

आयकर अपीलीय अधीकरण, न्यायपीठ – “B” कोलकाता,  
**IN THE INCOME TAX APPELLATE TRIBUNAL “B” BENCH: KOLKATA**  
 (समक्ष) Before श्री ए. टी. वर्की, न्यायीक सदस्य एवं/and श्री वसीम अहमद, लेखा सदस्य)  
 [Before Shri A. T. Varkey, JM & Shri Waseem Ahmed, AM]

**I.T.A. No. 598/Kol/2015**  
**Assessment Year: 2011-12**

Deputy Commissioner of Income-tax, Circle-7(2), Kolkata.	Vs.	M/s. RBA Properties Ltd. (PAN: AACCR0584P)
Appellant		Respondent

Date of Hearing	04.07.2017
Date of Pronouncement	22.09.2017
For the Appellant	Shri Saurabh Kumar, Addl. CIT, DR
For the Respondent	S/Shri S.L. Kochar & Anil Kochar, Advocates

**ORDER**

**Per Shri A.T.Varkey, JM**

This is an appeal preferred by the revenue against the order of Ld. CIT(A)-3, Kolkata dated 04.03.2015 for AY 2011-12.

2. The main grievance of the revenue is against the order of Ld. CIT(A) directing the AO to compute the business arrangement fee, miscellaneous receipts and other income derived from property under the head “Income from House Property.”

3. Brief facts of the case are that the assessee is engaged in the activity of letting out of property for a number of years. In the earlier assessment years, the head under which various receipts relating to property were claimed by the assessee as ‘Business Income’, which was accepted by the AO for AY 2005-06. The Ld. CIT exercising his jurisdiction u/s. 263 of the Income-tax Act, 1961 (hereinafter referred to as the “Act”) directed the AO to treat the receipts under the head “Income from house property”. The assessee challenged the order of CIT passed u/s. 263 of the Act before the Tribunal and the Tribunal was pleased to dismiss the appeal of the assessee. Thereafter, AY 2005-06 onwards, the AO pursuant to the order of the CIT passed u/s. 263 of the Act assessed the income under the head “Income

from house property". Thereafter, all the receipts from the letting out of property were assessed under the head "Income from house property". Departure from this happened in AY 2009-10, wherein the AO treated the said income from amenities provided to the tenants and facilities such as furniture, air-conditioner and other amenities under the head "Income from other sources" which was challenged by the assessee before the Ld. CIT(A), who was pleased to direct the AO to treat the entire receipt on account of utilities, business arrangements fee and miscellaneous receipt under the head "Income from house property" which order of Ld. CIT(A) was later upheld by the Tribunal vide order dated 26.08.2014. Meanwhile in this assessment year i.e. AY 2011-12, the AO has taken a view that certain receipts like business arrangement fee, miscellaneous receipts and other income derived from the property under the head "Income from other sources". We note that the Ld. CIT(A) has clearly taken note of the fact that from AY 2005-06 onwards, pursuant to the order of CIT passed u/s. 263 of the Act, the aforesaid entire receipts were taxed under the head "Income from house property". Thereafter, the assessee claimed the income from house property. When the facts permeating throughout the earlier years are the same, and there is no change in law, principle of consistency has to be observed as held by the Hon'ble Supreme Court in the case of Radhasoami Satsang vs CIT (1992) 193 ITR 321 (SC). We note that the Ld. CIT(A) had given the direction to treat the receipts of the assessee taking into consideration the Tribunal's order upholding his action for the year 2009-10, therefore, we do not find any infirmity in the order passed by the Ld. CIT(A) and so, we confirm the same. The appeal of revenue is dismissed.

4. In the result, the appeal of revenue is dismissed.

Order is pronounced in the open court on 22.09.2017

Sd/-  
(Waseem Ahmed)  
Accountant Member

Sd/-  
(Aby. T. Varkey)  
Judicial Member

Dated :22nd September, 2017

Jd.(Sr.P.S.)

Copy of the order forwarded to:

1. Appellant – DCIT, Circle-7(2), Kolkata
2. Respondent – M/s. RBA Properties Ltd., 22, Camac Street (Abanindra Nath Sarani), Kolkata-700 016.
3. The CIT(A), Kolkata
4. CIT , Kolkata
5. DR, Kolkata Benches, Kolkata

/True Copy,

By order,

Sr. Pvt. Secretary