

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, AHMEDABAD**

**BEFORE SMT. ANNAPURNA GUPTA, ACCOUNTANT MEMBER &
SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER**

I.T.A. No.1479/Ahd/2024
(Assessment Year: 2017-18)

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| Gujarat State Road Development Corporation Ltd., GSRDCL Ground Floor, Nirman Bhavan, Sector-10A, Gandhinagar-382010 | Vs. | Deputy Commissioner of Income Tax, Circle, Gandhinagar |
| [PAN No.AAECG8707D] | | |
| (Appellant) | .. | (Respondent) |

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| Appellant by : | Shri S.N. Divetia, A.R. & Shri Samir Vora, A.R. |
| Respondent by: | Shri Hargovind Singh, Sr. DR |

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| Date of Hearing | 10.06.2025 |
| Date of Pronouncement | 20.06.2025 |

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Commissioner of Income Tax (Appeals), (in short “Ld. CIT(A)”), National Faceless Appeal Centre (in short “NFAC”), Delhi vide order dated 14.06.2024 passed for A.Y. 2017-18.

2. The Assessee has taken the following grounds of appeal:-

“1.1 The order passed by U/s.250 passed on 14.06.2024 by NFAC, [CIT(A)], Delhi (for short CIT(A))” upholding the addition of Rs.4,66,86,192/- made by A.O. towards the alleged difference in receipts as per 26AS statement and profit and loss account is wholly illegal, unlawful and against the principles of natural justice.

2.1 he ld. CIT(A) has grievously erred in law and or on facts in not appreciating that the appellant had fully explained the alleged difference as evident from the written submission dtd. 22.05.2024 reproduced in the impugned order which has not been fully and properly considered by CIT(A) as evident from para-6.2 of the order.

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3.1 The ld. CIT(A) has grievously erred in law and or on facts in upholding the addition of Rs.4,66,86,192/- made by A.O. towards the alleged difference in receipts as per 26AS statement and profit and loss account.

3.2 That the in the facts and circumstances of the ld. CIT(A) ought not to have upheld the addition of Rs.4,66,86,192/- made by A.O. towards the alleged difference in receipts as per 26AS statement and profit and loss account.

3.3 Without prejudice to above and in the alternative, the ld. CIT(A) has failed to appreciate that when the deferred revenue was already offered to tax in AY 2023-24, it would amount to double taxation. Moreover, the lower authority ought to have given full credit of TDS as appearing in Form 26AS when the receipts were brought to tax.

It is, therefore, prayed that the additions of Rs.4,66,86,192/- upheld by the CIT(A) may kindly be deleted.”

3. The brief facts of the case are that during the course of assessment, on examination of the Profit and Loss Account of the assessee, the Assessing Officer observed that the assessee had shown income from Rs. 9,63,30,302/-, whereas on reconciliation of the same with Form 26AS, the total receipts of the assessee came to Rs. 14,30,16,494/-. Thus, the Assessing Officer observed that an amount of Rs. 4,66,86,192/- has been short accounted by the assessee in the Profit & Loss Account, during the relevant assessment year. In response to notice issued by the Assessing Officer, the assessee submitted that during the impugned assessment year, the assessee has adopted a policy to defer it's income recognition. The difference in the receipts in Profit & Loss Account and the amounts appearing in Form 26AS is on account of deferred revenue recognition. The assessee submitted that during the year, the assessee has adopted an accounting policy to defer the income recognition in respect of three projects since the “ultimate collection with reasonable certainty was lacking”. The assessee submitted that during the impugned Financial Year, Larsen & Toubro submitted it's request to grant relaxation and extension in

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respect of payment of additional concessional premium and interest payment due to financial crunch and inability to generate positive cash flow for three projects. Accordingly, the assessee entered into a deferment agreement with L & T for three projects in which L & T agreed to pay additional concessional premium and interest on delayed payment of additional concessional premium. Copy of agreements for three projects was also produced before the Assessing Officer for his record. However, the Assessing Officer did not agree with the contention of the assessee with regards to deferment of revenue since he was of the view that on perusal of the deferment agreement entered between the assessee and L & T, it is seen that the assessee has not given complete details as to the working of contracts executed by the assessee with these three companies for the impugned assessment year, copies of bills raised by the assessee were not submitted, the break-up of bills recognized and deferred at the relevant assessment year was not furnished and further, even the reconciliation statement submitted by the assessee did not provide a correct clarification on the basis of Revenue deferred by the assessee. Accordingly, an amount of Rs. 4,66,86,192/- was added to the income of the assessee.

