sup>th</sup> Floor, Plot No.17, Software Units Layout Madhapur, Shaikpet, Hyderabad 500081, Telangana
2	Dy. CIT, Circle 8(1) Signature Tower, Sy. No.6(P) of Kondapur, Sy.37(P) of Kothaguda, Opp: Botanical Gardens, Serilingampally(M) Hyderabad 500084
3	Pr. CIT - Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

*By Order*