

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'F' NEW DELHI**

**BEFORE SH. R.K.PANDA, ACCOUNTANT MEMBER  
AND  
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No. 6345/Del/2014  
(ASSESSMENT YEAR: 2008-09)**

Ravinder Kumar Ahuja HUF, M/s. P.N.Khanna & Company, CA, 14-15F, SHivam House, Connaught Place, New Delhi-110001. PAN-AAAHR2891E	<b>vs</b>	ACIT, Circle-33(1), New Delhi-110002.
<b>(Appellant)</b>		<b>(Respondent)</b>

<b>Appellant by</b>	Sh. P.J.Khanna, CA
<b>Respondent by</b>	Sh. Atiq Ahmad, Sr.DR
<b>Date of Hearing</b>	03.10.2017
<b>Date of Pronouncement</b>	05.10.2017

**ORDER**

**PER SUCHITRA KAMBLE, JUDICIAL MEMBER**

This appeal preferred by the assessee is against the order dated 29.09.2014 of the Commissioner of Income Tax (Appeal) -XXVI, New Delhi for 2008-09 Assessment Year.

2. The grounds of appeal are as under:-

“1. *On the facts and in the circumstances of the case, the appellate authority has erred in upholding the annual value of the property situated at 4, Uma Nagar, Begumpet, Hyderabad-500016 at Rs. 261840/- as against the annual value of the property as per municipal records at Rs.35306/-.*

3. The assessee filed its original Return of Income (ROI) showing income of Rs.5,11,27,630/- on 30.09.2008. The case was processed u/s 143(1) of the Income Tax Act, 1961. During the course of assessment proceedings u/s 143(3)

in the case of the assessee for the AY 2009-10, it was noticed that the assessee had not shown any rental income from its residential house property situated at Hyderabad which was occupied by one of the relatives of Karta of the assessee HUF. Accordingly, after recording reasons, the case of the relevant Assessment Year was reopened. The house property situated at Hyderabad was admittedly occupied by the wife of late elder brother of Karta of the appellant HUF and that too without any rent. The Assessing Officer, on the basis of local enquiry conducted through the office of the ITO(Inv.) Hyderabad; details of which were mentioned in the assessment order of the AY 2009-10, worked out the Annual Value (AV) of the house property situated at Hyderabad at Rs.2,61,840/-. After allowing deduction u/s 24(a), the Assessing Officer computed the income from the house property situated at Hyderabad at Rs.1,75,784/- and taxed it accordingly.

4. Aggrieved, the assessee filed this appeal challenging the taxability of notional rental income by raising one and only ground as under:

*"On the facts and in the circumstances of the case, the assessing authority has erred in assuming the rental value of the property situated at 4, Uma Nagar, Begumpet, Hyderabad-500016 at Rs.2,61,840/- as against the annual value of the property as per municipal records at Rs.35,306/-."*

5. The CIT(A) dismissed the appeal of the assessee holding that he is unable to persuade himself with the finding of his predecessor in the assessee's case for the Assessment Year 2009-10. Accordingly, the CIT(A) held that the Assessing Officer was justified in adopting the capital Annual value (AV) at Rs.2,61,840/- for working out the capital Annual Value (AV) and the property situated at Hyderabad. Consequently, the income worked out from the house property situated at Hyderabad was sustained by the CIT(A).

6. The Ld. AR submitted that the Department has filed appeal before the ITAT, New Delhi in assessee's own case for Assessment Year 2009-10 being ITA No. 338/Del/2013 the ITAT vide order dated 24<sup>th</sup> September, 2014 has dismissed the Revenue's appeal. Therefore, the issue contested herein is decided in favour of the assessee by the ITAT. Therefore, this appeal has to be allowed as the CIT(A) has not considered his predecessor's order.

6. The Ld. DR relied upon the order of the Assessing Officer and the order of the CIT(A). The Ld. DR could not controvert, the order passed by the ITAT in assessee's own case for Assessment Year 2009-10.

7. We have heard both the parties and perused the material available on record. The ITAT in Revenue's appeal for Assessment Year 2009-10 held as under:-

“7. Ground No. 3 is on the issue of addition of notional rent on the property at Hyderabad. The Ld.CIT(A) has given a finding that the property at Hyderabad is subject to rent control legislation and under those circumstances Municipal valuation is adopted as the annual value u/s 23(1)(a) of the Act. We find no infirmity in this finding. In the result, this ground is dismissed.”

Thus, the facts of the present case are squarely covered by the order of the ITAT in A.Y. 2009-10. In fact, the CIT(A) order also mentioned about his predecessor's order which was in favour of the Assessee. The inconsistent stand by the Department is not proper when the issues are similar to the earlier Assessment Years wherein the department has verified all the factual aspects and after verifying the same allowed the appeal of the Assessee. Therefore, the order of the CIT(A) is set aside.

8. In result, the appeal of the assessee is allowed.

**The order is pronounced in the open court on 05<sup>th</sup> October, 2017.**

**Sd/-  
(R.K.PANDA)  
ACCOUNTANT MEMBER**

**Sd/-  
(SUCHITRA KAMBLE)  
JUDICIAL MEMBER**

Date:- 05.10.2017  
R. Naheed

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

		Date	
1.	Draft dictated	04.10.2017	PS
2.	Draft placed before author	04.10.2017	PS
3.	Draft proposed & placed before the second member		JM/AM
4.	Draft discussed/approved by Second Member.		JM/AM
5.	Approved Draft comes to the Sr.PS/PS	5.10.2017	PS/PS
6.	Kept for pronouncement on		PS
7.	File sent to the Bench Clerk	5.10.2017	PS
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		