4. In appeal, Ld. CIT(A) dismissed the appeal of the assessee by observing that as per AS-9, where there is no uncertainty as to the ultimate collection, the Revenue was required to be recognized at the time of sale or renting the services. In the instant case, the assessee has not demonstrated the reasons for uncertainty of ultimate revenue collection and has also failed to demonstrate, with supporting evidences that the conditions mentioned in AS-9 are fulfilled. Accordingly, Ld.

CIT(A) dismissed the appeal of the assessee with the following observations:

*“I have considered the facts of the case and submission filed by the appellant carefully. I find from para 9.2 of the AS9 that where the ability to assess the ultimate collection with reasonable certainty is lacking at the time of raising any claim i.e. for escalation of price, export incentives, interest etc. the revenue is postponed to the extent of uncertainty involved. It is further mentioned in the para 9.2 of AS9 that where there is no uncertainty as to ultimate collection, the revenue is recognised at the time of sale or rendering the services. Further I find that for deferring the revenue the conditions mentioned in para 10, 11 & 12 of AS9 must be fulfilled. **However I find that the appellant has not demonstrated the reasons for uncertainty of ultimate revenue collection and failed to demonstrate with supporting evidences that the conditions mentioned in para 10, 11 & 12 of AS9 are fulfilled.** Though the appellant claimed that agreement was entered into with for deferment of revenues/find that the appellant did not produce the copies of bills raised, copies of bills which were deferred, before AO to ascertain the terms and conditions for raising the bills and reasons for deferring the revenue. Even the same are not produced during appellate proceedings. I find that the appellant is following mercantile method of accounting and thus was required to recognize the revenue on accrual basis at the time of raising the bills. **Further I find that the 3 concerns whose revenue is deferred, are group concerns of the appellant and as such, the appellant should have submitted the relevant bills and evidences to ascertain the Reasons for deferring the revenue. The appellant has submitted that due to inability of the said parties/concerns to make the payments, the revenue is deferred.** However this contention is not supported by any reliable evidence. In view of the above facts, I am of the opinion that the reasons put forth by the appellant are not as per the para 9.2, 10, 11 & 12 of the AS9 for deferring the revenue. Therefore the explanation submitted by the appellant is not found acceptable. Further I find that the facts of the case laws relied upon by the appellant are not identical to the facts of the present case, hence the contention of the appellant is not found acceptable. In view of the above discussion, the ground of appeal raised **by the appellant is dismissed.**”*

5. The assessee is in appeal before us against the aforesaid order passed by Ld. CIT(A). Before us, the Counsel for the assessee primarily reiterated the arguments taken before the Lower Authorities. The Counsel for the assessee submitted that the deferment of revenue recognition was on account of a genuine dispute between the assessee and the parties concerned and this amount was received by the assessee in a later year. It was further submitted that the assessee has also not claimed TDS with respect to income received from these projects.

Further, the Counsel for the assessee drew our attention to agreement for deferment of revenue entered with these parties, in which there was a specific mention as to how the payment was to be received by the assessee for each of the three projects (with separate agreement being entered by the assessee with respect to each of these projects with L & T). The Counsel for the assessee submitted that the assessee was not claiming TDS in the return of income, even though TDS had been deducted by the parties.

6. In response, Ld. D.R. placed reliance on observations made by Ld. CIT(A) in the appellate order. The Ld. D.R. submitted that the Ld. CIT(A) has correctly observed that the assessee has not been able to give any basis for deferring the revenue recognition and further, on perusal of the agreement filed by the assessee, it is seen that there is only a delay in payment and there is no uncertainty so far as receipt of payment is concerned. The Ld. D.R. submitted that on perusal of the agreements filed by the assessee, the agreement has only delayed / deferred the terms of payment and therefore, it is not a case where there is any uncertainty regarding the receipt of payment itself.

7. We have heard the rival contentions and perused the material on record.

8. On going through the contents of the agreements furnished by the assessee for deferment of revenue, the year-wise income recognition table and the reconciliation statement of Form 26AS with audited Profit & Loss Account, we are of the considered view that assessee has not given a clear finding on what basis the amount was deferred by the

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assessee. Further, the assessee has also not submitted the precise break-up of bills raised by the assessee, the copies of bills for which revenue were deferred and has also not submitted the evidences to ascertain the reasons for deferring the revenue. Accordingly, in view of the lack of submission of complete details by the assessee, in the interest of justice, the matter is hereby restored to the file of Assessing Officer for de-novo consideration with a direction to the assessee to file all necessary details as called for by the Assessing Officer during the course of assessment proceedings.

9. In the result, the appeal of the assessee is allowed for statistical purposes.

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| This Order pronounced in Open Court on |
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| 20/06/2025 |
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Sd/-

(ANNAPURNA GUPTA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 20/06/2025

TANMAY, Sr. PS

TRUE COPYआदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

Sd/-

(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)

आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad