

IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI
BEFORE SMT BEENA PILLAI, JUDICIAL MEMBER
AND
SHRI JAGADISH, ACCOUNTANT MEMBER

ITA No. 5850/Mum/2024
Assessment Year: 2016-17

Income Tax Officer- 26(2)(1), Mumbai Room No.254A, Kautilya Bhawan, BKC, Mumbai-400051	Vs.	Svadeshi Enterprises (Mumbai) Fourth 12A Yusuf Building, Veer Nariman Road Fort, Mumbai- 400023 PAN: AAPFS0180A
(Appellant)		(Respondent)

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CO No. 176/Mum/2025
Assessment Year: 2016-17

Svadeshi Enterprises (Mumbai) Fourth 12A Yusuf Building, Veer Nariman Road Fort, Mumbai- 400023 PAN: AAPFS0180A	Vs.	Income Tax Officer- 26(2)(1), Mumbai Room No.254A, Kautilya Bhawan, BKC, Mumbai-400051
(Appellant)		(Respondent)

Assessee by	Shri Akshay Jain
Department by	Shri Mahesh Parwani (SR. AR.)

Date of Hearing	20.04.2026
Date of Pronouncement	12.05.2026

ORDER

Per: SHRI JAGADISH, A.M.:

1. This appeal filed by the Revenue and Cross Objection filed by the assessee arise out of the order dated 21.09.2024 passed by the Ld. CIT(A)/NFAC for A.Y. 2016-17. Since common facts and issues are involved, the same are disposed of by this consolidated order.
2. The Revenue has raised grounds challenging the action of the Ld. CIT(A) in deleting disallowance of Rs.8,00,00,000/- claimed by the assessee towards liability for payment to occupants/tenants on the allegation that the same represented contingent liability and had not crystallized during the year under consideration.
3. Brief facts of the case are that the assessee is a partnership firm engaged in the business of builders and developers. During the year under consideration, the assessee received compensation of Rs.12.25 crores from M/s. Shelter Developers in connection with property situated at Chunabhatti, Mumbai. The said property was occupied by 56 occupants/tenants and the assessee had undertaken obligation to get the said occupants vacated by compensating them. During the course of assessment proceedings, the Assessing Officer observed that the assessee had debited an amount of Rs.8 crores towards liability payable to occupants/tenants. The Assessing Officer noted that the said amount remained unpaid as on 31.03.2016 and the matter relating to settlement with occupants/tenants was still under litigation and negotiation. The Assessing Officer therefore held that the liability had not crystallized and represented merely contingent liability. Accordingly, the Assessing Officer disallowed the claim of Rs.8 crores and added the same to the income of the assessee.

4. Aggrieved by the assessment order, the assessee preferred appeal before the Ld. CIT(A). The assessee explained complete factual background of the transaction and submitted that the liability arose from business obligation undertaken by the assessee in relation to the Chunabhatti property. It was submitted that the assessee had acquired the property from Svadeshi Mills Co. Ltd. in the year 1988 and there were 56 occupants/tenants on the said property. The assessee was required to provide clear and marketable title and therefore was under obligation to vacate the occupants. The assessee further explained that because of multiple litigations before various judicial forums and change in Development Control Regulations, compensation demands of occupants/tenants substantially increased over the years. Initially, liability of Rs.14 crores was recognized in F.Y. 2007-08 and thereafter additional liability of Rs.3 crores was recognized in F.Y. 2013-14. During the year under consideration, based on correspondence dated 11.03.2016 received from M/s. Nazo Developers Pvt. Ltd., additional liability of Rs.8 crores was recognized thereby taking aggregate liability to Rs.25 crores.
5. The assessee contended before the Ld. CIT(A) that the liability had accrued during the year under mercantile system of accounting and the same was allowable in accordance with Accounting Standard-29 and matching principle. Reliance was placed upon various judicial precedents including Bharat Earth Movers vs. CIT, Rotork Controls India Pvt. Ltd. vs. CIT and Toyota Kirloskar Motors Pvt. Ltd. The Ld. CIT(A), after considering submissions of the assessee and material available on record, deleted the addition made by the Assessing Officer holding that the liability towards payment to occupants/tenants had crystallized during the year and represented allowable business expenditure. The Ld. CIT(A) observed that the assessee had present business obligation

arising out of commercial arrangement undertaken by it and the liability was estimated on scientific basis supported by documentary evidences and surrounding circumstances.

