

**आयकरअपीलीयअधिकरण, अहमदाबादन्यायपीठ**  
**IN THE INCOME TAX APPELLATE TRIBUNAL,**  
**"D" BENCH, AHMEDABAD**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER**  
**And**  
**MS. MADHUMITA ROY, JUDICIAL MEMBER**

आयकरअपीलसं./ITA No.110/AHD/2021  
(निर्धारणवर्ष/Asstt. Year: 2016-17)

Ralsons Infrastructure Pvt. Ltd., A-301, Stellar, Opp. Arista, Sindhuhavan Road, Bodakdev, Ahmedabad-380054  <b>PAN: AACCR8671F</b>	Vs.	PCIT-3, Ahmedabad
<b>(Applicant)</b>		<b>(Respondent)</b>

Assessee by :	Shri Biren Shah & Shri G.M. Thakor, A.Rs.
Revenue by :	Shri Ritesh Parmar, CIT D.R.

सुनवाईकीतारीख/**Date of Hearing** : **09/11/2023**  
घोषणाकीतारीख/**Date of Pronouncement**: **10/01/2024**

**आदेश/O R D E R**

**PER WASEEM AHMED, ACCOUNTANT MEMBER:**

The captioned appeal has been filed at the instance of the assessee against the order of the Learned Principal Commissioner of Income Tax-3, Ahmedabad (in short "Ld.PCIT") arising in the matter of assessment order passed under s. 143(3) of the Income Tax Act, 1961 (here-in-after referred to as "the Act") relevant to the Assessment Year 2016-17.

2. The only effective issue raised by the assessee is that the Ld. PCIT under Section 263 of the Act erred by holding the assessment framed under Section 143(3) of the Act as erroneous in so far prejudicial to the interest of Revenue.

3. The facts in brief are that the assessee in the present case, a private limited company, is engaged in the business of real estate development. The assessee for the year under consideration filed its return of income declaring loss

at Rs. (-)25,20,658/- only. Subsequently, the Ld. PCIT on examination of the assessment records found certain defects in the assessment framed under Section 143(3) of the Act and therefore, he proposed to hold the assessment as erroneous causing prejudice to the interest of Revenue. As per the Ld. PCIT, the assessee claimed to have been following the method of revenue recognition as per the accounting standard-7 issued by ICAI consistently. However, the Principal CIT found that the assessee is recognizing the revenue based on sale deed registered in the relevant year. As per the Ld. PCIT, the assessee has not furnished the revenue statement demonstrating that the revenue was recognized based on percentage completion method. In the absence of the documents, the Ld. PCIT was of the view that the properties in respect of which the registration is pending, no revenue has been recognized by the assessee irrespective of the fact that proceeds have been received against those properties.

4. The Ld. PCIT further found that the assessee has shown sale of property to Shri Suraj Singh amounting to Rs. 62,50,000/- on which TDS under Section 194IA was deducted for Rs. 62,500/- only. The Ld. PCIT found that out of the sum of Rs. 62,50,000/- the amount of Rs. 25,44,000/- was offered to tax in the F.Y. 2013-14 and therefore, the corresponding amount of TDS available to the assessee in the Assessment Year 2014-15 is Rs. 25,440/- only but the assessee has claimed the credit of entire amount of TDS of Rs. 62,500/- which is more than Rs. 37,060/- (62,500 – 25,400). Thus, the Ld. PCIT was of the view that the assessee has claimed the excessive TDS credit for which it was not entitled. In view of the above, the Ld. PCIT concluded that the assessment framed by the Assessing Officer under Section 143(3) of the Act is erroneous in so far prejudicial to the interest of Revenue by observing as under:

*"9. After having considered the position of law and facts and circumstances of the instant case, I am of the considered opinion that the assessment order u/s.143(3) of the Act dated 18.12.2018 passed by the Assessing Officer is erroneous in so far as it is prejudicial to the interest of revenue in accordance with the Explanation '2(a) below section 263(1) of the Act as the order is passed without making inquiries or verification which should have been made and by accepting an incorrect claim of the assessee which was not in accordance with the provisions of law. Hence, the assessment order passed by the Assessing Officer is not only erroneous but also prejudicial to the interest of revenue. Accordingly, the impugned assessment order is set aside with a direction to the Assessing*

*Officer to make requisite inquiries and proper verification with regard to the issues mentioned above and redo the assessment de-novo after due consideration of the facts and law in this regard. The assessee is at liberty to adduce the facts as deemed relevant before the assessing officer at the time of assessment proceedings in consequence to this order and the Assessing Officer shall allow the assessee adequate opportunity of being heard and to make relevant submissions. It may be ensured that the fresh assessment order is passed within the prescribed time as stipulated under section 153(3) of the Act."*

