INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "B": NEW DELHI

BEFORE MS MADHUMITA ROY, JUDICIAL MEMBER
AND
SHRI KRINWANT SAHAY, ACCOUNTANT MEMBER

ITA No. 1290/Del/2024 (A.Y 2014-15)

Goel Flexible Packaging Pvt. Ltd.1/10764, Subhash Park, Naveen Shahdara, New Delhi	Vs.	Income Tax Officer, Ward 11(4), New Delhi
(Appellant)		(Respondent)
PAN: AABCG2057M		

Assessee by :	Sh. Gagan R Khandelwal, Adv and Shri Jaind Kumar Jaiswal, Adv
Revenue by:	Shri Mahendra Singh, Sr. DR
Date of Hearing	13/07/2026
Date of pronouncement	09/09/2026

O R D E R

PER MADHUMITA ROY, JM:

The instant appeal filed by the assessee is directed against the order dated 05.02.2024 passed by the Ld. Commissioner of Income-tax (Appeals)-25,Delhi under Section 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') arising out of the Assessment Order dated 30.12.2016 passed by the Assessment Unit, Income-tax Department under Section 143(3) of the Act for Assessment Year 2014-15 whereby and whereunder the addition to the tune of Rs. 4,61,82,937/- added in the hands of the Assessee on account of alleged sale of flats has been confirmed.

2. The brief facts leading to the case is this that the Assessee filed its return of income on 25.11.2014 declaring loss at Rs. 32,42,103/-, the case whereof was selected for scrutiny under CASS and notice under Section 143(2) dated 28.08.2015 followed by notices under Section 142(1) dated 26.08.2016 and others were issued upon the Assessee.

3. The appellant/Assessee is engaged in the business of real estate construction and sale of flats and during the year under consideration it has sold 14 flats built at Plot No. 1/1055, Niti Khand-1, Indira Puram, Ghaziabad, UP for a total consideration of Rs. 4,75,20,000/- upon execution of sale deed, registered with the office of the Sub-Registrar, Ghaziabad. The Assessee in his return of income had shown the sale receipts of Rs. 1,40,26,136/-. It is the case of the Assessee that it has entered into a collaboration agreement with M/s Suvandana Infrastructures Pvt. Ltd. under which the Assessee is having 30% share in the sale value of flats and 70% of the sale consideration belongs to the said M/s Suvandana Infrastructures Pvt. Ltd. Further that all fundsfor the construction of flats wasborne by the said Suvandana Infrastructures Private Limited as per such agreement, copy whereof is produced before the Ld. A.O. As per the collaboration agreement the Assessee had recognized 30% of the sale consideration which is of Rs. 140,00,000/-.

4. On the other hand, the Ld. A.O. disbelieved the amount of Rs. 3,32,64,000/-, as not thereceipt of the Assessee on the ground that the such agreement entered into as above was not genuine and entire sale consideration including 70% share of the Suvandana Infrastructures Pvt. Ltd. has been held as the income of the Assessee. Further the cost of acquisition to the tune of Rs. 1,20,06,456/- claimed by the Assessee was also disallowed which was further confirmed by the Ld. CIT(A).

5. Heard the parties, perused the records. It appears that the Ld. A.O. while making addition in the hands of the Assessee observed that the agreement is not registered one and the stamp papers werepurchased in the state of UP whereas both the parties reside in Delhi,and thestamp paperused in such deed of agreement wasprior to the date of agreement. No signature of any witness is appeared in the said document. The Ld. A.O. further opined that as per the agreement it was mentioned that the Assessee company is unable to undertake the construction of the building but nowhere mentioned that M/s Suvandana Infrastructures Pvt. Ltd. had any expertise in the said field.

6. Having regard to this particular fact that the said company came into existence only on 27.09.2011, the said company could not be regarded as an expert in the field of development and construction

work. Further merely because M/s Suvandana Infrastructures Pvt. Ltd. failed to comply with the notice issued under Section 133(6) of the Act, the conclusion of the Ld. AO that the said agreement as merely a device for diversion of the Assessee's true income in the name of Suvandana Infrastructures Pvt. Ltd. cannot be accepted.

7. It is found that the agreement was duly executed and stamped. Wefurther note that it is neither the business of the Assessing Officernor that of the Ld. CIT(A) to look into the matter as to why the stamp paper used for the deed in question was purchased from UP and not from Delhi,particularly when both the parties thereto were from Delhi. The authorities below has failed torefer any law in support of such finding that the stamp paper obtained from UP where the site is available for construction work could be a barin using the same for execution of the document which is otherwise genuine. Whether there is any witness or not the same cannot be established the underline commercial transactions as fictitious. It is the mutual understanding which led both the parties to entered into an agreement in writing so as to deliver the project in the hands of the purchasers as the right time upon completion of the same by the parties. When the Assessee has filed the conclusive evidence in support of the case made out, non compliance by third parties itself cannot be a ground declaring the entire transaction invalid, keeping in view of the collaboration

agreement, banking records, ledger accounts and other supporting evidences so adduced by the Assessee before the authorities below.

8. Under these facts and circumstances of the matter, whether the key person of Suvandana Infrastructures Pvt. Ltd.whether absconding or did not appear before the authorities below cannot also be a ground for taking inference against the Assessee leading to addition. Further that the authorities below has failed to establish the observation of collaboration agreement created merelyto divert the income of the appellant with supporting documents. In this regard, we have further considered the Judgment passed by the Hon'ble Supreme Court in the case of CIT Vs. Sitaldas Tirathdas, reported in 41, ITR 41 ITR 367 (S.C) whereby and whereunder it was finally distinguished between the amount which reaches the Assessee as its income and thereafter applied towards an obligation, and an amount which, by virtue of overriding obligation, never becomes the Assessee's income in the first place.

9. The Assessee is coming under the purview of the second limb of that distinction made by the Hon'ble Apex Court, as the collaboration agreement itself created an obligation in respect of 70% of the share of sale proceeds payable to the collaborator. The cost of acquisition of the land, on the ground that the land was allegedly not appearing in the books of account, led to an inference that the same had

beenacquired from an unexplainedsource, is also afinding factually incorrect, as the books of accounts clearly showsthat the said land had already shown in the books of account of the Assessee and further that such acquisition of land is also found to have been referred at Page Nos. 43 to 90 of the paper book being the purchased deed which does not justify such addition in the hands of the Assessee. Thus, having regard to the entire aspect of the matter, we, with the aforesaid observation delete the addition in the hands of the Assessee at Rs. 4,61,82,937/-.

10. In the result, appeal filed by the Assessee is allowed.

Order pronounced in the open court on 09/09/2026.

Sd/-	Sd/-
(KRINWANT SAHAY)	**(MADHUMITA ROY)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Dated: 09/09/2026

R. Naheed, Sr PS

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi