

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "A" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)  
AND  
SHRI ANIKESH BANERJEE (JUDICIAL MEMBER)**

**ITA No. 6925 and 6926/MUM/2025  
Assessment Years: 2019-20 and 2020-21**

Deputy Commissioner of  
Income Tax (Central Circle) –  
1(2), Prathistha Bhavan, M.K.  
Road, Mumbai – 400020,  
Maharashtra.

**Vs.**

Lohitka Properties LLP, Ground  
and Third Floor, Pirus Infinity  
Pranjape B Scheme, Shubhash  
Road, Vile Parle (E), Mumbai –  
400057, Maharashtra.

**Appellant**

**PAN NO. AAFFL 4502 R  
Respondent**

Assessee by : Shri Dr. K. Shivaram & Shri Rahul  
Hakani  
Revenue by : Shri Surendra Mohan, (SR. DR)  
(Virtually Appeared)

Date of Hearing : 08/04/2026  
Date of pronouncement : 19/05/2026

**ORDER**

**PER OM PRAKASH KANT, AM**

These two appeals by the Revenue are directed against a common order dated 18.08.2025, passed by the learned Commissioner of Income-Tax (Appeals) - 47, Mumbai [in short 'the Ld. CIT(A)'], for the Assessment Years (in short 'A.Y') 2019-20 and 2020-21 respectively. As identical issue in dispute is involved in



these appeals, therefore same were heard together and disposed off by way of this consolidated order for the sake of convenience.

2. At the outset, we take up the appeal of the Revenue for Assessment Year 2019-20 as the lead matter, wherein the following grounds have been raised:-

*"1. Whether on the facts and in law, the Ld.CIT(A) erred in deleting additions by accepting, post-survey, post-year estimate revisions in Construction Cost and TDR/Development Rights without cogent, third-party corroboration, contrary to the evidentiary value of survey admissions paired with contemporaneous workings?"*

*2. Whether the CIT(A) was justified in loading the impact of the assessee's GST option exercised on 30.04.2019 (reduced rate/no ITC) into FY 2018-19 POCM estimates, without granular proof that the pending scope as on 31.03.2019 would be executed under the no-ITC regime and at the assumed tax rates?"*

*3. Whether the CIT(A) erred in law in accepting cross-phase allocation of TDR and Development Rights to Phase-1 ("Rosa") on a notional RERA-area basis, thereby depressing Phase-1 profits, without verifying phase-wise purchase and utilisation records, MCGM permissions, and matching with revenue recognition under the Percentage-of-Completion Method (POCM)?"*

*4. Whether the CIT(A) misapplied the ICAI Guidance Note on Accounting for Real Estate Transactions (2012) by treating unsubstantiated assertions- such as a flat 18% GST impact and an unquantified 48 to 39 floor change- as "reliable estimate changes", contrary to the Guidance Note's requirements of verifiability and cost-to-revenue matching?"*

*5. Whether in the alternative, the matter requires set aside for de novo verification of (1) actual vendor/contract-wise GST impact on construction cost, (ii) TDR purchase and phase-wise utilisation mapping, (iii) quantified cost effect of floor-plan revision, and (iv) POCM consistency between registered agreements (revenue trigger) and the cost base?"*

3. Briefly stated, the relevant facts are that the assessee, a Limited Liability Partnership, is engaged in the business of real estate development and construction in Mumbai. During the relevant assessment year, the assessee was developing a residential



project titled “Montana” at Mulund (West), Mumbai, in a phased manner commencing from Financial Year 2014-15. It was the case of the assessee that during the year under consideration, the project had attained a reasonable stage of completion warranting revenue recognition under the Guidance Note on Accounting for Real Estate Transactions (Revised 2012) issued by the Institute of Chartered Accountants of India, following the Percentage Completion Method (POCM), insofar as Phase-I, namely “Montana (Rosa Wing A & B)”, was concerned.

4. The assessee filed its return of income on 10.08.2020 declaring total income of Rs.15,28,45,954/-. A survey under section 133A of the Income-tax Act, 1961( in short ‘the Act’) was conducted in the case of the assessee on 21.02.2019, pursuant to which the case was selected for compulsory scrutiny and statutory notices under the Act were accordingly issued and served upon the assessee. During the assessment proceedings, the Assessing Officer examined the disclosures made during the course of survey, including the statement recorded under section 131 of the Act from one of the partners of the assessee LLP. The Assessing Officer observed that there existed substantial variance between the income offered during the course of survey proceedings and the income ultimately declared in the return of income.

4.1 The Assessing Officer noted that during survey proceedings, the assessee had projected estimated business income of Rs.23.96



crores and long-term capital gains of Rs.26.07 crores in relation to the “Rosa” building project. However, in the return of income filed subsequently, the business income declared under the POCM method stood substantially reduced, and the long-term capital gains disclosed also differed materially from the figures stated during survey proceedings. The explanation furnished by the assessee for such variance was broadly founded upon:- (i) revision in the development plan from 48 floors to 39 floors resulting in reduction of carpet area; (ii) increase in construction cost due to denial of input tax credit consequent upon opting for the concessional GST regime; and (iii) registration of only 95 flats as against the 176 units anticipated during the course of survey proceedings. The relevant finding of the Id. AO is reproduced as under:

**“7.1** M/s. Lohitka Properties LLP was formed on 17.09.2014, started developing residential project named 'Montana' located at Mulund (W), Mumbai. The project was developed in a phased manner and Phase-1 consisted of buildings 'Rosa A and B Wing', Phase-2 'Sierra', Phase-3 'Giona A and B' and Phase-4 was yet to be launched (details of the project when the survey was executed). During survey, statement of Shri Ashwin Natwarlal Seth, one of the partners of the LLP was recorded u/s. 131 of the Act confronting the facts regarding Sale of Built up area w.r.t the project 'Montana'. The partner deposed that 176 units in 'Rosa' were sold, and agreements have been registered for 90 units. In Sierra, 46 units were sold, out of which agreement has been registered only for 5 units. In Giona, 118 units have been sold, out of which agreements have been registered only for 4 units. Considering these facts, the partner of the LLP offered revenue on account of sales from the building Rosa for the P.Y. relevant to A.Y. 2019-20. The partner clarified that the building 'Sierra' and 'Giona' were not completed up to the threshold of 25% for recognizing revenue as per the revised guidance note for accounting real estate transactions. As far as building 'Rosa' is concerned, the partner confirmed that construction cost incurred was 34.34%, which includes cost to be incurred of Rs. 7.25 cr from 22.02.2019 to 31.03.2019. The partner further clarified that from 176 units sold in 'Rosa', constituting agreement value of



Rs. 304.91 Cr, registered sale deeds were executed for 90 units having agreement value of 158.87 cr. The partner further stated that the balance agreements for 86 units would also be registered before 31.03.2019 and the corresponding agreement value for these agreements would be 146.05 cr. Considering the Registered sale deeds and balance deeds to be registered for building 'Rosa', the estimated business income offered for the P.Y. 2018-19 was Rs 23.96 cr. The partner clarified that the LLP will recognize the income for A.Y. 2019-20 on the basis of actual figures of construction expenditure incurred and the sale agreement registered up to 31.03.2019 after setting off the carried forward losses of Rs. 10.99 cr approximately. It was further clarified that the land on which the project was developed by the LLP was initially belonging to M/s. Lohitka Properties Pvt Ltd. which held the land as a capital asset. Subsequent to conversion of company into LLP, the capital asset was converted into stock-in-trade and hence the LLP would be liable to offer proportionate capital gain on sale of built up area. Accordingly, capital gain for the P.Y. relevant to A.Y. 2019-20 was offered at Rs. 26.07 cr. The relevant part of the statement of the partner recorded during the course of survey has been extracted here below for ready reference.

"Q.20. It is seen that, you have sold 340 flats out of total 925 flats. It is also seen from the details provided by you that you have registered sale agreement in 98 flats in all the three buildings. Further, it is seen from the details available with the department that you have entered into transactions in respect of sale of the flat of agreement value of Rs. 488 Crores during F.Y. 2018-19, however, you have not shown any income from business or profession despite above mentioned transactions. Kindly Explain?"

Ans. Sir, the project 'Montana' has presently three buildings namely Rosa, Sierra and Giona. Till date, we have sold 176 units in building Rosa and out of 176 units, agreements have been registered for 90 units. In building Sierra, we have sold 46 units and out of which agreement has been registered only for 5 units. In building Giona, we have sold 118 units and out of which agreement have been registered only for 4 units. With regard to your query for not recognizing the income for the booking made of Rs. 488 crores during F.Y. 2018-19, I state that the LLP is following the project completion method as per guidance note (Revised 2012) on accounting for real estate transactions. As per guidance note, income is to be recognized only if following conditions are fulfilled:

(a) All critical approvals necessary for commencement of the project have been obtained. These include, wherever applicable:

(i) Environmental and other clearances.

(ii) Approval of plans, designs, etc.

(iii) Title to land or other rights to development construction.



(iv) Change in land use.

(b) When the stage of completion of the project reaches a reasonable level of development. A reasonable level of development is not achieved if the expenditure incurred on construction and development costs is less than 25% of the construction and development costs as defined in paragraph 2.2 (c) read with paragraphs 2.3 to 2.5.

(c) Atleast 25% of the saleable project area is secured by contracts or agreements with buyers.

(d) Atleast 10 % of the total revenue as per the agreements of sale or any other legally enforceable documents are realised at the reporting date in respect of each of the contracts and it is reasonable to expect that the parties to such contracts will comply with the payment terms as defined in the contracts.

In building Sierra and Giona construction work is not completed upto 25%, therefore, income cannot be recognised even on percentage completion method basis. As far as building Rosa is concerned, construction cost has been incurred upto 34.34% including construction expenditure to be incurred of Rs. 7.25 crores from 22.02.2019 to 31.03.2019. The total agreement value of 176 units sold is of Rs. 304.91 crores out of which agreement has been registered for 90 units for an agreement value of Rs. 158.87 crores and agreement for 86 units for which agreement value is of Rs. 146.05 crores have not been registered. This is the first year in which the LLP will decide the method to be followed i.e. project completion method or percentage completion method to recognise the revenue on project 'Rosa'. As per guidance note, LLP is to recognise income on percentage completion method for registered agreement only. While recognising the revenue, I expect that, the balance unregistered agreement will also be registered before the end of current financial year i.e. 31.03.2019 and accordingly, the estimated income is of Rs. 23.96 crores for current financial year. In this regard, I am submitting the computation of aforesaid profit as Annexure I. Therefore, LLP will recognise the income for A.Y. 2019-20 on the basis of the actual figures of construction expenditure incurred and sale agreement registered upto 31.03.2019 and after setting off the carry forward losses of Rs. 10.99 crores approximately. Apart from the above, I would like to submit that the piece of land on which the entire project of Montana was the capital asset of the LLP and subsequently, it has been converted into stock-in-trade. Accordingly, the capital gain on proportionate basis will also arise on sale of flats either in the hands of partners or the LLP. As per working submitted, the component of capital gain in the current financial year 2018-19 would be Rs. 26.07 crores. Considering the fact that initially the land was belonging to M/s Lohitka Properties Pvt. Ltd. as capital asset and subsequently, this company has been converted into M/s Lohitka



Properties LLP, no capital gain would arise in the hands of the company as per the provision of section 47 of the I.T. Act 1961. Therefore, in view of the aforesaid facts right now, I, on behalf of M/s Lohitka Properties LLP, offer the capital gain in the hands of partners. However, the taxability of the capital gain in the hands of the partners or LLP would be clarified on 25.02.2019 after consulting the senior counsel.

**7.1.1** On perusal of the return of income filed for A.Y. 2019-20, the AO noticed that business income on account of sale of units of building 'Rosa' was declared on percentage completion basis and taxable income offered was Rs. 2.81 Cr. Further, long term capital gain offered was Rs. 15.28 cr. Therefore, there was a deviation from the quantum of income offered during the course of survey wherein business income offered was Rs. 23.96 Cr and long term capital gain offered was 26.07 cr. The AO issued show cause notice calling for explanation regarding the reason for the difference in the income offered along with supporting documents. The assessee justified the deviation in the income offered in the return of income relying on the following arguments (further details can be gathered from Pg 3-8 of the Assessment order, details of which are avoided for the sake of brevity).

(i) Change in the development plan of the project 'Rosa' from original 48 floors to 39 floors resulting in reduction of carpet area from 29727 sq mtr to 24139 sq mtr.

(ii) Increase in the estimated construction cost due to input cost of GST on account of opting for new scheme of ITC for indirect taxes.

(iii) Registration of only 95 flats as against 176 flats envisaged at the time of survey.

**7.1.2** The LLP justified the revenue offered to tax stating that revenue has been recognised following the percentage completion method as per the guidance note on accounting for real estate transaction (revised 2012), wherein actual cost incurred till 31.03.2019 as per the audited financials along with appropriate estimated cost for completing 'Rosa' have been considered for declaring business income. Accordingly there is change in the income offered from long term capital gain(LTCG). The Assessing Officer rejected the submission made by the appellant on the ground that estimated cost given during the course of survey and considered in the return of income filed is not correctly reconciled. The AO recasted the business profits and income from long term capital gain, the facts in comparison with what is disclosed by the appellant in the return of income filed is given below :

Particulars	(A)	(B)	(C)	(D)	
	<b>Estimates given during the course of Survey</b>	<b>Estimates as per the Audited Financials for March 2019</b>	<b>Actual Incurred as on March 2019</b>	<b>Estimates as per Assessment Order for AY 2019-20</b>	<b>Comparison between (B) and (D) [B-D]</b>



Land Cost	1,12,69,03,365	98,67,48,367	98,78,88,527	98,78,88,527	(11,40,160)
TDR/Development Rights	88,81,56,523	1,03,00,00,000	9,30,33,348	88,81,56,523	14,18,43,77
Construction Cost	1,96,13,63,638	2,13,16,88,634	85,12,34,078	1,96,13,63,638	17,03,24,996
Finance Cost	1,27,48,08,355	85,45,65,163	47,48,56,735	85,45,65,163	-
Sales Promotion and Marketing Cost	30,73,24,525	25,00,00,000	16,68,71,986	25,00,00,000	-
<b>Total</b>	<b>5,55,85,56,406</b>	<b>5,25,30,02,164</b>	<b>2,57,38,84,674</b>	<b>4,94,19,73,851</b>	<b>31,10,28,313</b>

4.2 The Assessing Officer, however, rejected the explanations furnished by the assessee and proceeded to recompute the business profits as well as long-term capital gains by adopting revised estimates and recalculating the percentage of completion under the POCM method as under:

Particulars	Re calculation of Estimated Cost of entire project - Rosa Bldg.	Actual Cost incurred till 31st March 2019 for Rosa Bldg (As per Audited 31 March 2019 Financial)
Land Cost	987,888,527	987,888,527
TDR and Development Rights	888,156,523	93,033,348
Construction Cost	1,961,363,638	851,234,078
Finance Cost	854,565,163	474,856,735
Sales, Promotion & Marketing Cost	250,000,000	166,871,986
<b>Total</b>	<b>4,941,973,851</b>	<b>2,573,884,674</b>

Actual work completed % as on 31st March 2019 (Construction cost actual incurred / Recalculated Estimated cost of project)	52%
Total RERA Area in square meter of Project Montana- Rosa	24,139



Actual RERA area agreement registered till 31st March 2019 (in square meter)	7,619
Actual Value of RERA area agreement registered till 31st March 2019	1,715,712,985
Recalculated revenue for FY 2018-19 (Registered agreement value * % of work completed)	893,579,669

Recalculated proportionate cost for FY 2018-19 (Actual cost incurred * Registered Area / Total Area of project)	812,348,090
Recalculated Business Profit	81,231,579
Business Profit Offered by Assessee	28,022,286
Addition - Difference of Business Profit	53,209,293
Recalculated LTCG for FY 2018-19 (Land Cost * % of work completed * Registered Area / Total Area of project)	162,386,403
LTCG Offered by Assessee	152,464,112
Addition - Difference of LTCG	9,922,291

4.3 Consequently, additions on account of differential business profits and long-term capital gains came to be made in the assessment order as under:

	( in Rs.)	
Profit & Gains from Business and Profession		
(As per computation of income)	3,91,92,647/-	
Add/ Disallowances:		
(i) Difference of Business Profit	<b>5,32,09,293/-</b>	



(as discussed in para 4 above)		
Less: (i) Set-off of b/f losses (as per computation of income)	<b>3,88,10,808/-</b>	5,35,91,132/-
<b>Long Term Capital Gain</b> (As per computation of income)	<b>15,24,64,112/-</b>	
<b>Add/Disallowances:</b> (i) Difference of LTCG (as discussed in para 4 above)	<b>99,22,291/-</b>	16,23,86,403/-
<b>Total Income (rounded off u/s 288A)</b>		<b>21,59,77,540/-</b>

5. In appeal, before the learned CIT(A), the assessee made detailed submissions. The relevant submission of the assessee as noted by the Ld.CIT(A) is reproduced as under:

“7.1.3 During the appellate proceedings, the appellant has submitted ground wise written arguments which is already extracted in the pre paragraphs. In summary, the appellant has stated that the difference in the computation of taxable revenue computed by the AO is on account of difference in the estimated ‘construction cost’ and estimated ‘TDR and development rights’. The comparison of estimated cost on the two parameters as returned by the assessee and computed by the AO is given below:

Particulars	Estimated cost considered while filing the Income tax return	Estimated cost considered by AO while passing the order u/s.143(3)
Estimated Construction Cost	213,16,88,634	196,13,63,638
Estimated TDR and Development rights	103,00,00,000	88,81,56,523



*7.1.4 The appellant has justified increase in the estimated construction cost on account of its decision to opt for new scheme to discharge outward GST liability at reduced rate with the condition of non-eligibility of Input tax credit on all the purchases of goods as well as services. Regarding the change in the estimation of TDR cost the appellant has stated that the working of cost for TDR submitted during the survey, was not bifurcated to all the buildings of 'Montana' on area basis and all freely available TDR was allocated to first phase of the project namely 'Rosa' building. Subsequently, while filing the return of income the cost of TDR was bifurcated for the whole project on carpet area, due to which the cost has increased compared to the initial estimates during the course of survey."*

5.1 After considering the submissions advanced by the assessee, the ld. CIT(A) accepted the revised estimates furnished by the assessee and deleted the additions made by the Assessing Officer. The learned CIT(A) was of the view that the revision in estimated construction cost and TDR/development rights stood sufficiently explained on account of post-survey developments, including the revised GST regime, change in project configuration, and redistribution of TDR costs across various phases of the "Montana" project. The learned CIT(A) further observed that the Assessing Officer had failed to specifically rebut or dislodge the factual basis underlying the revised estimates furnished by the assessee. The relevant finding of ld CIT(A) is reproduced as under:

*"7.1.5 I have considered the facts of the case and the submission made by the appellant. On comparison of estimated cost for 'Rosa' projected during the course of survey and as per re-casted estimates in the Assessment order, there is a difference in the estimated 'construction cost' and estimated cost for 'TDR and Development Rights'. The appellant has justified the increase in the estimated cost of construction on account of change in the input tax credit against purchase of goods and services. At the time of survey, the appellant was eligible to claim ITC on all the purchases of goods as well as services against its output GST liability. However, the appellant has opted for new scheme of central tax(GST) which was notified vide Notification No.3 of 2019 according to which the*



beneficiaries who opt for the scheme would discharge outward GST liability at a reduced rate with the condition of non-eligibility of input tax credit on all its purchases as well as services. The appellant has submitted before the AO that, it has opted for the new concession scheme vide letter dated 30.4.2019 submitted to the GST department. The appellant has submitted that the total construction cost projected at the time of survey was Rs.196,13,63,638/- as against which the projected cost in the return of income filed was Rs.213,16,88,634/-. The difference of Rs.17,03,24,996/- has been attributed to the additional cost on account of GST on all purchases including services @18%. The detailed working explaining the impact of change in the ITC on the project cost is give by the appellant. From the working the appellant is able to explain the additional cost loaded on the estimated cost for completing 'Rosa'.

7.1.6. Regarding change in the estimated cost of TDR & Development rights, the appellant has stated that the working given during the survey, had considered cost of all freely available TDR to 'Rosa'. Subsequently, at the time of finalisation of the return for FY 2018-19, the estimated cost for TDR including freely available TDR and Purchased TDR was allocated to all the buildings of project 'Montana' in the proportion of their proposed Built up Area. This has lead to the increase in the estimated cost of TDR for 'Rosa'. The appellant has submitted that, at the time finalisation of accounts for the FY ending on 31.03.2019, the proposed RERA built up area of the all the Buildings (Rosa, Sierra, Giona & Blissberg) has been considered to estimate the TDR & Development rights. The appellant has submitted that without considering the estimated cost for the entire project, the projection of cost for 'Rosa' alone would result in distorted profits.

