

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
 HYDERABAD BENCHES "A", HYDERABAD**

BEFORE

**SHRI R.K. PANDA, VICE PRESIDENT
 AND
 SHRI LALIET KUMAR, JUDICIAL MEMBER**

आ.अपी.सं / **ITA No.345/Hyd/2023**
 (निर्धारण वर्ष / Assessment Year: 2017-18)

Deputy Commissioner of Income Tax, Central Circle – 3(1), Hyderabad.	Vs.	M/s. LEPL Projects Limited, 59-14-19, Lingamaneni Corporate House, N.H.5, Ramchandra Nagar, Vijayawada – 520008. PAN : AAACL8700F.
अपीलार्थी / Assessee		प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri K.C. Devdas, Advocate
 राजस्व द्वारा/Revenue by: Dr.K.J. Rao, CIT-DR.

सुनवाई की तारीख/Date of hearing: 10.01.2024
 घोषणा की तारीख/Pronouncement on: 22.02.2024

ORDER

PER LALIET KUMAR, J.M.

The captioned appeal is filed by the Revenue feeling aggrieved by the order of Commissioner of Income Tax (Appeals) – 11, Hyderabad invoking proceedings under section 143(3) of the Income Tax Act, 1961 (in short, “the Act”) for the A.Y 2017-18.

2. The grounds raised by the Revenue read as under :

“1. The learned Commissioner of Income Tax (Appeals) erred in both in law and on the facts of the case in granting relief to the assessee.

2. In the facts and circumstances of the case, whether the Id.CIT(A) is correct in deleting the addition made under excess receipts from contract works, without appreciating the fact that the assessee has designed the contract receipts to bring the unaccounted money into the books of accounts.

3. In the facts and circumstances of the case, whether the Id.CIT(A) is correct in deleting the addition towards STCG without appreciating the fact that if the value of the shares deserves such a huge price, it is not clear why the earlier company has sold these shares at a meagre price of Rs.10/-.”

3. The brief facts of the case are that the assessee e-filed its return of income for the assessment year under consideration on 30.10.2017 admitting loss of Rs.52,14,82,099/-. Subsequently, the case of the assessee was selected for scrutiny under CASS and notices u/s 143(2) and 142(1) of the Act were issued to the assessee from time to time. The submissions were made by the assessee in response to the above notices. After considering the submissions made by the assessee, the Assessing Officer completed the assessment interalia making additions of Rs.21,24,00,000/-, Rs.8,91,35,102/- and Rs.116,04,55,413/- on account of settlement rights, non-explanation of short term capital gains and excess receipts from contract works, respectively, u/s 68 of the Act. Thereafter, the Assessing Officer passed assessment order on 31.12.2019 u/s 143(3) of the Act.

4. Feeling aggrieved by the order of Assessing Officer, assessee has filed the appeal before the Id.CIT(A) and the Id.CIT(A) had deleted the addition vide pages 69 to 77 of his order (Pages 227 to 234 of the paper book), which is to the following effect :

“Addition of Rs.116,04,55,413/- made u/s 68 of the Act on account of excess receipts from contract works:

During the course of assessment proceedings, the appellant was asked to submit the nature of real estate and construction activities and details of revenue generated from and related expenditure incurred on such real estate activities. In response, the appellant submitted that the nature of real estate projects carried out was excavation of hard rock for laying of pipe line and closer of the opened stretch with suitable soil and construction of culverts in different irrigation projects on subcontract basis. The appellant had earned a total revenue of Rs.131,97,66,135/- from construction activities out of which Rs.130,33,46,635/- was earned from M/S. Megha Engineering & Infrastructures Ltd for construction activities and Rs.1,64,19,500/- was earned from real estate activities. The appellant had debited the direct construction work related expenditure of Rs.14,65,65,865/-. Apart from this direct expenditure, other expenses such as salaries, travelling, transport and fuel charges etc. were also incurred and TDS of 2% was deducted by the Contractor M/S. Megha Engineering & Infrastructures Limited, Hyderabad on the income. The appellant has also furnished details of other expenses of Rs.214,00,72,362/- for which the Assessing Officer has observed that the entire expenditure was related to Aircraft and Solar Project and not to the construction income. Further, the appellant was asked to furnish segment wise P&L account of real estate construction, Solar power and Airlines, which the appellant could not furnish before the AO.

During the course of assessment proceedings, the main contractor M/S. Megha Engineering & Infrastructures Limited (MEIL) was also asked to furnish the details of work done by the appellant, relevant contract agreement and ledger extracts of the appellant vide a letter dated 24.12.2019. In response, M/S. Megha Engineering & Infrastructures limited furnished the details of works allotted to the appellant and the works contract agreements but the ledger extracts of the appellant in its books were not submitted before the AO. After verification of the submissions made by the appellant, the Assessing Officer considered the explanation furnished by the appellant as not satisfactory and without any documentary evidences and considered the actual work done to the extent of Rs.14,65,65,865/- only and worked out the estimated profit at 8% on the work of Rs.14,65,65,865/- which came at Rs.1,27,44,857/-. Hence, the Assessing Officer anticipated that the appellant should have received an amount of Rs.15,93,10,722/- (Rs 14,65,65,865/- + Rs. 1,27,44,857/-) only instead of Rs.131,97,66,135/- and accordingly, treated the excess receipt of Rs.116,04,55,413/- (Rs.131,97,66,135/- less Rs.15,93,10,722/-) as unexplained cash credits u/s 68 of the Act.

The first issue and the primary issue is to consider the amount received by M/ so MEIL under section 68 of the Income Tax Act, 1961. It is seen that while passing the assessment order, everything has been considered u/s 68 by the Assessing Officer with regard to the additions made. In all the three cases of addition, the appellant has offered the whole quantum in the books of account. and the same has been included in computing the total income of the appellant and none. of the receipts have been offered at any concessional rate. The additions regarding the other two issues are discussed in prior paragraphs on the. basis of additional evidence and no element of these receipts to be unexplained has been found. The Assessing Officer has invoked the said section 68 in all the issues of addition. The receipt from the parties is not in dispute and the same was confirmed before the Assessing Officer and the Assessing Officer has also not denied the receipt of the same from the said parties, therefore invoking the section 68 appears to be primarily harsh incorrect.

During the course of appellate proceedings, the AR of the appellant submitted that the sum of Rs.14,65,65,865/- represents only the recoveries made by M/S. MEIL, the main contractor, towards the cost of material supplied by them to the appellant for use in the performance of the contract and such recovery is not the total cost of the work given to the appellant. The appellant also incurred nearly 45% of the cost of the contract towards labour wages only and such expenditure was accounted under the head "Employee Benefits and Expenses". Further, hire charges for the equipment such as proclainers, bulldozers and tractors were accounted under the head "Lease rentals paid" and borrowing money from banks to meet the working capital needs of the contract was booked under the head "Finance cost". Also, there were several miscellaneous expenses including rents for offices maintained at work locations, travel expenses, office expenses, administrative expenses, etc. form part of the account under the head "Other Expenditure" debited to the P&L account.

The appellant further submitted the details of work orders given to the appellant by M/s. MEIL, TDS deducted from M/s. MEIL on payments to the appellant, form 16A, segment wise allocation of total expenditure of Rs.486.76 crores, ledger account of the appellant in the books of M/s. MEIL, ledger account of M/s. MEIL in books of the appellant and bank account statements as additional evidence, which were forwarded to the Assessing Officer who sent the remand report. The comments of the Assessing Officer on "Income from Contract Receipts" are reproduced as under:

"4.1. In the reply submitted by M/s. MEIL, the details of the primary work order received by MEIL, and also the details of the work orders given to LEPL projects limited out of the primary work order received by it, are mentioned. The details of Tax deducted by Megha Engineering are also furnished.

4.2. As seen from the information filed by the assessee, though it appears to be the assessee proved the identity, creditworthiness and genuineness of the transaction, alternatively, the discussion made by the AO at the last para of Page No. 7 and first para of page No.8 in the Assessment Order towards the addition of unexplained expenditure u/s.69C of the IT Act may also be considered."

The Assessing Officer has agreed that the appellant has proved the identity, creditworthiness and genuineness of the transactions with M/s MEIL. Since the Assessing Officer found the contention of the appellant that the addition of Rs.116,04,55,413/- cannot be made u/s 68 of the Act, to be genuine in the remand report, no further comments on the said addition u/s 68 of the Act are required to be made. Therefore, the said addition cannot be sustained u/ s 68 of the Act.

The next issue raised in the remand report is regarding the observation of the AO regarding the addition to be made u/ s. 69C implying that the appellant has done and executed the work with regard to the contract given by M/S. MDIL through means which were not recorded in books of accounts. The AO has made this observation on account of the fact that the expenses pertaining to the contract work have not been accounted but for direct expenses only and the other expenses pertain to the other activities of the appellant.

It is important. to note that during the remand proceedings, the appellant had submitted the bifurcation segmental wise for the activities conducted which is reproduced as under:

LEPL PROJECT LIMITED

**Annexure of Allocation of Expenditure for the year ended on
31.03.2017 (Amount in Cr.s)**

Sl.No.	Head of Account	Air Costa	Solar Power	Contract Works	Total
1	Contract work recoveries	0	0	14.65	14.65
2	Salaries and wages	34.15	1.25	16.81	52.21
3	Fuel expenses	84.48	0	28.62	113.1
4	Lease & Hire Charges	38.12	0	16.86	54.98
5	Finance Charges	0	1.28	12.77	14.05
6	Depreciation	18.26	5.33	0.17	23.76
7	Other expenses	192.87	1.91	19.23	214.01
	Total	367.88	9.77	109.11	486.76

It is seen that the total contract receipt recorded is of Rs.130.3 crores for the current FY 2016-17 and Rs.6 crores for the next FY 2017-18. The total expenses pertaining to the above contract receipts accounted are Rs.109.11 crores during this year which leaves a net profit of Rs.21.19 crores, giving a net profit of 16.26% which is fairly reasonable to doubt the booking of inflated expenses.

Thus the issue raised is, whether the amount of can be charged u/ s 69C as unexplained expenditure of the Act as mentioned by the Assessing Officer in the last para of page no. 7 and first para of page no.8 of the assessment order or not, which was on the basis that only a sum of Rs.14,65,65,865/- was incurred for the contract work with M/s. MEIL and no other expenditure was incurred. However, it was submitted in the remand proceedings that the amount of Rs. 14,65,65,865/- was clarified as direct cost for contract work recoveries and the balance were, part of P&L account. The said breakup of expenditure forms part of the remand report and the appellant's submissions and has been reproduced above.

