

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C", NEW DELHI
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER
AND
SHRI L.P. SAHU, ACCOUNTANT MEMBER

ITA No. 5558/Del/2013	
A.Y. : 2010-11	
INCOME TAX OFFICER, BHAGWARA, MANDI SAMITI PARISAR RUDRAPUR	VS. M/S HOTEL RUDRA CONTINENTAL KASHIPUR BYPASS ROAD, RUDRAPUR, US NAGAR (PAN: AADFH6007K)

Department by : Sh. Amrit Lal, Sr. DR
Assessee by : Sh. Somil Aggarwal, & Sh. Taurn
Kr. Adv.

ORDER

PER H.S. SIDHU : JM

The Revenue has filed this Appeal against the order dated 22.7.2013 of the Ld. CIT(A)-II, Dehradun for the assessment year 2010-11 on the following grounds:-

- “1. Whether Ld. CIT(A) was correct, on facts and in the circumstances of the case that hotels situated in the state of Himachal Pradesh or the State of Uttranchal having a valid license on the basis of No Objection from Pollution Department which can be treated to be a hotel eligible for deduction u/s. 80IC as per provisions of section 80IC.

2. Whether Ld. CIT(A) was correct, on facts and in the circumstances of the case in interpreting the activity in item no. 15 of Part C of the Fourteenth Schedule “Eco tourism including hotels, resorts, spa, entertainment / amusement parks and ropeways equivalent to norms prescribed to obtain “No Objection” from the Pollution Department.”

2. Facts narrated by revenue authorities are not disputed by both the parties, hence, the same are not repeated here for the sake of convenience.

3. At the time of hearing both the parties agreed that the issue in dispute has already been decided in favor of the assessee by the ITAT, but in the appeal filed by the Revenue in the case of CIT vs. M/s Aanchal Hotels Pvt. Ltd. & Ors. before the Hon’ble High Court of Uttarakhand at Nainital, the Hon’ble High Court of Uttarakhand vide its order dated 16.6.2016 has set aside the order of the ITAT and remanded the issue in dispute back to the file of the AO to decide the same afresh, as per law, after providing opportunity to all the assesses, taking note of the observation of the Hon’ble High Court in its order dated 16.6.2016.

4. Keeping in view of the agreed position by both the parties as well as the facts and circumstances of the present case, we are of the considered view that the Hon’ble High Court of Uttarakhand at Nainital in ITA No. 09 of 2012 & Ors. in the case of CIT vs. M/s Aanchal Hotels Pvt. Ltd. & Ors. vide its order dated 16.6.2016 has set aside the order of the ITAT and remanded the issue in dispute back to the file of the AO to decide the same afresh, as per law, after providing opportunity to all the assesses, as per the observation of the Hon’ble High Court given in its order dated 16.6.2016. Respectfully following the order

dated 16.6.2016 of the Hon'ble High Court of Uttarakhand at Nainital in the case of CIT vs. M/s Aanchal Hotels Pvt. Ltd. & Ors. (Supra), we set aside the issue in dispute to the file of the AO with the direction to decide the same afresh in accordance with the directions given in the order dated 16.6.2016 passed by the Hon'ble High Court of Uttarakhand at Nainital, as aforesaid, after giving opportunity to the assessee.

5. In the result, the Revenue Appeal stands allowed for statistical purposes.

Order pronounced in the Open Court on 27/12/2016.

Sd/-

[L.P. SAHU]
ACCOUNTANT MEMBER

Sd/-

[H.S. SIDHU]
JUDICIAL MEMBER

Date 27/12/2016

“SRBHATNAGAR”

Copy forwarded to: -

1. Appellant -
2. Respondent -
3. CIT
4. CIT (A)
5. DR, ITAT

TRUE COPY

By Order,

Assistant Registrar, ITAT, Delhi Benches