7.1.7. The survey under section 133A of the Act in this case established the factual details regarding the project 'Montana' developed by the appellant. The appellant had documented customer intent and sold 340 units across the buildings Rosa, Sierra, and Giona; however, only 99 units had registered sale deeds at the time of the survey. The appellant clarified that the costs incurred for Sierra and Giona were below the threshold required, resulting in only the 'Rosa' building meeting the criteria for revenue recognition under the percentage completion method according to the revised 2012 guidance note for real estate transactions. As of the survey date (21.02.2019), the appellant had executed 90 registered sale deeds for Rosa and anticipated that the remaining 86 sold units would have registered sale deeds completed by 31.03.2019. The estimated business income of Rs 23.96 crore was contingent on securing legally enforceable sale deeds for these units. Contrary to initial expectations, registered sale deeds were ultimately executed for only 5 additional units, bringing the total to 95 units with registered sale deeds.

7.1.8. Subsequent to the survey, there are two important events which have impacted the projections of revenue from 'Rosa'. The original plan was to develop Rosa up to 48 Floors with carpet area of 29727 square meters which was subsequently revised to the 39 floors with RERA carpet area of 24139 square meters. The appellant had to incur the cost for reinforcement for 48 floors which



*was subsequently revised to 39 floors, hence resulting in excess cost attributable to 'Rosa'. The appellant has further opted for a new concessional scheme of Central tax wherein it would be pay output GST at a reduced rate but forego the claim of ITC on all its purchases of goods and services. This has resulted in increased cost for 'Rosa'. During Survey, the estimated cost of TDR & Developments were on the basis of carpet area (Original) for 'Rosa' alone, whereas at the time of filing the return of income the appellant has considered the revised carpet area of 'Rosa' as well as carpet area of other buildings namely Sierra, Giona & Blissberg, which has resulted in upward revision of the estimation of the cost of TDR & Development Rights.*

*7.1.9. Upon review of the case facts, it is evident that the circumstances outlined above—occurring after the survey and prior to filing the Income Tax Return for AY 2019-20 on 10.08.2020—resulted in an upward revision of the estimated construction cost as well as the TDR and development costs. Factors contributing to these revised estimates include the modification of floor count from 48 to 39, adoption of a concessional tax scheme for output GST, and allocation of TDR cost across all 'Montana' buildings based on their respective RERA carpet areas. Additionally, the audited financial statements confirm that only 95 units of 'Rosa' were secured through legally enforceable registered sale deeds, which substantially decreased business income from the sale of Rosa units reported during the survey versus that declared in the return. All relevant information was duly communicated to the Assessing Officer (AO) during the assessment proceedings. Nevertheless, the AO dismissed the appellant's arguments without identifying any deficiencies in the factual submissions provided. The AO also did not address or disprove the appellant's rationale for the upward revision of the estimated costs. Instead, the AO rejected the appellant's claims regarding TDR and development rights as well as construction costs, while adopting figures from audited financials relating to land, finance, and marketing costs—without providing justifications for such rejections. This approach, involving the dismissal of an appellant's claims without addressing the underlying facts, is unwarranted. Accordingly, the business income offered by the appellant under the percentage completion method for 'Rosa' for PY 2018-19, using the estimated costs reflected in the filed return, is upheld as justified. Similarly, the associated long-term capital gains (LTCG) taxed on the basis of the total area.”*

6. Before us, the learned Departmental Representative assailed the findings of the learned CIT(A) primarily on the ground that the revised estimates accepted by the first appellate authority lacked proper third-party corroboration and had been accepted without adequate factual verification. It was contended that neither the actual GST impact on vendor-wise invoices nor the phase-wise



utilisation and allocation of TDR/development rights had been independently verified. It was further submitted that the learned CIT(A) accepted the revised projections merely on the basis of broad estimations and assertions advanced by the assessee without undertaking the requisite scrutiny mandated under the law.