As the appellant has given the breakup during re-mend proceedings as additional evidence and there is no adverse inference drawn by the AO with regard to the above and also the same forms the part of the remand report as enclosures to the same. It seems that the AO in the assessment order had made a passing remark without any proper findings and has made a sweeping remark that they don't pertain to this construction business in a single line without any basis and while in the remand report the veracity of the segment wise breakup of expenditure was not doubted. Thus, as the AO has not doubted or objected to the bifurcation of expenses submitted by the appellant during remand proceedings in principle, there is no basis to presume the idea of unexplained expenditure. It is also important to note that the percentage of net profit is almost close to 16%, than what adopted by the AO of 8% in the assessment order.

The AO in the assessment proceedings had only considered direct expenditure without considering the other expenses in the P&L account and further, has connoted that the work has been done but the sum of Rs.106,76,18,980/- has been incurred outside the books of accounts to complete the said contract to the extent of Rs. 116,04,55,413/-.

Thus, the AO considered that the work has been done and executed and further has now stated that to complete the work done after considering profit margin arrived at an expenditure which is unexplained to the extent. or Rs.106,76,18,980/- and after that discussion, has considered the whole receipt of Rs.116,04,55,413/- as unexplained and suggested the addition to be made u/ s 69C of the Act.

The relevant section 69C of the Act is reproduced as under:

"Unexplained expenditure, etc.

69C. Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the Assessing Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year:

Provided that, notwithstanding anything contained in any other provision of this Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income. "

As per above section where an assessee has incurred any expenditure for which the assessee offers no explanation about the nature and source, or the explanation offered by him is not satisfactory then such expenditure may be charged to income tax as income of the assessee. Applying it to the facts of the present case, there is no evidence to state that the work was executed through sources which are not explained. The sources for expenditures are related to the contract work receipts from M/s. MEIL for which the appellant has also submitted segment wise break-up of the expenditure, therefore, the said sum also cannot be charged u/ s 69C of the Act as the source is proved and there is no other evidence on record to suggest any expenditures which are not part of books and not recorded in the books of accounts.

In view of the above discussion, the addition of Rs.116,04,55,413/- made u/s 68 of the Act made on the basis of estimation is directed to be deleted. Even otherwise, the addition is not sustainable u/ s 69C of the Act as discussed in the above paragraphs.

It is also seen from the history of the case that the scrutiny u/ s 143(3) and after that u/s 153A for AY 2014-15 and 2016-17 was completed without any addition and accepting the returned loss and in the scrutiny for AY 2015-16 u/s 143(3), there were certain disallowances made with regard to the expenditure debited by the appellant and the assessment was completed without any initiation of penalty proceedings and subsequently u/s 153A, no further additions were made. The proceedings for AY 2018-19 and AY 2019-20 u/s 153A were completed at NIL by making no additions.

Keeping in view the factual discussion above, accordingly grounds no. 7(a) relating to the said quantum, 8 & 9 of the appeal are allowed.

The ground no. 11 & 13 addresses all the three additions made by the AO u/s 68, each of the additions have already been separately adjudicated in the favour of the appellant. Therefore, these grounds are not separately adjudicated.

Ground no. 12 is related to invocation of section 115BBE on the above additions made by the Assessing Officer u/s 68 of the Act. Since the above additions are deleted u/s 68 of the Act, the invocation of section 115BBE which is consequential in nature, is not valid. Accordingly, ground no.12 of the appeal is in consequential for adjudication. However, any addition made u/ s. 68 or 69C will be liable for charge u/s. 115BBE.

In ground no.6, the appellant contended that the AO did not consider the explanation of the appellant submitted vide letter 30.12.2019 and did not adhere to the principles of natural justice. It is seen that now the additional submissions/ evidence made by the appellant were considered by the Assessing Officer in the remand proceedings and relevant comments were also offered and thus, 'due opportunities and principle of natural justice have been followed and the grievance, if any of the appellant is addressed. Therefore, the said ground is irrelevant in view of the remand proceedings and thus is not relevant for adjudication.'

4. Feeling aggrieved by the order of Id.CIT(A), the Revenue is in appeal now before us on the grounds mentioned hereinabove.

5. The submission of the Id. DR for the Revenue that the Assessing Officer before passing the assessment order had issued various notices on 19.02.2019, 02.04.2019, 04.10.2019. 16.11.2019, 24.11.2019, 03.12.2019, 06.12.2019, 20.12.2019 and 23.12.2019. The assessee had given reply to some of the questions asked by the Revenue. Particularly, he has drawn our attention to the reminder notice given on 02.04.2019 which is to the following effect :



GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX
CIRCLE 3(1),VIJAYAWADA

To, LEPL PROJECTS LIMITED 59-14-10 LINGAMANENI CORPORATE HOUSE,N.H-5 RAMACHANDRA NAGAR VIJAYAWADA 520008,Andhra Pradesh India	
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PAN: AAACL8700F	AY: 2017-18	Dated: 02/04/2019	Notice No : ITBA/AST/F/142(1)/2019-20/1015641528(1)
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Notice under Sub Section (1) of Section 142 of the Income Tax Act, 1961

Sir/ Madam/ M/s,

In connection with the assessment for the assessment year **2017-18** you are required to:

- Furnish or cause to be furnished on or before **12/04/2019** at **11:54 AM** the accounts and documents specified overleaf.
- Furnish and verified in the prescribed manner under Rule 14 of I.T. Rules 1962 the information called for as per annexure and on the points or matters specified therein on or before **12/04/2019** at **11:54 AM**.
- The above mentioned evidence/information is to be furnished online electronically in 'E-Proceeding' facility through your account in 'e-filing' website of Income Tax Department.
- Para(s) (a) to (c) are applicable if you have an account in e-filing website of Income Tax Department. Till such an account is created by you, assessment proceedings shall be carried out either through your e-mail account or manually (if e-mail is not available).
- In cases where order has to be passed under section 153A/153C of the Income Tax Act, 1961 read with section 143(3), assessment proceedings would be conducted manually.

Yours faithfully,

BHARADWAJA MANNEPALLI
CIRCLE 3(1),VIJAYAWADA

ANNEXURE

This office has issued a notice u/s142(1) on 19.02.2019. However no information has been received till now. You are requested to furnish the information at the earliest.

BHARADWAJA MANNEPALLI
CIRCLE 3(1),VIJAYAWADA



**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
INCOME TAX DEPARTMENT
OFFICE OF THE ASSISTANT COMMISSIONER OF INCOME TAX
CIRCLE 3(1),VIJAYAWADA**

To, LEPL PROJECTS LIMITED 59-14-10 LINGAMANENI CORPORATE HOUSE,N.H-5 RAMACHANDRA NAGAR VIJAYAWADA 520008,Andhra Pradesh India	
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PAN: AAACL8700F	AY: 2017-18	Dated: 19/02/2019	Notice No : ITBA/AST/F/142(1)/2018-19/1015103963(1)
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Notice under Sub Section (1) of Section 142 of the Income Tax Act, 1961

Sir/ Madam/ M/s,

In connection with the assessment for the assessment year **2017-18** you are required to:

- a) Furnish or cause to be furnished on or before **26/02/2019** at **11:00 AM** the accounts and documents specified overleaf.
- b) Furnish and verified in the prescribed manner under Rule 14 of I.T. Rules 1962 the information called for as per annexure and on the points or matters specified therein on or before **26/02/2019** at **11:00 AM**.
- c) The above mentioned evidence/information is to be furnished online electronically in 'E-Proceeding' facility through your account in 'e-filing' website of Income Tax Department.
- d) Para(s) (a) to (c) are applicable if you have an account in e-filing website of Income Tax Department. Till such an account is created by you, assessment proceedings shall be carried out either through your e-mail account or manually (if e-mail is not available).
- e) In cases where order has to be passed under section 153A/153C of the Income Tax Act, 1961 read with section 143(3), assessment proceedings would be conducted manually.

Yours faithfully,

BHARADWAJA MANNEPALLI
CIRCLE 3(1),VIJAYAWADA

ANNEXURE

1. Please furnish the details of nature of business activity carried on by you.
2. Please furnish the Computation of Income.
3. Are you representing your case on your own or through authorized representative?
Please upload copy of vakalat if represented by authorized representative along with the membership details and firm details.
4. Please furnish when exactly you have uploaded Audit Report.
5. Furnish the break-up of revenue from operations of Rs.372,22,47,614/- and cost of sale of real estate and construction expenses of Rs.14,65,65,865/-. You may furnish relevant ledger extracts also.
6. Details of lease rentals and fuel expenses. You may furnish relevant ledger extracts also.
7. Details of other expenses of Rs.214,00,72,632/- along with ledger extracts.
8. Details of fresh unsecured loans along with confirmations.
9. Produce the bank statements of all bank accounts and books of accounts.
10. Details of cash deposited during the demonetization period.
11. Furnish depreciation schedule and also furnish invoices if there are any additions to the assets.
12. Furnish the details of GP and NP for the year endings 31.03.2015, 31.03.2016 and 31.03.2017.
13. Please furnish the details of all the other sources of income of Rs.36,14,78,892/-.
14. Details of foreign inward remittances and foreign outward remittances and the reasons for the same.
15. Furnish the complete details of tax deducted by the company and to clarify whether the entire amount was remitted to the central government. Also furnish the details of payments on which tax was not deducted and the details of disallowances made by the company u/s 40(a)(ia) of the IT Act.
16. Details of investments/advances made by the company and sources for the same.
17. Details of income from house property. In this context reconcile the income from house property as admitted by you with the receipts as appearing in 26AS.
18. Details of foreign exchange loss and the details for the same.

BHARADWAJ MANNEPALLI
CIRCLE 3(1),VIJAYAWADA

6. In reply to the notice dt.19.12.2019 the assessee has submitted its reply on 03.04.2019, which reads as under :

Date: 03rd April 2019

To
The Assistant Commissioner of Income Tax
Circle 3(1)
Vijayawada

Respected Sir,

Sub : Submission of information sought.Reg-
Ref: Vide Notice No: ITBA/AST/F142(1)/2018-19/1015103963(1) dated 19/02/2019
Assessee Name : LEPL Projects Limited
PAN : AAACL8700F
A.Y : 2017-18

We are furnishing following information in response to the above referred notice herewith for your perusal in point wise manner.

1. Please furnish the details of nature of business activity carried on by you.
Reply: LEPL Projects Limited is a public limited company. It has 3 business segments namely
1. Real Estate and Construction,
2. Solar Power,
3. Airline.
2. Please furnish the Computation of Income.
Reply: Detailed computation of income is enclosed (Ref: Annexure-I)
3. Are you representing your case on your own or through authorized representative?
Please upload copy of vakalat if represented by authorized representative along with the membership details and firm details.
Reply: Our case is represented by Authorized Representative.
4. Please furnish when exactly you have uploaded Audit Report.
Reply: Audit report has been uploaded on 30th October 2017.
5. Furnish the break-up of revenue from operations of Rs.372,22,47,614/- and cost of sale of real estate and construction expenses of Rs.14,65,65,865/-. You may furnish relevant ledger extracts also.
Reply: Breakup of Revenue from operations is as follows:
a) Revenue from Real Estate & Construction-Rs. 131, 97,66,135/- Ledger extract enclosed. (Ref: Annexure-II)
b) Revenue from Solar Power Project-Rs. 14,45,98,191/- Ledger extract enclosed. (Ref: Annexure-III)
c) Revenue from Sale of airline operations Rs. 225,78,83,288/- Ledger extract enclosed. (Ref: Annexure-IV)
d) Cost of sales of real estate and construction expenses of Rs. 14,65,65,865/- Ledger extract enclosed. (Ref: Annexure-V)
6. Details of lease rentals and fuel expenses. You may furnish relevant ledger extracts also.
Reply: During the year Company has incurred lease rentals of Rs. 54,97,59,539/- towards aircrafts leasing and also incurred Fuel expenses of Rs. 113,09,79,932/- Ledger extract for the same is enclosed (Ref: Annexure VI)

7. Details of other expenses of Rs.214,00,72,632/- along with ledger extracts.
Reply: Please find below the details of Other Expenses:-

S.No	Nature of Expense	Amount (Rs.)
1.	Solar Project Maintenance Charges	1,08,45,286
2.	Solar Project insurance	9,06,018
3.	Aircraft Insurance & Other Insurance	4,63,52,242
4.	Landing, Navigation and Other Airport Charges	24,77,83,806
5.	Aircraft Maintenance	16,69,53,043
6.	Sales & Marketing Expenses	5,34,95,313
7.	Training cost	3,63,28,119
8.	Hotel Accommodation charges	2,79,94,072
9.	In-flight and Other Pax Amenities	1,82,72,675
10.	Solar Project Expenses	73,52,557
11.	Rent	2,86,71,658
12.	Repairs & Maintenance	1,10,97,555
13.	IT & Communication	5,03,28,322
14.	Travelling Exp	3,62,88,900
15.	Audit Fee	2,00,000
16.	Business Promotion Exp	17,34,145
17.	Consultancy Charges	1,54,89,446
18.	Managerial Remuneration	60,00,000
19.	Electricity Charges	37,01,906
20.	Interest on taxes	52,80,719
21.	License & Taxes	42,49,811
22.	Office Expenses	42,13,081
23.	Loss on sale of vehicles	10,79,760
24.	Other administrative Expenses	3,37,71,318
25.	Maintenance Reserve written off	1,32,16,82,879
	Total	214,00,72,632

Ledger extract of the above expenses is enclosed. (Ref Annexure-VII)

8. Details of fresh unsecured loans along with confirmations.

Reply: Following are the fresh unsecured loans and advances obtained by company during the A.Y 2017-18 are as follows:-

Name of the Person	Amount Rs.
L.V.S Rajasekhar (Director)	6,97,90,049
L. Ramesh(Director)	12,46,30,049
LEPL Ventures P Ltd	6,29,38,601
LEPL Renergy Pvt Ltd	1,64,80,000

9. Produce the bank statements of all bank accounts and books of accounts.

Reply: Bank statements are enclosed. (Ref Annexure VIII)

(Due to upload file size constraint we are submitting first and last 2pages of the HDFC Bank Statement- and full set of the same will sent hard copy thereafter)

10. Details of cash deposited during the demonetization period.

Reply: Cash deposits during the demonetization period are presented below:

Bank Name	Bank account Number	IFSC Code	Deposited from 9.11.16 to 30.12.16
HDFC Bank	50200002228007	HDFC0000109	
HDFC Bank	50200000248033	HDFC0000109	83,18,618
HDFC Bank	50200003740247	HDFC0000109	18,16,835
ICICI Bank	630605118263	ICIC0006306	28,740
Indian Overseas Bank	106702000001468	IOBA0001067	9,31,000
		Total	2,70,000
			1,13,65,193

11. Furnish depreciation schedule and also furnish invoices if there are any additions to the assets.

Reply: Depreciation schedule for the financial year 2016-17 is presented below.

S No	Asset	Rate%	WDV as	Additions		Sales	Total	Depreciation	WDV as at
			at 31.03.2016	Before 30.09	After 30.09				31.03.2017
			Rs.	Rs.	Rs.		Rs.	Rs.	Rs.
Block A	Furniture & Cnvl Works	10	3,70,17,665	2,00,029	2,95,538	-	3,75,13,232	37,36,546	3,37,76,686
Block B	Plant & Machinery	15	57,48,07,648	1,18,53,380	1,59,200	53,79,635	58,14,40,593	8,72,04,149	49,42,36,444
Block C	Computers	60	29,82,888	5,61,156	2,54,430	-	37,98,474	22,02,755	15,95,719
Block D	Intangible assets	25	38,24,48,711	6,52,413	3,54,325	25,31,484	38,09,23,965	9,51,86,701	28,57,37,265
TOTAL			99,72,56,913	1,32,66,978	10,63,493	79,11,119	1,00,36,76,265	18,83,30,151	81,53,46,113

During the year total additions to gross block are Rs. 1,43,30,471/-; Item wise details of asset additions are mentioned below:-

S.No	Date of addition	Nature of Asset	Amount Rs.
1.	30-Apr-16	External DVD writer & power cable	2,450.00
2.	30-Apr-16	HP make desktop	59,500.00
3.	31-May-16	web camera with speakers	2,000.00
4.	31-May-16	broadband modem and keyboard	2,700.00
5.	31-May-16	ADSL Router Purchased for Broadbandline of BSNL at ATO	1,750.00
6.	17-Sep-16	HP make 1TBHDD	1,53,956.00
7.	31-Oct-16	Exide make 12V battery for Server	27,000.00
8.	31-Oct-16	Rack and Connector, battery and PVC casing	1,14,300.00
9.	29-Apr-16	Plain Table	20,200.00
10.	30-Apr-16	Cot-6x5	18,000.00
11.	30-Apr-16	Foam mattress	7,000.00
12.	30-Apr-16	foam mattress	4,000.00
13.	30-Apr-16	Dining set with 4 chairs	11,000.00
14.	30-May-16	5x6 size cot	36,000.00
15.	30-May-16	Foam mattress	16,000.00
16.	30-May-16	Pillows	2,000.00
17.	01-Jul-16	Filing cabinets	17,300.00
18.	30-Sep-16	Filing cabinets	6,800.00
19.	27-Oct-16	Glass door	98,000.00
20.	10-Nov-16	Glass door	16,700.00
21.	21-Dec-16	Alco censor for medical testing	1,75,838.00
22.	13-Jun-16	Aluminium partition work	19,577.00
23.	30-Jun-16	Aluminium partition work	24,152.00
24.	15-Aug-16	Store bins	18,000.00
25.	29-Apr-16	Bosch GCO 2000 cut off saw blade	8,610.00
26.	22-Nov-16	6.1/2 x34 locker box	5,000.00
27.	06-Jun-16	Cabin wheel chairs	81,500.00
28.	06-Jun-16	Ramp wheel chairs	81,500.00
29.	30-Sep-16	Mobile	26,500.00
30.	14-Apr-16	Samsung make washing machine	28,400.00
31.	14-Apr-16	Samsung LED	46,360.00
32.	14-Apr-16	IFB micro wovnen	10,000.00
33.	14-Apr-16	LG make refreragator	13,750.00
34.	16-May-16	Onida make 1.5TR split AC with stabllizer	64,000.00
35.	31-Jul-16	Wooden table, almerah and tables	34,847.00
36.	31-Jul-16	Mike for ticket counter	7,500.00
37.	31-Aug-16	Cot and mattress for flight operations office	11,770.00

38.	11-Jan-17	Sony TV-24"	13,200.00
39.	31-Dec-16	UPS for backoffice	2,000.00
40.	30-Apr-16	Explosive detection master kit	52,097.00
41.	29-Nov-16	SAFEGATE	1,44,000.00
42.	30-Sep-16	Smoke Generator	2,10,531.00
43.	27-Jun-16	Call centre software	1,26,000.00
44.	27-Jun-16	Installation charges for Call centre software	15,000.00
45.	27-Jun-16	Kasperskey software with installation	1,58,852.00
46.	07-Sep-16	Dell make desktop	3,01,500.00
47.	07-Sep-16	Windows-10 & MS-Office2016	3,34,561.00
48.	21-Sep-16	winpro-8 care pack	18,000.00
49.	10-Oct-16	MS-Office2016	2,32,725.00
50.	27-Oct-16	CAL licenses	96,600.00
51.	21-Jul-16	Coach for Jaipur	55,53,937.00
52.	21-Jul-16	Coach for Jaipur	55,53,937.00
53.	13-Apr-16	Testile wheels	5666.00
54.	31-Mar-17	HP make desktop	75,980.00
55.	31-Mar-17	Windows-10	25,000.00
56.	31-Mar-17	HP make desktop	29,750.00
57.	31-Mar-17	RAMS	7,400.00

12. Furnish the details of GP and NP for the year endings 31.03.2015, 31.03.2016 and 31.03.2017.

Reply: Following are the details of GP and NP for the above stated periods are as follows:

Particulars	For the year ending 31.03.2015	For the year ending 31.03.2016	For the year ending 31.03.2017
Gross Profit	Nil	Nil	Nil
Net Profit/(Loss)	(55,98,39,975)	(112,35,21,200)	(77,78,86,378)

(Note : As we are not into an Manufacturing / Trading Business – Gross Profit will be NIL)

13. Please furnish the details of all the other sources of income of Rs.36,14,78,892/-.

Reply: Below are the details of Other Income.

Particulars	Amount Rs.
Income from settlement of rights	21,24,00,000
Interest received	2,29,77,349
Profit on sale of investments	8,91,35,102
Gain on foreign exchange fluctuation	4,28,33,358
Others	1,33,084
Total	36,14,78,892

Request you to allow two weeks time to furnish balance information.
Be pleased to consider the above information and oblige.

Yours sincerely
For LEPL Projects Limited

Sd/-
LVS Rajasekhar
Director

Enclosures:

- Annexure 01: Computation of Income
- Annexure 02: Copy of Ledger Extract of Revenue from Real Estate & Construction
- Annexure 03: Copy of Ledger Extract of Revenue from Solar Power Project
- Annexure 04: Copy of Ledger Extract of Revenue from Sale of Airline Operations
- Annexure 05: Copy of Ledger Extract of Cost of Sales of Real Estate and Construction Expenses.
- Annexure 06: Copy of Ledger Extract of Fuel Expenses incurred by the Company.
- Annexure 07: Copy of Ledger Extract of Other Expenses.
- Annexure 08: Copy of the HDFC Bank Statement for the F.Y 2016-17 (First-2 and Last-2 pages are enclosed)

7. The Id. DR further drawn our attention to Pages 10 and 11 of the paper book which is to the statement of Profit and Loss account of the assessee which is to the following effect :

59-14-10. Lingamaneni Corporate House, Ramachandra Nagar, Vijayawada-8.

STATEMENT OF PROFIT & LOSS ACCOUNT			
FOR THE YEAR ENDED 31st MARCH 2017 (Amount in Rs.)			
Particulars	Note No.	For the Year Ended 31st March 2017	For the Year Ended 31st March 2016
Income:			
Revenue from Operations	17	3,72,22,47,614	3,23,42,96,205
Other Income	18	36,74,78,892	2,19,24,589
Total Revenue		4,08,97,26,506	3,25,62,20,794
Expenditure:			
Cost of Sales of Real Estate & Construction	19	14,65,65,865	66,05,210
Employee Benefits Expenses	20	52,21,01,421	70,12,23,921
Fuel Expenses		1,13,09,79,932	1,27,99,22,651
Lease Rental		54,97,59,539	74,53,69,267
Finance Cost	21	14,05,48,823	15,34,12,570
Depreciation & Amortisation Exp	8	23,75,84,674	23,87,91,789
Other Expenses	22	2,14,00,72,632	1,25,44,16,587
Total Expenses		4,86,76,12,886	4,37,97,41,996
Profit before Tax		(77,78,86,380)	(1,12,35,21,202)
Tax Expenses:			
Current Tax		-	-
Income Tax of earlier years		-	-
Deferred Tax Liability		-	-
Profit/(Loss) for the year		(77,78,86,380)	(1,12,35,21,202)
Earnings per equity share of face value of Rs.10 each			
Basic and Diluted		(11.04)	(15.94)
The accompanying notes are an integral part of Financial Statements	1		

As Per our attached report of even date

For CHOWDARY & RAO
Chartered Accountants
Firm Reg No. 000656S

G. V. V. Satyanarayana
Partner
M No 204687

Date : 31/08/2017
Place : Vijayawada



On behalf of Board of Directors of
LEPL Projects Limited

L. V. S. Raja Sekhar
Managing Director
DIN: 01691355

L. Ramesh
Director
DIN: 00171927



59-14-10, Lingamnani Cooperating House, Ramachandra Nagar, Vijayawada-8

CASH FLOW STATEMENT FOR THE YEAR ENDED 31st March 2017 (Amount in Rs.)

Particulars	Year Ended 31st March 2017	Year Ended 31st March 2016
A Cash Flow from Operating Activities		
Profit before Tax	(77,78,86,380)	(1,12,35,21,200)
Adjustments for:		
Depreciation & Amortisation Exp	23,75,84,674	23,87,91,789
(Profit)/Loss on sale of Fixed Assets	10,45,776	
Interest Income	(2,29,77,349)	(2,12,93,866)
Interest Expenditure	13,25,37,856	13,70,61,536
Operating Profit before Working Capital Changes		
	(42,96,95,423)	(76,89,61,741)
Movements in Working Capital:		
Decrease / (Increase) in Inventories	83,22,544	93,24,683
Decrease / (Increase) in Trade Receivables	(1,26,85,27,581)	14,54,68,499
Decrease / (Increase) in Short Term Loans & Advances	99,76,67,080	(32,63,77,487)
(Decrease) / Increase in Trade and other payables	60,95,46,580	34,71,08,623
Cash generated from operations		
	(8,25,86,800)	4,21,71,378
Tax paid		
Net Cash from Operating Activities		
	(8,25,86,800)	(89,83,74,668)
B Cash Flow from Investing Activities		
Increase in Share Application Money		
Purchase of Fixed Assets	(1,43,30,471)	(8,89,23,426)
Sale of Fixed Assets	79,11,170	
Increase in Long Term Loans and Advances	(5,03,83,711)	(6,90,10,551)
Sale of Investments	7,50,000	(7,50,000)
Interest Income	2,29,77,349	2,12,93,866
Net Cash used in Investing Activities		
	(3,30,75,663)	(13,73,90,110)
C Cash Flow from Financing Activities		
Long Term Borrowings (net of repayment)	23,59,96,620	1,11,11,35,245
Short Term Borrowings (net of repayment)	(7,75,14,657)	7,31,88,481
Interest paid	(13,25,37,856)	(13,70,61,536)
Net Cash used in Financing Activities		
	2,59,44,108	1,04,72,62,191
D Net Increase/Decrease in Cash and Cash Equivalents (A+B+C)		
Cash & Cash Equivalents at the beginning of the year	30,37,77,177	29,22,79,765
Cash & Cash Equivalents at the end of the year	21,40,58,821	30,37,77,177

As Per our attached report of even date

For CHOWDARY & RAO
Chartered Accountants
Firm Reg No. 000656S

G. V. V. Satyanarayana
Partner
M No 204687

Date: 31/08/2017
Place: Vijayawada

On behalf of Board of Directors of
LEPL Projects Limited

L. V. S. Raja Sekhar
Managing Director
DIN: 01691355

L. Ramesh
Director
DIN: 00171927

8. The Id. DR based on the above documents has submitted that the Assessing Officer has passed the assessment order thereby making addition of Rs.116,04,55,413/- u/s 68 of the Act. However, alternatively, the Assessing Officer had made addition u/s 69C of the Act by treating it as unexplained expenditure. For the above said purposes, the Id. DR has drawn our attention to pages 88 and 89 of the paper book, which is to the following effect :

“1. Income from Contract Receipts :

From the above discussion it is clear that assessee company is never able to explain the reasons for earning huge profit of Rs.117,32,00,270/- in carrying out construction work wherein he incurred expenditure of Rs.14,65,65,865/- only. No prudent business man can give an amount of Rs.131 for any work the cost of which will be Rs.14,65,65,865/-. Hence earning such a huge profit of Rs.117,32,00,270/- being 88.89% of the total receipts of Rs.131,97,66,135/- is beyond human comprehension. The actual profit at the rate of 8% on this work of Rs.14,65,65,865/- works out to Rs.1,27,44,857/-. Hence, assessee should have received an amount of Rs.15,93,10,722/- whereas the assessee received an amount of Rs.131,97,66,135/-. In spite of giving opportunities, the assessee has not produced any evidence explaining the strange situation. Hence, the excess receipt of (-) has to be treated as unaccounted cash credit u/s.68 of the IT Act in the books of accounts of the assessee.

Alternatively, in the normal course of contract works, the profit margin will be 12%. However, the assessee got the works on a sub-contract basis where in the profit margin will be at the most 8%. Moreover, most of these works are allotted to the M/s.Mega Engineering & Infrastructures Limited, Hyderabad by Govt. of Telangana, Govt of Andhra Pradesh. Since the assessee has recognized the revenue in its books of accounts, the work thereon was completed by incurring commensurate expenditure. Such expenditure incurred in the normal course should be Rs.121 where as the company actually claimed to have incurred Rs.14,65,6,5865/- which is beyond human comprehension. Hence the excess expenditure to the extent of which is actually incurred but not shown in the books of accounts and also which was not explained in spite of opportunities given is to be treated as unexplained expenditure u/s.69C of the IT Act. Hence, it is clear that the assessee should have incurred unaccounted expenditure to the extent of which was not brought into the books and conveniently inflated the profits so that the company can set off these profits against the loss from Air Line Division.

Also the assessee has never furnished the ledger extracts of MEIL expect project wise receipt details from MEIL. Also MEIL in response to this office letter has furnished only work contract agreements but not furnished the extract of the assessee in its books of accounts.

The assessee neither substantiated that the Work has been actually carried out nor given the reasons for receiving So much of amount for executing contract work worth Rs. 14.65 crores.

Also on verification details of "other expenses" of Rs.214,00,72,362/- it is found that the entire expenditure is related to Aircraft and Solar Project and not to the construction income.

From the above it can be established that the above transactions are designed to bring in unaccounted money of Rs.116,04,55,413/- into the books of accounts."

9. It was submitted that the assessee filed the appeal before the Id.CIT(A) and before the Id.CIT(A) the assessee has filed the documents / submissions, to which the Id.CIT(A) has called for the remand report from the Assessing Officer. The Assessing Officer has given the remand report and the finding of the Assessing Officer with respect to the above issue has already been reproduced hereinabove. It was submitted that the Id.CIT(A) had deleted the addition u/s 68 of the Act as the Assessing Officer has opined that the assessee was able to prove the identity, creditworthiness and genuineness of the transaction. It was submitted that the figure mentioned in the table reproduced hereinabove in Para 4.2, if compared with the documents submitted by the assessee and the profit and loss account, then it is clear that the books of accounts submitted by the assessee and considered by the Id.CIT(A) are not matching with replies and submissions filed before the Assessing Officer and therefore, it was submitted that the action on the part of the Assessing Officer is correct.

10. Per contra, Id. AR has submitted that the basic issue raised by the Assessing Officer was with respect to addition u/s 68 of the Act. It was submitted that once the Assessing Officer in the remand report had satisfied himself with the identity, creditworthiness and genuineness of M/s. MIEL, then the Id.CIT(A) has rightly dropped the proceedings u/s 68 of the Act. Further, it was submitted that for the purpose of making the alternative addition u/s 69C of the Act, it is

required to prove that there was unexplained expenditure incurred by the assessee. It was submitted that the expenditure incurred by the assessee were forming part of the profit and loss account of the assessee in the consolidated financial statements given and reproduced hereinabove in the submissions of the Id. DR. Further, the expenditure may not have been reflected in the manner as pointed by the Id. DR but nonetheless, the expenditure was duly accounted for, and that sufficient explanation was given by the assessee giving breakup of the expenditure. It was submitted that once the assessee has shown the entire contract receipts in the books of accounts and had suffered the taxes thereon, then there was no question of making the alternative addition u/s 69C of the Act.

10.1. Ground no.1 is general in nature and requires no adjudication.

GROUND NO.2

11. We have heard the rival submissions and perused the material on record. The Assessing Officer in the present case, had issued notice u/s 142(1) of the Act and in response thereto, the assessee had filed reply on 03.04.2019 (Page 34 of the paper book) and in the said reply, the assessee at Sl.No.5 has mentioned as under :

“5. Furnish the break-up of revenue from operations of Rs.372,22,47,614/- and cost of sale of real estate and construction expenses of Rs.14,65,65,865/-.

You may furnish relevant ledger extracts also.

5(d) Cost of sales of real estate and construction expenses of Rs.14,65,65,865/- Ledger extract enclosed. (Re. Annexure-V).”

(Emphasis supplied by us)

11.1 Similarly, at Sl.No.6, it was mentioned as under :

“6. Details of lease rentals and fuel expenses. You may furnish relevant ledger extracts also.

Reply: During the year Company has incurred **lease rentals of Rs. 54,97,59,539/-** towards **aircrafts leasing** and also incurred **Fuel expenses of Rs. 113,09,79,932/-** (**Emphasis supplied by us**)

Ledger extract for the same is enclosed (Ref: Annexure VI)”

The assessee had further submitted the details of other expenses of Rs.214,00,72,632/- along with ledger extract. The reply is available at Sl.No.7 (Page 35 of the paper book), which is to the following effect :

7. Details of other expenses of Rs.214,00,72,632/- along with ledger extracts.
Reply: Please find below the details of Other Expenses:-

S.No	Nature of Expense	Amount (Rs.)
1.	Solar Project Maintenance Charges	1,08,45,286
2.	Solar Project insurance	9,06,018
3.	Aircraft Insurance & Other Insurance	4,63,52,242
4.	Landing, Navigation and Other Airport Charges	24,77,83,806
5.	Aircraft Maintenance	16,69,53,043
6.	Sales & Marketing Expenses	5,34,95,313
7.	Training cost	3,63,28,119
8.	Hotel Accommodation charges	2,79,94,072
9.	In-flight and Other Pax Amenities	1,82,72,675
10.	Solar Project Expenses	73,52,557
11.	Rent	2,86,71,658
12.	Repairs & Maintenance	1,10,97,555
13.	IT & Communication	5,03,28,322
14.	Travelling Exp	3,62,88,900
15.	Audit Fee	2,00,000
16.	Business Promotion Exp	17,34,145
17.	Consultancy Charges	1,54,89,446
18.	Managerial Remuneration	60,00,000
19.	Electricity Charges	37,01,906
20.	Interest on taxes	52,80,719
21.	License & Taxes	42,49,811
22.	Office Expenses	42,13,081
23.	Loss on sale of vehicles	10,79,760
24.	Other administrative Expenses	3,37,71,318
25.	Maintenance Reserve written off	1,32,16,82,879
	Total	214,00,72,632

11.2. The Assessing Officer had further issued a notice on 03.12.2019 and called for various details including the following :

“You have stated that you have received revenue of Rs.1,31,97,66,135/- from real estate and construction business and incurred expenditure of Rs.14,65,65,865/-. It is not clear how you earned such a huge profit. You may furnish your explanation with documentary evidence.”

11.3 The assessee vide its reply dt.14.12.2019 has submitted as under :

“Nature of Real Estate projects carried out by LEPL Projects was Excavation of Hard Rock for Laying of Pipe Line and Closer of the opened stretch with Suitable soil and Construction of Culverts in Different Irrigation projects on subcontract basis.

The work related expense of Rs. 14, 65, 65,865 is direct expenditure incurred incidental to business. Apart from this, other expenses such as Salaries, Travelling, Transport, and Fuel charges etc are incurred. TDS of 2% was deducted by Contractor on the income. Same is claimed as per the Form 26AS submitted to your perusal.”

11.4 The Assessing Officer had also issued a letter dt.24.12.2019 to M/s MEIL and called for the details. In response thereto, MEIL filed the details of the work allotted to LEPL Projects Ltd. and the works contract agreements but had not furnished the ledger extracts of the assessee in the books of M/s.MEIL.

11.5 Thereafter, the Assessing Officer considering the reply of the assessee had treated the amount of Rs.1,16,04,55,413/- as excess receipts and treated as unexplained cash credit u/s 68 of the Act in the books of accounts. The findings of the Assessing Officer vide page 7 of its order is to the following effect :

“1. Income from Contract Receipts :

From the above discussion it is clear that assessee company is never able to explain the reasons for earning huge profit of Rs.117,32,00,270/- in carrying out construction work wherein he incurred expenditure of Rs.14,65,65,865/- only. No prudent business man can give an amount of Rs.131,97,66,135/- for any work the cost of which will be Rs.14,65,65,865/-. Hence earning such a huge profit of Rs. 117,32,00,270/- being 88.89% of the total receipts of Rs.131,97,66,135/- is beyond human comprehension. The actual profit at the rate of 8% on this work of Rs.14,65,65,865/- works out to Rs.1,27,44,857/-. Hence, assessee should have received an amount of Rs.15,93,10,722/- whereas the assessee received an amount of Rs.131,97,66,135/-. In spite of giving opportunities, the assessee has not produced any evidence explaining the strange situation. Hence, the excess receipt of Rs.116,04,55,413/- (Rs.131,97,66,135 (-) Rs.15,93,10,722/-) has to be treated as unaccounted cash credit u/s.68 of the IT Act in the books of accounts of the assessee.”

11.6 In the present case, it is evident that the work contract valued at Rs.1,31,97,66,135/- was allotted by MEIL to the assessee. It is the case of the assessee that the cost of sale of real estate and construction expenses was Rs.14,65,65,865/-. Further, the assessee vide its reply dt.14.12.2019 has sought to improve its version and stated that Rs.14,65,65,865/- is direct expenditure incurred incidental to the business and the other expenses such as Salaries, Travelling, Transport, and Fuel charges etc are incurred. TDS of 2% was deducted by Contractor on the income and that the same was claimed as per Form 26AS.

11.7 It is an admitted case of the assessee that the cost of sale of real estate and construction expenses was Rs.14,65,65,865/-. However, the assessee sought to improve its case by giving the details of the expenditure before the Id.CIT(A) in a table reproduced hereinbelow :

***Annexure of Allocation of Expenditure for the year ended on
31.03.2017 (Amount in Cr.s)***

Sl.No.	Head of Account	Air Costa	Solar Power	Contract Works	Total
1	Contract work recoveries	0	0	14.65	14.65
2	Salaries and wages	34.15	1.25	16.81	52.21
3	Fuel expenses	84.48	0	28.62	113.1
4	Lease & Hire Charges	38.12	0	16.86	54.98
5	Finance Charges	0	1.28	12.77	14.05
6	Depreciation	18.26	5.33	0.17	23.76
7	Other expenses	192.87	1.91	19.23	214.01
	Total	367.88	9.77	109.11	486.76

11.8 The Id.CIT(A) for the reasons best known to him has not examined the details of the expenditure given by the assessee in appellate proceedings with the details of the expenditure filed before the Assessing Officer along with ledger. The Id.CIT(A) has wrongly considered that Rs.109.11 crores were spent towards the contract value of Rs.1,31,97,66,135/-. In our view, the above said finding of the Id.CIT(A) is contrary to record.

11.9 The assessee in its reply dt.03.04.2019 had mentioned that during the year, company has incurred lease rentals of Rs. 54,97,59,539/- towards aircrafts leasing and also incurred fuel expenses of Rs. 113,09,79,932/-. Quite contrary to the above, the reply given before the Assessing Officer, it was wrongly submitted by the assessee before the Id.CIT(A) that instead of spending Rs. 54,97,59,539/-, the assessee has spent only Rs.38.12 crores towards the aircraft leasing. Similarly, fuel expenses of Rs. 113,09,79,932/- were mentioned before the Assessing Officer and quite contrary to this, the assessee had wrongly mentioned before the Id.CIT(A) that Rs.84.48 crores were spent towards fuel charges. In fact, the details of the fuel expenses incurred by the assessee towards the aircraft lease and the construction / real estate business are available on record. At page 40 of the paper book, the amount spent towards fuel charges and construction work is available, which shows that assessee had spent only Rs.9.94 crore as against Rs.28.62 crore claimed before the Id.CIT(A). This claim of Rs.28.62 crore as fuel charges was false and incorrect. The amount spent towards fuel charges and construct work is to the following effect :

- left intentionally -

L E P L Projects Limited
(Formerly Lingamaneni Estates Pvt Ltd)
Lingamaneni Corporate House,
59-14-10, Ramachandra Nagar,
VIJAYAWADA - 520 008.

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Power & Fuel - Charges
Ledger Account

1-Apr-2016 to 31-Mar-2017

					Page 1
Date	Particulars	Vch Type	Vch No.	Debit	Credit
5-1-2017	Cr Nizamabad-Singoor Water Grid Works	Journal	105	76,64,650.00	
21-1-2017	Cr AKBR Segment- NLG Works	Journal	110	62,29,015.00	
25-1-2017	Cr Somasila Phase -1 Works	Journal	112	8,16,097.00	
	Cr Purushothapatnam Lift Works	Journal	113	32,24,568.00	
26-1-2017	Cr Adilabad Water Grid Works	Journal	114	9,04,020.00	
	Cr Nellore WSS Project Works	Journal	115	66,36,020.00	
30-1-2017	Cr New Kaleshwaram- Sundilla Works	Journal	117	15,03,650.00	
31-1-2017	Cr MBNR Water Segment Works	Journal	120	8,23,500.00	
	Cr New Kaleshwaram - Annaram Works	Journal	121	14,95,720.00	
	Cr MBNR Water Segment Works	Journal	122	9,42,450.00	
	Cr MBNR Water Segment Works	Journal	123	14,37,160.00	
	Cr New Kaleshwaram - Medigadda Works	Journal	124	12,96,250.00	
10-2-2017	Cr Nizamabad-Singoor Water Grid Works	Journal	127	95,28,200.00	
24-2-2017	Cr AKBR Segment- NLG Works	Journal	130	62,29,015.00	
25-2-2017	Cr Somasila Phase -1 Works	Journal	131	7,85,289.00	
	Cr Adilabad Water Grid Works	Journal	132	9,40,010.00	
	Cr Purushothapatnam Lift Works	Journal	133	38,27,536.00	
26-2-2017	Cr Nellore WSS Project Works	Journal	134	80,093.00	
27-2-2017	Cr Warangal Paleru Works	Journal	135	27,00,000.00	
28-2-2017	Cr MBNR Water Segment Works	Journal	138	8,72,300.00	
	Cr MBNR Water Segment Works	Journal	139	13,12,720.00	
	Cr MBNR Water Segment Works	Journal	140	1,37,31,100.00	
	Cr New Kaleshwaram - Medigadda Works	Journal	141	20,28,250.00	
	Cr New Kaleshwaram- Sundilla Works	Journal	142	9,05,850.00	
25-3-2017	Cr Nizamabad-Singoor Water Grid Works	Journal	153	36,29,500.00	
26-3-2017	Cr AKBR Segment- NLG Works	Journal	154	47,70,810.00	
29-3-2017	Cr Adilabad Water Grid Works	Journal	155	5,84,380.00	
30-3-2017	Cr Retention @ 5%	Journal	156	37,89,000.00	
	Cr Somasila Phase -1 Works	Journal	157	8,68,538.00	
	Cr Purushothapatnam Lift Works	Journal	158	22,67,684.00	
31-3-2017	Cr MBNR Water Segment Works	Journal	163	11,34,600.00	
	Cr New Kaleshwaram - Annaram Works	Journal	164	12,10,850.00	
	Cr MBNR Water Segment Works	Journal	165	7,64,940.00	
	Cr MBNR Water Segment Works	Journal	166	9,11,950.00	
	Cr New Kaleshwaram - Medigadda Works	Journal	167	14,95,720.00	
	Cr New Kaleshwaram- Sundilla Works	Journal	168	16,16,500.00	
	Cr Nellore WSS Project Works	Journal	169	5,31,765.00	
				9,94,89,700.00	
Dr	Closing Balance				9,94,89,700.00
				9,94,89,700.00	9,94,89,700.00

11.10 Similarly, in the table, the assessee has mentioned Rs.192.87 crores towards the other expenses. However, the details submitted by the assessee at page 35 of the paper book, reproduced hereinabove (refer page 13 of this order) clearly shows that the amount of Rs.214,00,72,632/- were incurred towards the solar and aircraft business of the assessee. However, the assessee before the Id.CIT(A) had wrongly bifurcated the amount and shown Rs.19.23 crores were spent towards the contract work. Thus, made a false statement.

11.11 Similarly, the assessee had claimed Rs.12.77 crores towards the finance charges. However, no such details were provided either to the Assessing Officer or to the Id.CIT(A). In the audited balance-sheet of the assessee, the finance charges for the year ended on 31.03.2016, the assessee has mentioned Rs.15,34,12,570/- (Page 356 of the Paper Book of assessee) which is as under :

LEPL PROJECTS LIMITED
59-14-10, Lingamanem Corporate House, Ramachandra Nagar, Vijayawada-8.

(Amount in Rs.)		
<i>NOTE-21: Finance Cost:</i>	For the Year Ended	For the Year Ended
Particulars	31st March 2017	31st March 2016
Interest to Banks	12,76,69,289	13,42,30,838
Interest to Others	48,68,566	28,30,698
Other Borrowing Cost	-	-
Bank Charges	80,10,967	1,63,51,034
Total	14,05,48,823	15,34,12,570
(Amount in Rs.)		
<i>NOTE-22: Other Expenditure:</i>	For the Year Ended	For the Year Ended
Particulars	31st March 2017	31st March 2016

11.11.1 Admittedly, the work contracts were awarded to the assessee only in September, 2016 and therefore, there cannot be any occasion to incur any finance charges for the construction work in the year ended on 31.03.2016. Quite contrary to this, the assessee in the year ending 31.03.2017 has shown the finance charges as Rs.14,05,48,823/-. For the first time, before the Id.CIT(A), the assessee had submitted that out of the said Rs.14,05,48,823/-, an amount of Rs.12.77 crores were shown to have been incurred for the finance charges of the contract work. The Id.CIT(A) had closed his eyes to the fact that in the previous year i.e., assessment year 2016-17, the assessee has incurred for aircraft business and the other business, the finance cost of Rs.15,34,12,570/- whereas the entire finance cost for the other business had now been allocated to the construction business of the assessee. Further, the assessee has not given the details of the equipment which were financed and for which the assessee had paid the finance charges.

11.12 Similarly, the assessee had claimed Rs.16.81 crores as expenses incurred towards salary and wages of contract works. In our view, this figure is not supported by any document. The details of the salary paid, the names of the employees working for the contract had not been provided to the Assessing Officer. In fact, the employees' expenses for the year ending as on 31.03.2016 was Rs.70,12,23,921/- and as against that the salary / employee benefit expenses for the year ending as on 31.03.2017 was Rs.52,21,01,421/-. Thus, the employee expenditure for the year under consideration is far less than the previous year. However, during this year the assessee had additionally undertaken the new construction activities, therefore, the necessary

corollary would be that there would be increase in the employee cost. No such details have been given by the assessee before the Assessing Officer or the Id.CIT(A).

11.13 In our view, the findings recorded by the Id.CIT(A) that the Assessing Officer has not doubted or objected to the bifurcation of expenses, is contrary to record which was available with Id.CIT(A) and against the duties casted on the Id.CIT(A) by virtue of the provisions of the Income Tax Act. In our opinion, the expenditure claimed by the assessee for executing the work, over and above the cost of construction work of Rs.14,65,65,865/- has not been thoroughly examined by the Id.CIT(A), though he has co-terminus powers. In our opinion, prima facie, the entire expenditure of Rs.94.46 crores (Rs.109.11 crores – Rs.14.65 crores) is not relatable to the activities of the construction and the assessee had wrongly and falsely claimed the same as expenditure incurred towards the contract work. This view of ours is supported by the decision of Hon'ble Delhi High Court in the case of in the case of CIT Vs. Jansampark Advertising and Marketing Pvt. Ltd. (2015) 56 taxman.com 286 (Delhi). Since the Id.CIT(A) granted relief without adequately verifying the facts and figures provided by the assessee, before the Assessing Officer, therefore, we are of the opinion that this issue needs to be remanded back to the file of Assessing Officer with a direction to verify and pass a reasoned speaking order. The order of Id.CIT(A) is considered to be cryptic and non-speaking, because he has failed to exercise the powers bestowed upon him under the Act, as held by the Hon'ble Delhi High Court in the case of Jansampark Advertising and Marketing Pvt. Ltd. (supra) whereby the Delhi High Court has held that the Id.CIT(A) cannot close its eyes and accept the imaginary claims or unrealized claims as real

which is against the commonsense, accepted norms and against the records.

11.14 Undoubtedly, the assessee has claimed only Rs.14,65,65,865/- as cost of sale of real estate and construction expenses (Page 34 of the paper book) against the contract awarded for an amount of Rs.131,97,66,135/-. Thus, the assessee had earned a huge profit of Rs.117,32,00,270/-. The assessee was called upon to explain the huge profit earned by it being the sub-contractor for the Government of Telangana and Government of Andhra Pradesh. The Assessing Officer has also called upon to furnish the following information :

"You may furnish exact details of work given to M/s. LEPL Projects Limited. You may furnish the ledger extracts of M/s. LEPL Projects Limited in your books of account for the F.Y. 2015-16, 2016-17 & 2017-18.

How much profit margin you have admitted on these works given on subcontract to M/s. LEPL projects."

11.15 In response thereto, M/s. MEIL had only filed the details of the work allotted to LEPL but no ledger extract of the assessee in the books of MEIL have been given and further, no details of the profit margin admitted by MEIL on the works given on sub-contract to the assessee was also given.

11.16 The assessee had filed submissions before the Id.CIT(A) and the Id.CIT(A) had called upon the remand report from the Assessing Officer. The submissions of the assessee were captured by the Id.CIT(A) in his order in Paragraphs 13 to 16, which is to the following effect :

13. During the FY 2016-17, certain civil works were awarded on contract basis to the assessee by M/s Mega Engineering & Infrastructures Ltd. (hereinafter referred to as 'MEIL') as per the following details:

Sl. No.	Work order reference and date	Nature of work	Value of work order (in Rs.)	Running bill reference no. and date raised by assessee	Amount of running bill (In Rs.)
1.	MEIL/SLIS/16-17/792 dt.16/10/2016	Somasila Phase-1 Project (3083) - Issue of Work Order for Formation of Approach Road and Other miscellaneous works in Lift- 2 & 3 of Pressure Main pipeline alignment between Yeguaralapalli & Chaparalapalli villages, Anantha Sagaram Mandal, Nellore District (AP).	8,31,07,500.00	Work bill no.01, 02 dt.25/02/17 and 03 dt.30/03/17	8,19,07,975.00
2.	MEIL/M BNR/11 78/WO-2544/16 -17 dt.20/12/2016	Mahabubnagar Water Segment - Work Order for excavation in all soils, PCC works at MS pipeline, HDPE pipeline, WTPs and other structures for Mahabubnagar Water Grid at Achampet and Jadcherla segments.	6,47,53,425.00	Bill no.01 dt.31/01/17, 02 dt.28/02/17 and 03 dt.31/03/17	6,00,00,405.00
3.	MEIL/KP New/11 92/LEPL /w.o-200/16-17 dt.16/12/2016	New Kaleshwaram Sundilla Lift- Work Order for Excavation in all kinds of soils, Hard rock and RCC works at pump house	8,07,53,975.00	Bill no.01 dt.31/01/17, 02 dt.28/02/17 and 03 dt.31/03/17	8,00,05,714.00
4.	MEIL/M BNR/11 78/WO-2264/16 -17 dt.15/11/2016	Mahabubnagar water segment - work order for excavation in all soils, PCC works at MS pipeline, HDPE pipeline, WTPs and other structures for Mahabubnagar Water Grid at Nagarkurnool and Shadnagar segments	8,60,45,350.00	Bill no.01 dt.31/01/17, 02 dt.28/02/17 and 03 dt.31/03/17	8,00,01,055.00
5.	MEIL/PP LIS/16-17/1083 dt.14/12/2016	Purushothapatnam Lift Irrigation Project (3103) - issue of work order for formation of cofferdam, approach road to work site and other miscellaneous works for lift-1 pump house & pressure main pipeline alignment at	26,15,05,000.00	Work Bill no.01 dt.25/01/17, 02 dt.25/02/17 and 03 dt.30/03/17	25,41,34,710.00

		Purushothapatnam (V), Sitanagaram (M) E Godavari (D)			
6.	MEIL/KP IMew/11 89/LEPL /W.O- 174/16- 17 dt.29/1 1/2016	New Kaleshwaram - Medigadla - work order for excavation in all kinds of soils, hard rock and RCC works at pump house	10,22,81,150.00	Bill no.01 dt.31/01/17, 02 dt.28/02/17 and 03 dt.31/03/17	10,00,13,806.70
7.	MEIL/KP New/11 91/LEPL /W.O- 144/16- 17 dt.10/1 1/2016	New Kaleshwaram - Annaram - work order for excavation in all kinds of soils, hard rock and RCC works at pump house	6,13,43,625.00	Bill no.01 dt.31/01/17 and 02 dt.31/03/17.	6,00,00,215.00
8.	MEIL/A DWG- Adllaba d/4127/ 16- 17/150 dt.10/1 0/2016	Adilabad Water Grid (4127) - work order for laying of MS lines including earth work excavation in all types of soils & shifting of excess material, levelling of trench for laying of MS pipes and unloading, lowering, laying, joining of MS pipes, internal & external field joint coating and refilling of pipeline trenches	6,12,00,000.00	Bill no.01 dt.26/01/17, 02 dt.25/02/17 and 03 dt.29/03/17	6,12,00,000.00
9.	MEIL/Ni zamabu d- Singoor water grid (4128)/ WO 441 dt.10/1 0/2016	Nizamabad - Singoor Water Grid - issue of work order for laying of 1530 mm dia MS pipe, joining and Hydro testing	9,02,50,000.00	Bill no.01 dt.05/01/17, 02 dt.10/02/17 and 03 dt.25/03/17	8,69,50,000.00
10.	W.O./M EIL/War angal- Paleru (4125)/ 330/201 6-17 dt.03/1 0/2016	Warangal Paleru - issue of work order for earth work excavation and blasting in hard rock for levelling of site for WTP and construction of drains CC roads and retaining wall	12,03,62,500.00	Bill no.01 dt.28/01/17, 02 dt.27/02/17 and 03 dt.30/03/17	11,90,98,625.00
11.	MEIL/M BNR/11 78/WO- 2197/16 -17 dt.07/1 1/2016	Mahabubnagar Water Segment - work order for excavation in all soils, PCC works at MS pipeline, HDPE pipeline, WTPs & other structures for Mahabubnagar Water Grid at Balakistapur, Wanaparty and Kalwakurty segments.	8,22,09,450.00	Bill no.01 dt.31/01/17, 02 dt.28/02/17 and 03 dt.31/03/17	8,00,00,255.00
12.	MEIL/N WSS/16 -17/744 dt.26/0 9/2016	Nellore WSS project (3093) - issue of work order for formation of approach road and other miscellaneous works at head works, WTP & ESRs and pressure main	6,29,76,000.00	Bill no.01 dt.25/01/17, 02 dt.25/02/17 and 03	6,12,33,925.00

		pipeline alignment between Sangam & Mamdapuram villages, Surapalem (M), Nellore (D)		dt.30/03/17	
13.	MEIL/A KBR segment Nalgonda Water Grid/41 26/W.O. No.135/ 16-17 dt.22/0 7/2016	AKBR Segment - Nalgonda Water Grid - issue of work order for formation of approach roads for hill areas and 1030mm dia MS pipe laying & joining, U.T. & Hydro testing of line including back filing excluding hard rock blasting	18,36,73,470.00	Bill no.01 dt.21/01/17, 02 dt.24/02/17 and 03 dt.26/03/17	17,87,99,980.00
SUB-TOTAL			1,34,04,61,445.00		1,30,33,46,665.70
14.		Sale of plots in real estate business			1,64,19,469.30
TOTAL					1,31,97,66,135.00