4.1 Being aggrieved by the order of the Id. PCIT, the assessee is in appeal before us.

5. The Ld. AR before us filed two paper books running from pages 1 to 139 and 1 to 68 and submitted as under:

**"Revenue Recognition:** *The Company has recognized revenue as per Accounting Standard 7, and the method is recognized by Income Tax. As per this method, if the construction is completed more than 25% and consideration received is 20% then proportionate revenue is recognized. This system has been followed consistently. At the time of scrutiny we have explained each and every detail along with necessary supporting Documents submitted to A.O. To narrate the system, when booking of bungalow is taken and if work is not done same is considered as Advance, however when work is completed Revenue to the extent of completion is recognized is respective year."*

6. The Ld. AR in support of his contention drawn our attention on pages 60 to 61 of the Paper Book wherein the details of the revenue recognized in different assessment years based on percentage completion method up to 31.03.2016 were placed. The Ld. AR also drawn our attention demonstrating the revenue recognized in the FYs. 2012-13 and 2013-14 based on percentage completion method which are placed on pages 62 to 63 of the Paper Book. Besides, the above the Ld. AR also submitted that the method adopted by the assessee for recognizing the revenue has also been accepted by the revenue in the assessment framed under Section 143(3) of the Act for the A.Ys. 2014-15 and 2015-16 and therefore, the same cannot be revised in the year under consideration. Without prejudice to the above, the Ld. AR further submitted that the entire project of the assessee has been completed in the later years which was also accepted by the revenue without making any modification. Thus, Ld. AR contended that there is no error causing prejudice to the interest of revenue. Accordingly, the revisional order passed under section 263 of the Act should be quashed.

7. On the other hand, the Ld. DR vehemently supported the order of the authorities below.

8. We have heard the rival contentions of both the parties and perused the materials available on record. On perusal of the details placed on pages 60 to 63 of the Paper Book, we note that the assessee has been following the method for recognizing the revenue in proportion to construction of the project i.e. 25% viz a viz receipt of consideration i.e. 20% which was also accepted by the revenue in the assessment framed under section 143(3) of the Act in the AYs 2014-15 and 2015-16. The copies of the assessment orders are placed on pages 58 to 67 of the paper book. Likewise, there is no allegation by the Ld. PCIT that the assessee has not offered the income to tax in the later year. What we find from the findings of the Ld. PCIT is this that it is the difference of the year in which the income has been offered to tax by the assessee from its project. Accordingly, we can draw an inference that the income arising to the assessee from the activity of its real estate project has been offered to tax over a period. Furthermore, we are of the view that once a method of recognizing the revenue adopted by the assessee and accepted by the revenue in the earlier and later years, the same cannot be disturbed for the intervening year i.e. the year in dispute until and unless initial year is made subject to the modification.

9. Regarding excess credit claimed by the assessee, we note that the Ld. PCIT himself has admitted the fact that the assessee was entitled for certain amount of TDS in the earlier year based on revenue recognition. Admittedly, there was no benefit of TDS credit claimed by the assessee in the earlier year, therefore, there cannot be any prejudice to the revenue. It is because the entire exercise of claiming the TDS benefit is tax neutral. Furthermore, the contention of the Ld. AR that the earlier sale deed was cancelled and therefore, the benefit of TDS credit was claimed in the year under consideration, has nowhere been doubted.

10. Before concluding, it is important to note that the learned PCIT has also held the assessment framed by the AO as erroneous insofar as prejudicial to the interest of revenue on account of the loan received by the assessee. However, the learned AR did not advance any argument on this issue at the time of hearing since the AO in the consequential order has not made any addition qua the unsecured loan received by the assessee. As such, the learned AR did not press this issue raised by the learned PCIT in his order. Accordingly, we refrain ourselves from giving any finding on this issue.

11. In view of the above, we hold that there is no error in the order of the Assessing Officer causing prejudice to the interest of revenue. Accordingly, we hold that the order passed by the Ld. PCIT is not sustainable. Hence, the grounds of appeal of the assessee are hereby partly allowed.

12. In the result, the appeal filed by the assessee is partly allowed.

**Order pronounced in the Court on 10/01/2024 at Ahmedabad**

**Sd/-**  
**(MADHUMITA ROY)**  
**JUDICIAL MEMBER**  
Ahmedabad; Dated 10/01/2024  
*Tanmay, Sr. P.S.*

**Sd/-**  
**(WASEEM AHMED)**  
**ACCOUNTANT MEMBER**

**TRUE COPY**

**आदेशकीप्रतिलिपियेभित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. संबंधितआयकरआयुक्त/ Concerned CIT
4. आयकरआयुक्त(अपील) / The CIT(A)
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण/ DR, ITAT,
6. गार्डफाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./Asstt.Registrar)  
आयकरअपीलीयअधिकरण, अहमदाबाद / ITAT, Ahmedabad