

ITAT remanded case to examine allowability of development exp. to real estate developer in view of AS-7 and IT Act

Summary – The High Court of Delhi in a recent case of Rangoli Projects (P.) Ltd., (the Assessee) held that matter needed readjudication where issue as to whether development expenses could be allowed under applicable accountancy standards and commercial principles remained unexamined.

Facts

- The assessee was engaged in the real estate development business and had undertaken development of a project.
- It had claimed deduction on account of expenses and had shown interest income and miscellaneous receipts.
- The Assessing Officer noticed that no income from business was derived during year, and held that entire expense should be capitalized and added it to the cost of the project.
- The Commissioner (Appeals) upheld said order.
- The Tribunal noticed that assessee itself had capitalized the expenses incurred on the project and held that since business of assessee had been set up, it was entitled for expenses which were necessary for day to day business activity of assessee as per accounting standard 7 and section 145 but expenses which were relatable to project were to be capitalized.
- On appeal, the department submitted that the Tribunal was right in holding that the expenses should be capitalized but Accounting Standard No. 7 had to be followed and applied.

Held

- It is clearly recorded that business of the assessee had been set up and, therefore, in accordance with law, expenses incurred had to be allowed. This means that expenses should be allowed as per accounting standards and section 145/145A.
- It is the case of the assessee that they were/are engaged in the real estate development business and had undertaken development of a project. It has to be examined whether the expenditure incurred on development of the project should be taxed by applying Accounting Standard No. 7 and in case, the said Accounting Standard has not been followed, the effect thereof has to be ascertained and considered. The said exercise has not been undertaken in this case. Tribunal in the impugned order without dwelling on the said aspect, held that the expenditure was capital, as corresponding income from the project was not recorded or brought to tax.
- The assessee had pointed to the fact that certain expenses have been allowed by the Tribunal. This is correct, but the primary question, whether development expenses could be allowed under the

applicable accountancy standards read with sections 145/145A and commercial principles remains unexamined.

- Keeping in view the aforesaid position and the submissions, the matter should be remitted to the Assessing Officer for a fresh decision.