14. The running bills raised by the assessee totalling to Rs.1,30,33,46,665.70 were duly accounted under the head 'Revenue from contract works' and duly reported the same as income on the credit side of the audited P&L a/c for the year ended 31/03/2017. The same was reported under the head 'profits and gains from business or profession' in the return of income by reporting the resultant loss as per the said P&L a/c after adjustments. The P&L a/c and the computation of total income depict the same. Thus, at no point of time, assessee, either in its books of accounts/ P&L a/c or in the return of income filed by it for the AY 2017-18, claimed the same as non-taxable credit.

15. The assessee has submitted the following explanation vide its letter dt.05/12/2019 forming part of record of assessment:

"Real Estate and Construction

Nature of Real Estate projects carried out by LEPL Projects was Excavation of Hard Rock for Laying of Pipe Line and Closer of the opened stretch with Suitable soil and Construction of Culverts in Different Irrigation projects on subcontract basis

The work related expense of Rs. 14, 65, 65,865 is direct expenditure incurred incidental to business. Apart from this, other expenses such as Salaries, Travelling, Transport, and Fuel charges etc are incurred.

TDS of 2% was deducted by Contractor on the income. Same is claimed as per the Form 26AS submitted to your perusal."

16. The Id. AO appears to have enquired with MEIL regarding the above income receipts of the assessee from contract works awarded by it to the assessee, yet, did not made any adverse comments on the same.

11.17 Before the Id.CIT(A), the assessee filed written submissions. The Id. AR had drawn our attention to paragraphs 13 to 16, which is to the following effect :

13. In the case of the Appellant, the Learned Assessing Officer, had in spite of the establishment of the three ingredients as mandated by the Standard Procedure, ignored the fulfilment of the required elements and went on to make additions based on suspicion and surmise.

The Learned Assessing Officer was nursing unfounded suspicion while framing the assessment order. The Learned Officer canvassed a doubt to the effect that *“the issue here is whether the assessee was involved in the activity of converting unaccounted money into white money by claiming bogus receipts. The issue needs to be decided in the background of the fact that the assessee incurred losses in its Air Line business”*.

The suspicion is focussed on a surmise that *“bogus receipts”* are introduced to convert unaccounted money into white money. Bogus denotes *“false”* *“not real”* or *“not legal”* – (Cambridge Dictionary). Thus, the Learned

- left intentionally -

Assessing Officer nurses a suspicion that false or unreal or illegal receipts were credited in the books of account of the Appellant.

Apparently, the Learned Assessing Officer had no evidence to support his surmise that the receipts are bogus. Therefore, he resorted to a proposition to the effect that *“it is evident that it is very difficult, if not impossible to collect direct evidence of actual transactions made by the assessee involved in this type of bogus transactions”*.

14. The Learned Assessing Officer failed to acknowledge the fulfilment of the required elements resulting into a satisfactory explanation by the Appellant and proceeded to nurture his surmises. He ignored the evidence available for receipts referred to by him, as detailed hereunder:

Identity of MEIL

- (a) M/s Megha Engineering & Infrastructures Limited, Hyderabad, (herein after called the MEIL) is a regular assessee with PAN AAECM7627A and files their returns of income in Hyderabad.

Creditworthiness of MEIL

- (a) Megha Engineering & Infrastructures Ltd. (MEIL) is a major infrastructure company headquartered in Hyderabad, India with gross turnover exceeding US\$ 1 billion, equivalent to Rs.6400,00,00,000/- (Rupees Six Thousand Four Hundred Crores Only) for the FY 2015-16. MEIL had paid the appellant approximately Rs.132 crores during 2016-17.
- (b) The company emerged as a leading international player in the infrastructure industry.

Genuineness of the transactions

- (a) The appellant was a sub-contractor to MEIL.
- (b) MEIL had obtained the work from Government of Telangana and gave a part of the work to the appellant company for execution.
- (c) Contract receipts from the contract works is Rs.131,97,66,135/- (Rupees One hundred Thirty-One Crores Ninety-Seven Lakhs Sixty-Six thousand One Hundred and Thirty-Five Only).
- (d) The Appellant had received the contracted receipts from the MEIL through proper banking channels.

- (e) Relevant confirmation from the MEIL was obtained by the Learned Assessing Officer regarding this receipt of money.
- (f) There is no dispute on this receipt of money and this receipt is admitted in the assessment order.
- (g) The said amount representing the contracted price is credited to Profit & Loss Account of the Appellant for the relevant financial year.
- (h) Therefore, the said receipt does not represent a "bogus" receipt. genuineness of the receipt is established.

Therefore, the Appellant had established all the three fundamental requirements required of him under the said Standard Procedure, for the amounts credited in the books of account – viz., (1) identity of the creditor; (2) creditworthiness of the creditor; and (3) genuineness of the transaction.

Contract expenditure referred is not the total expenditure

15. It is submitted that the expenditure considered by the Learned Assessing Officer is not the total expenditure incurred for the contract under reference. The Learned Assessing Officer referred to a sum of Rs.14,65,65,865/- and reached a conclusion that such amount is the total cost incurred in respect of the contract under reference.

The fact is that the said sum of Rs.14,65,65,865/- represents only the recoveries made by MEIL, the main contractor, towards the cost of materials supplied by them to the Appellant for use in the performance of the contract. Such recovery is not the total cost of the work given to the appellant.

A brief description of the works allotted to the Appellant are as under. The work involved earthwork, including paving of hard rock beds, digging of trenches for laying pipelines and for flow of water. The principal ingredient of the contract is labour oriented assisted by heavy equipment.

S. No.	Nature of Work	Value in Rs. (crores)
1	Somasilla Phase 1 – formation of approach road and miscellaneous works in pressure main pipeline alignment	8.31
2	Mehbubnagar – Excavation in all soils, and RCC work at MS pipeline, HDPE pipeline, WTP and other structures for Mehbubnagar Water Grid.	6.48
3	New Kaleswaram – Excavation in all kinds of soils, hard rock and RCC works at pump house.	8.07
4	Nagar Kurnool. Excavation of all soils including hard rock,	8.60
5	Purushottam Patnam Lift irrigation works – for formation of cofferdam, approach road and pipeline alignment.	26.15

6	New Kaleswaram – Excavation of all kinds of soil including hard rock and RCC works at pump house	10.23	
7	Annaram - Excavation of all kinds of soil including hard rock and RCC works at pump house	6.13	
8	Adilabad Water Grid – Laying of pipelines including earthwork, and Excavation of all kinds of soil including hard rock	6.12	
9	Nizamabad – Singur Water Grid – Laying of 1530 mm diameter MS pipeline.	9.2	9.08
10	Warangal Paleru – Earth Work and Excavation of all kinds of soil including hard rock for construction of drains, CC Roads and retaining wall	12.4	12.08
11	Mahboobnagar Water Segment Excavation of all kinds of soil including hard rock	8.22	
12	Nellore WSS project – formation of approach road and other works at Head Works alignment of pipelines	6.30	
13	Nalgonda Water Grid – formation of approach roads for HILL Areas and laying of 1030 mm Diameter pipeline	18.37	
	Approximate Total value of the contracts in Crores	134.64	

A detailed list of the above contracts is included in the statement of facts.

The contracts are for laying various pipes and for earth work at several places specified by the main contractor. The material to be used, i.e., pipes to be laid underground, was supplied by MEIL, the main contractor. The Appellant had to perform the entire work entrusted using the material supplied. The majority segment of the work performed is excavation of all kinds of soil including hard rock and partly RCC work at the pumphouse.

Apart from such material received, the Appellant had incurred other expenditure towards wages, hire charges, finance costs and other administrative expenses. These costs form part of the separate heads of accounts included in the Profit and Loss Account.

The contract is labour oriented and nearly 45% of the cost of the contract is towards labour wages only. Such expenditure towards wages and the costs form part of the expenditure incurred under the account head “Employee Benefits and Expenses” debited to Profit and Loss Account.

The Appellant had further incurred hire charges for the equipment involved, such as proclainers, bulldozers, and tractors which are essentially required to do the earth work entrusted to the Appellant. Appellant had incurred charges for hiring the same and the costs form part of the expenditure incurred under the head “Lease Rentals Paid” debited to the Profit and Loss Account.

The Appellant had borrowed money from banks to meet the working capital needs of the contract. Appellant had NOT borrowed any sums for other operations carried out. The entire cost of borrowing is booked under the account head “Finance cost” debited to the profit and loss account.

There are several miscellaneous expenses, including rents for offices maintained at work locations, travel expenses, office expenses, administrative expenses, etc., which form part of the account head "Other Expenditure" debited to the Profit and Loss Account.

16. The Learned Assessing Officer had not adopted a practical approach and had NOT considered the relevance of expenditure other than the recovery of costs by the main contractor. He had not made any estimate of such crucial part of the expenditure involved in completing the work. Even an estimated consideration of these expenses will reveal that the gross profit is not as projected by the Learned Assessing Officer.

The Appellant submits that the Learned Assessing Officer erred in his estimation of the expenditure involved in competing the contract and arrived at a false figure of profit. Statutory provisions allow deduction of expenses incurred for earning income. The Learned Assessing Officer failed to take notice of these expenses appearing in the profit and loss account. Such failure to deduct relevant expenses for the earnings is violative of the statutory principles and such assessment ought to be set aside.

11.18 The above said submission of the assessee, if compared with the reply submitted by M/s. MEIL which is at page 130 of the paper book, then it is apparent that running bills have been raised by the assessee immediately after the grant of the work order by M/s. MEIL. In fact, the details of the project and the date of award given by MEIL can be summarized as under :

Sl. No.	Name of project	Work order No.	Date of work order
1	Akbar Nalagonda Project	MEIL/AKBR-Nalgonda Water Grid/4126/W.O.No.135/16-17 for a total value of Rs.18,36,73,470/-	22.07.2016
2	Nellore WSS Project	MEIL/NWSS/16-17/744 for a total value of Rs.6,29,76,000/-	26.09.2016
3	Purushothappatnam Lif Irrigation Project	MEIL/PPLIS/16-17/1083 for a total value of Rs.26,15,05,000/-	14.12.2016
4	Kaleswaram – Medigadda	MEIL/KP-New/1189/LEPL/W.O.174/16-17 for a total value of rs.10,22,81,150	29.11.2016
5	Kleswaram – Sundilla	MEIL/KP-New/1189/LEPL/W.O.200/16-17 for a total value of Rs.8,07,53,975/-	16.12.2016
6	Kaleswaram – Annaram	MEIL/KP-New/1189/LEPL/W.O.144/16-17 for a total value of Rs.6,13,43,625/-	29.11.2016

7	Nizamabad Singur Water grid	MEIL/Nizamabad – Singoor Water Grid (4128)/W.O.441/16-17 for a total value of Rs.9,02,50,000/-	10.10.2016
8	Adilabad Water grid	MEIL/ADWG-Adilabad/4127/16-17/150 for a total value of Rs.6,12,00,000/-	10.10.2016
9	Warangal Paleru	MEIL/Warangal – Paleru (4125)/330/2016-17 for a total value of Rs.12,03,62,500/-	03.10.2016
10	Somasila	MEIL/SLIS/16-17/792 for a total value of Rs.8,31,07,500/-	06.10.2016
11	Mahbubnagar Grid	MEIL/MBNR/1178/WO/3159/16-17 for Rs.6,02,74,241.50	09.02.2017
12	-do-	MEIL/MBNR/1178/WO/2197/16-17 for Rs.8,22,09,450	07.11.2016
13	-do-	MEIL/MBNR/1178/WO/2264/16-17 for Rs.8,60,45,350	15.11.2016
14	-do-	MEIL/MBNR/1178/WO/2544/16-17 for Rs.6,47,53,425	20.12.2016

11.19 From the perusal of the above table, it is clear that the only two projects namely, Akbar Nalagonda Project and Nellore WSS Project were given on sub-contract to the assessee by MEIL in the month of July / September 2016 for Rs.18,36,73,470/- and Rs.6,29,76,000/-, respectively and the works were to be completed in the time frame given by the contractor. Similarly, the record shows that in respect of 10 work orders, the bills were raised immediately after the receipt of the contract work. The contract work for Kaleswara Sundilla at Sl.No.5 was allocated by MEIL on 16.12.2016 for a sum of Rs.8,07,53,975/- and the assessee ironically had raised the running bill of Rs.8,00,01,05/- on 31.01.2017, 28.02.2017 and 31.03.2017. We fail to understand how the bills can be raised within a gap of 43 days after the receipt of the work order for a huge amount. Similarly, in the case of the work order No.MEIL/MBNR/1178/WO/2544/16-17 at Sl.No.14, was given on 20.12.2016 and the assessee after receipt of the work order, within 40 days, has raised a huge bill of Rs.6 crore out of total work value of Rs.6,47,53,425/-. The only inference we can draw from the above

said analysis of the work contracts and the running bills is that either the bills were raised without any work done by the assessee or after doing negligible work and the amount was paid by MEIL to the assessee. There is no corresponding expenditure incurred by the assessee for executing the above said projects as mentioned in the preceding paragraphs except the small sum of Rs.14,65,65,865/-. In our opinion, when the 12 work orders were given by M/s. MEIL to the assessee, only after October, 2016, therefore, there is no occasion for the assessee to claim any running bills from M/s. MEIL in the assessment year under consideration. In our view, the observation of the Assessing Officer that no prudent businessman can grant such a sub-contract and permit the assessee to earn such a huge profit by spending meager amount of 8% of the contract value, is correct.

11.20 Before the ld.CIT(A), the assessee had filed submissions and in those submissions, the assessee had mentioned that it obtained the sub-contract work from M/s. Megha Engineering and Infrastructures Limited, Hyderabad (“MEIL”) through the Government of Telangana and Government of Andhra Pradesh. The assessee claimed to have earned such a huge profit approximately more than 92% of the total cost of the project. Out of which, assessee had only spent a sum of Rs.14,65,65,865/- on the construction work. In our view when the work is allocated by the State Government, the technical and commercial bids are called for and the payments are typically released based on the amount of work certified by the State Agency.

11.21 However, the Assessing Officer and ld.CIT(A) had failed to apply their mind to the basic fact that earning of more than 92% profit in the case of development activities, especially those intended for boosting the infrastructure meant to benefit the citizens, is highly unusual. In the present case, it is the case of

the assessee that it had earned a huge profit of 113 crores out of a total cost of Rs.131 crores apparently and thus pocketed more than 90% of the contract work. The earnings of such a huge profit and declaration of income by the assessee is unimaginable and beyond the preponderance of human probability and against the commonsense. The Assessing Officer / Id.CIT(A) should have raised eyebrow, scrutinized the profits earned by the assessee particularly considering that the development activity was intended for the citizens' welfare, not merely meant for the enrichment of the assessee.

11.22 If the arguments of assessee that it has earned the profit and paid the taxes are to be accepted, it would set a wrong precedent wherein development activities are undertaken without due execution, thereby neglecting the essence of responsible contract management in development projects. We have no reason to agree with the above said conclusion of the authorities below which seemingly have approved the huge profit earned by the assessee. The Id.CIT(A) has not applied his mind and had accepted the expenditure incurred by the assessee towards the aircraft business to be expenditure of construction activity and wrongly concluded that profit of 16% is just and fair. In the development project of the State, it is highly unimaginable and impermissible to divert the funds meant for construction and irrigation projects of the government to the aircraft activities of the assessee and further, it is highly impossible to earn the huge profits which is more than 90% of the contract value. We can imagine what kind of development on paper had taken place on the above noted 14 sites since as against the cost of Rs.131 crores, Rs.14 crores only had been spent and the remaining amount was adjusted towards the expenditure of the other activities i.e., aircraft business of the assessee. In our view, the notion of earning a profit of 90% is unimaginable and in other

words, is **Contractual Loot** under the guise of the alleged development activities.

11.23 It is correct that the assessee, in its wisdom, has disclosed the entire amount as income in the assessment year under consideration. However, we fail to understand whether any revenue, that is illegally and unlawfully received by the assessee can be considered as legal income. Tribunal being the final fact-finding authority has a duty to ensure that the Government funds meant for the development should be used for development and nor to be used for growth or enrichment of any individual. Though it is correct that the assessee disclosed the entire receipts and attempted to provide back-to-back verification form the contract justifying payment to the assessee but however, except providing the copy of contract by MEIL, MEIL had not provided the ledger account and other details of the expenditure to the lower authorities. As observed hereinabove, that 12 work contracts were issued after October, 2016, therefore, it is highly unimaginable and unfathomable that the major work has been completed and running bills were raised and the payments were made for the said work done by the assessee before March 2017. In our view, a livelink is required to be established with respect to the allotment of the work and its commencement, execution and completion and payment thereof. No such information was provided to any of the lower authorities by the assessee. Further, we are of the opinion that the release of payments is directly linked with bench mark fixed for various stages of completing the project.

11.24. In our view, though the identity of MEIL is established however, neither the genuineness nor the creditworthiness has been examined and proved by the assessee before the lower

authorities. Merely granting sub-contracts without any corresponding development activities will not legalize the unlawful amount paid by the said MEIL to the assessee in the guise of the running bills. Further nothing had been brought out on record that the State Government had permitted MEIL to grant sub-contract to assessee. Accepting the income disclosed by the assessee as legal income would be illogical, contrary to law and undermine the purpose of construction activities. In fact, it is difficult to comprehend that such activities were permitted to be carried out unabated by the State Government and huge amount has allegedly been released to such contractors. The time has come where some suitable mechanism should be put in place by the State Government or other agencies against such contractors so that there should not be any siphoning or diversion of funds meant for development by any unscrupulous contractor. If today we decide this issue against the Revenue, by legalizing the payment merely because the contractor had submitted the confirmations of grant of contract then it would set a wrong precedent and there would not be any actual construction / development works would take place.

11.25 Since in the present case, the Revenue authorities have failed to examine the details of the work contracts awarded and the payment made by the Government which are relatable to various stages of work contract, therefore, we remit back the matter to the file of Assessing Officer for fresh examination. Needless to say while examining the matter afresh, the Assessing Officer shall take the assistance from state Government Development Agencies and other statutory enforcement agencies to find out the terms of the allotment of the contract, execution, performance, quality control etc., and whether the assessee can divert the funds meant for development to its other activities namely, aircraft / solar power business. Thereafter, considering

the inputs from the State Government and other enforcement agencies the Assessing Officer shall decide the matter in accordance with law after granting due opportunity of hearing to the assessee.

11.26 In case, the Assessing Officer comes to the conclusion that no work has been executed by the assessee or only a small part of the work has been executed then to pass the assessment order accordingly. Thus, ground no.2 is allowed for statistical purposes.

GROUND NO.3

12. The third ground raised by the Revenue is with respect to the deletion of addition towards Short Term Capital Gains. In this regard, the ld.DR for the Revenue had not made any argument and has relied upon the order passed by the Assessing Officer. Similarly, the ld.AR relied upon the order passed by the ld.CIT(A).

12.1 We have heard the rival contentions and perused the material on record. Since we are remanding ground no.2 back to the file of Assessing Officer, therefore, it is deemed appropriate to remand this issue also to the file of Assessing Officer, to maintain the consistency. Needless to say in this regard, the Revenue as well as the assessee has not substantiated their claims by filing any written submissions. Accordingly, ground No.3 is also allowed for statistical purposes.

13. Thus, the appeal of the Revenue is allowed for statistical purposes.

Order pronounced in the Open Court on 22nd February, 2024.

Sd/- (R.K. PANDA) VICE PRESIDENT	Sd/- (LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 22nd February, 2024.

TYNM/sps

Copy to:

S.No	Addresses
1	M/s. LEPL Projects Limited, 59-14-19, Lingamaneni Corporate House, N.H.5, Ramchandra Nagar, Vijayawada – 520008.
2	Deputy Commissioner of Income Tax, Central Circle – 3(1), Hyderabad.
3	PCIT(Central), Hyderabad.
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order