

\$~12 & 13

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ITA 476/2017

+ ITA 479/2017

PR. COMMISSIONER OF INCOME TAX (CENTRAL)-3

Through Mr. Rahul Chaudhary, Advocate. Appellant

versus

INDRAPURAM HABITAT CENTRE PVT. LTD. Respondent
Through None.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **06.11.2017**

1. The question, which the Revenue urges in these two appeals, is whether the ITAT fell into error in accepting the method of treatment of revenue and income by the assessee, who is a developer and undertakes construction projects including those of commercial buildings. The AO sought to bring additional amount to tax on the ground that even while the assessee claimed to have followed the AS-9 method, he neither followed the Project Completion Method i.e. the Revenue recognition on transfer of goods, he also did not apply the other more recognised method approved under Section 145 of the Income Tax Act, i.e, the Percentage Completion Method.

2. Learned counsel for the appellant urged that the ITAT fell into error in accepting the assessee's submissions in the present instance. He relied upon the guidance note issued by the Institute of Chartered

Accountants, with respect to the applicability of AS-7, to the effect that if the activity was close to construction contracts, AS-7 would apply. It was, therefore, urged that, in the present case, the assessee was clearly covered by AS-7. The ITAT erred in holding otherwise.

3. The ITAT's findings are extracted below:-

"The AO, during the asst. yr. 2006-07 has also accepted the project completion method followed by the assessee and has not disturbed the income by making any estimated income on the work-in-progress. There is also merit in the submission of the counsel for the assessee that the assessee has Declared huge income in the subsequent year after completion of the said project as against meager income estimated by the AO. The project completion method is an accepted method of accounting for builders. The assessee is regularly following this method of accounting which has been accepted by the AO in the preceding as well as in the subsequent assessment year. Further the AS-7 as discussed by the AO and the CIT(A) is applicable only for contractors engaged in the civil construction business and the same does not apply to builders/developers. It is an established legal proposition that an assessee can follow any recognized method of accounting and the condition is that the same method has to be followed consistently. Since the assessee in the instant case was regularly following the project completion method and has offered the income in the year of completion of project, there is no sound reason as to why the same should be rejected and percentage completion method be followed."

4. This Court is of the opinion that the instances pointed out by the ITAT, in the present case, are significant – both in the previous assessment year as well as in the subsequent assessment years, the AO

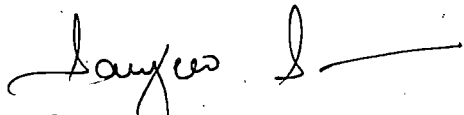
appears to have accepted the system of accounting. There is nothing on record to suggest that the assessee was undertaking large scale activity.

5. In the circumstances, the findings rendered by the ITAT are peculiar to the circumstances of the case and, cannot be said to have universal or wide applicability so as to require a question of law.

6. No substantial question of law, therefore, arises.

7. The appeal is, therefore, dismissed.


S. RAVINDRA BHAT, J


SANJEEV SACHDEVA, J

NOVEMBER 06, 2017
st