6. Before us, the Ld. Departmental Representative strongly relied upon the assessment order. The Ld. DR made elaborate submissions contending that the impugned liability represented only contingent provision and not actual accrued expenditure. It was argued that the matter regarding compensation payable to occupants/tenants was still under litigation and no final settlement had taken place during the year under consideration. The Ld. DR further submitted that exact compensation payable to each occupant was not determined and therefore the liability lacked certainty and finality. The Ld. DR further argued that the assessee merely created book provision without incurring actual expenditure and therefore deduction was not allowable under section 37(1) of the Act. It was submitted that the decision of Hon'ble Supreme Court in Bharat Earth Movers relied upon by the Ld. CIT(A) was distinguishable on facts since in the present case the liability itself remained uncertain and contingent upon outcome of future litigations and negotiations.
7. Per contra, the Ld. Authorised Representative relied upon the order of the Ld. CIT(A). The Ld. AR submitted that the assessee had undertaken contractual and business obligation of vacating the occupants/tenants and the liability arose directly from commercial arrangement entered into by the assessee. It was further submitted that increase in liability was supported by contemporaneous correspondence received from M/s. Nazo Developers Pvt. Ltd., escalation in compensation demands due to change in rehabilitation regulations and ongoing settlement process with occupants.

8. The Ld. AR further submitted that under mercantile system of accounting and matching principle, the expenditure relatable to income earned from the transaction was required to be recognized in the same accounting period. It was argued that the assessee had already offered compensation received from M/s. Shelter Developers and therefore corresponding liability incurred towards vacating occupants was required to be allowed in order to compute real business profits.
9. We have heard the rival submissions and perused the material available on record. The short controversy before us is whether the additional liability of Rs.8 crores recognized by the assessee during the year towards payment to occupants/tenants represented accrued business liability or merely contingent liability as alleged by the Revenue.
10. We find that there is no dispute regarding the fact that the assessee had undertaken obligation to get the Chunabhatti property vacated and provide clear and marketable title. The material on record demonstrates that multiple litigations initiated by occupants/tenants were pending before various judicial forums and settlement negotiations were continuously going on over the years. The compensation demands of occupants also increased substantially because of changes in Development Control Regulations enhancing rehabilitation entitlement from 225 sq.ft. to 330 sq.ft. and thereafter to 405 sq.ft.
11. We further find that the liability was not created by the assessee on arbitrary or ad-hoc basis. The assessee had placed on record correspondence from M/s. Nazo Developers Pvt. Ltd., details of occupants, draft consent terms, litigations and surrounding circumstances justifying escalation in settlement value payable to

occupants/tenants. Therefore, the provision made by the assessee cannot be characterized as hypothetical or imaginary provision without any supporting material.

12. In our considered opinion, the Ld. CIT(A) has rightly appreciated the accounting principles governing recognition of liabilities under mercantile system of accounting. Under mercantile system, expenditure becomes allowable once liability accrues or crystallizes during the year and actual payment is not sine qua non for claiming deduction. The requirement is existence of present obligation arising out of past events with reasonable certainty regarding outflow of resources.
13. In the present case, the obligation of the assessee to bear the cost of vacating occupants/tenants was an admitted business obligation arising from commercial transaction undertaken by the assessee. The liability arose directly from the business arrangement connected with development of the property and therefore constituted integral part of business expenditure incurred by the assessee.
14. We also find considerable merit in the contention of the assessee regarding applicability of matching principle. The assessee had already recognized compensation received from M/s. Shelter Developers and offered net business income after considering liability payable towards occupants/tenants. Once the income arising from the transaction has been recognized, corresponding expenditure attributable thereto has necessarily to be matched in the same accounting period in order to determine true and correct profits of the business. Otherwise, the assessee would be taxed on gross commercial receipts without allowing corresponding business obligations incurred for earning such income,

which would result in taxation of hypothetical profits rather than real income.