6.1 the 1d DR specifically referred to the ground No.5 of the appeal, wherein the Revenue has prayed that matter may be set-aside for de novo verification of (i) actual vendor/contract-wise GST impact on construction cost, (ii) TDR purchase and phase-wise utilization mapping, (iii) quantified cost effect of floor-plan revision, and (iv) POCM consistency between registered agreements (revenue trigger) and the cost base.

7. We have thoughtfully considered the rival submissions and carefully perused the material available on record. The core controversy in the present appeal pertains to reconciliation of the profits projected during the course of survey proceedings vis-à-vis the profits ultimately declared in the return of income under the same POCM framework, together with the correctness of the revised cost estimates adopted by the assessee. The dispute essentially centers around variation in estimated project cost, TDR/development rights allocation, GST implications, and corresponding revenue recognition under the POCM method.



7.1 It is an undisputed position that during the survey proceedings, the assessee had furnished certain projected figures based upon anticipated registrations of flats and estimated project costs. Subsequently, at the stage of filing the return of income, the assessee revised such projections citing intervening developments, including revision in floor plans, change in GST regime, and revised allocation of TDR cost across phases of the project. While the assessee has broadly explained the reasons for such variation, the factual substratum supporting these revised estimates has admittedly not been subjected to comprehensive verification at the assessment stage. In particular, we find merit in the contention of the Revenue that the impact of denial of input tax credit under the revised GST scheme requires proper verification on the basis of vendor-wise and invoice-wise details rather than broad estimations. Similarly, allocation of TDR/development rights across various phases of the project, the actual impact of reduction in number of floors, and consistency of revenue recognition with registered agreements and corresponding project costs also require detailed factual examination. These matters are intrinsically factual in nature and cannot be conclusively adjudicated merely on the basis of generalized explanations or estimated workings.

7.2 Another issue is regarding the Revenue recognition from the project. The assessee reported a certain figure during the course of survey proceedings. However, in the return of income filed, another



figure has been reported, though the assessee has provided basic reasons as due to change of the floors, cost of the construction as well as the TDR cost has varied. Similarly, regarding the Revenue recognition, the assessee contended that those certain flats were to be registered before 31/03/2019, while declaring Revenue from the flats during the survey. However, the same were not registered before 31/03/2019 and not considered for computing profit under POCM while filing return of income.

7.3 In our considered opinion, neither the approach adopted by the Assessing Officer in outrightly rejecting the revised estimates nor the acceptance thereof by the learned CIT(A) without exhaustive verification fully sub-serves the ends of justice. The matter, therefore, warrants comprehensive factual verification so as to ascertain the correctness of the computation of profits under the POCM method adopted by the assessee.

7.4 Accordingly, in the facts and circumstances of the case, we deem it appropriate to set aside the impugned order of the learned CIT(A) on the issue in dispute and restore the matter to the file of the Assessing Officer for de novo adjudication. The Assessing Officer shall carry out proper verification of the components forming part of the computation of profits under the POCM method, including but not limited to:–



- (i) actual vendor-wise and contract-wise GST impact on construction cost;
- (ii) purchase, allocation, and utilisation of TDR/development rights phase-wise;
- (iii) quantified cost implications arising from revision of floor plans; and
- (iv) consistency between revenue recognition under the POCM method and registered agreements along with the corresponding cost base.

7.5 The assessee shall extend full cooperation and furnish all requisite documentary evidences and reconciliations before the Assessing Officer. Needless to observe, the Assessing Officer shall afford adequate opportunity of hearing to the assessee and thereafter pass a speaking order in accordance with law. The grounds of the appeal of the Revenue are accordingly allowed for statistical purposes.

8. Since the facts and issues involved in Assessment Year 2020-21 are *pari materia* with those arising in Assessment Year 2019-20, our aforesaid decision shall apply mutatis mutandis to the appeal for Assessment Year 2020-21 as well.



9. In the result both the appeals of the Revenue are allowed for statistical purposes.

**Order pronounced in the open Court on 19/05/2026.**

**Sd/-  
(ANIKESH BANERJEE)  
JUDICIAL MEMBER**

**Sd/-  
(OM PRAKASH KANT)  
ACCOUNTANT MEMBER**

Mumbai;  
Dated: 19/05/2026

M. Ranganath Vittal , Sr. P.S.

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Assistant Registrar)  
**ITAT, Mumbai**