15. The Hon'ble Supreme Court in the case of Bharat Earth Movers vs. CIT reported in 245 ITR 428 has held that if business liability has definitely arisen during the accounting year, deduction should be allowed although liability may have to be quantified and discharged at a future date. Similar principles have been reiterated by the Hon'ble Supreme Court in Rotork Controls India Pvt. Ltd. vs. CIT reported in 314 ITR 62 while explaining recognition of provisions under Accounting Standard-29.
16. In our considered opinion, the facts of the present case satisfy the conditions laid down in the aforesaid decisions. There existed present business obligation arising from past commercial events; probability of outflow of resources was reasonably certain considering ongoing litigations and settlement process; and liability was estimated on rational and scientific basis supported by contemporaneous material on record. Merely because exact quantification of liability or actual payment was to take place in future, the same cannot be treated as contingent liability. Pendency of litigation may affect exact quantification or timing of payment but does not wipe out existing business obligation which had already arisen during the year under consideration.
17. We therefore find no infirmity in the well reasoned order passed by the Ld. CIT(A) deleting disallowance of Rs.8 crores made by the Assessing Officer. Accordingly, grounds raised by the Revenue are dismissed.
18. We shall now advert to Cross Objection filed by the assessee wherein the assessee has contended that compensation received from

M/s. Shelter Developers amounting to Rs.12.25 crores should be treated as capital receipt not chargeable to tax.

19. We have considered the submissions of the Ld. AR and perused the material available on record. We do not find merit in the contention advanced by the assessee. It is an undisputed fact that the assessee itself has credited the compensation received from M/s. Shelter Developers in its Profit & Loss Account and has simultaneously claimed deduction towards liability payable to occupants/tenants including impugned expenditure of Rs.8 crores. Thus, the assessee itself has treated the said receipt as part of its business/commercial transaction and has offered net income arising therefrom under normal provisions of the Act. The assessee cannot be permitted to approbate and reprobate simultaneously by treating the receipt as revenue/business receipt for claiming corresponding expenditure and thereafter contending in appellate proceedings that the very same receipt constitutes capital receipt not chargeable to tax. The claim of expenditure towards payment to occupants/tenants has been allowed by us precisely on the footing that the compensation received and corresponding liability incurred formed integral part of one composite business transaction undertaken by the assessee in course of its business activities.

20. Further, merely because in the case of another party certain receipt has been held to be capital in nature, the same by itself cannot be determinative in the hands of the assessee without independently examining nature and treatment of receipt in assessee's own case. In the present case, the assessee itself has consciously credited the amount to its Profit & Loss Account and claimed deduction of related expenditure therefrom. Therefore, the conduct of the assessee and manner of accounting treatment adopted clearly demonstrate that the

receipt was treated by the assessee as arising from business/commercial arrangement.

21. In view of the aforesaid facts and circumstances, we do not find any justification in the plea raised by the assessee in the Cross Objection that the amount received from M/s. Shelter Developers should be treated as capital receipt not chargeable to tax. Accordingly, the Cross Objection filed by the assessee is dismissed.
22. In the result, appeal filed by the Revenue is dismissed and Cross Objection filed by the assessee is also dismissed.

Order pronounced in the open court on 12/05/2026.

Sd/-

(BEENA PILLAI)
Judicial Member

Sd/-

(JAGADISH)
Accountant Member

Mumbai, Dated: 12/05/2026

Ashwani Rao
Sr. Private Secretary

Copy of the order forwarded to:

1. Appellant
2. Respondent
3. The CIT
4. The CIT (Appeals)
5. The DR, I.T.A.T.

By order

(Assistant Registrar)
ITAT, Mumbai