

**In the Income-Tax Appellate Tribunal,  
Delhi Bench 'G', New Delhi**

**Before : Shri G.D. Agrawal, President and  
Shri Rajpal Yadav, Judicial Member**

**ITA Nos. 272 & 297/Del./2014  
Assessment Years: 1997-98 & 1998-99**

M/s. Sardar Exhibitors (P) Ltd., 1147, Chandni Chowk, New Delhi. PAN – AABCS1835K <b>(Appellant)</b>	vs.	D.C.I.T., Circle 7(1), New Delhi <b>(Respondent)</b>
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<b>Appellant by</b>	Shri G.S. Kohli, C.A.
<b>Respondent by</b>	Shri Kaushlendra Tiwari, Sr. DR

<b>Date of Hearing</b>	05.10.2017
<b>Date of Pronouncement</b>	06.10.2017

**ORDER**

**Per Bench, J.M.:**

The present two appeals are directed at the instance of assessee against two separate orders of ld. CIT(A) of even date, i.e., 1<sup>st</sup> November, 2013 passed for the assessment year 1997-98 and 1998-99.

2. The solitary common grievance of the assessee in both the years relates to denial of deduction amounting to Rs.6,60,000/- out of rental income.

3. With the assistance of the learned Authorized Representative, we have gone through the records carefully. It emerges out that the facts in both the years are common and therefore, we are taking the vital facts on the issue from the assessment year 1997-98.

4. An assessment order u/s. 143(3) of the Income Tax Act was passed on 31.03.2000, determining the taxable income of the assessee at Rs.91,93,970/-. The assessee has let out a property to Ministry of Defense vide lease deed dated 16<sup>th</sup> September, 1986. According to the assessee, it has provided certain extra facilities, for which separate amount was calculated and it was directly paid to M/s. Amrit Properties. Thus, the assessee has claimed a deduction of Rs.6,60,000/- representing the amount paid to M/s. Amrit Properties. The Assessing Officer did not allow this claim to the assessee in the assessment order dated 31.03.2000 passed for assessment year 1997-98. Dissatisfied with this disallowance, the assessee carried the matter before the Id. CIT(A) and the first appellate authority vide order dated 23.03.2001 allowed the claim of the assessee. Ultimately, the dispute travelled to the Tribunal vide ITA Nos. 2333 and 2334/Del./2001 which were decided vide order dated 31.03.2005. Thereafter the order was recalled partly for not adjudicating certain issues and ultimately vide order dated 11.09.2008, the

Tribunal has set aside the issue with regard to determination of allowance/disallowance of expenses amounting to Rs.6,60,000/- paid to M/s. Amrit Properties. In pursuance of the Tribunal's order, the Assessing Officer passed the impugned assessment order on 01.02.2010 and disallowed the claim of the assessee. The Assessing Officer was of the opinion that the assessee failed to submit the requisite details. Dissatisfied with the order of the Id. Assessing Officer, the assessee carried the matter in appeal before the Id. CIT(A). The Id. CIT(A) concurred with the Assessing Officer by observing that deduction against rental income could be claimed u/s. 24 only and there is no other mechanism for providing any other deduction.

5. With the above factual background, we have gone through the record carefully. The solitary controversy before us in both these years is whether the assessee is entitled for the deduction of Rs.6,60,000/- in each assessment year on the ground that this amount was received by the assessee for providing ancillary assets and services to the Ministry of Defense.

6. The Id. Counsel for the assessee took us through the lease agreement and contended that in clause 17, the assessee has specifically agreed for modification, addition and alteration to the said premises. It has incurred cost

on that. Under the mutual agreement, this cost was being compensated by way of separate payment, which was given to M/s. Amrit Properties directly. The assessee was getting only Rs.50,000/- out of that separate payment. An agreement with M/s. Amrit Properties was also executed simultaneously. Copies of both these agreements are placed on record at pages 36 to 48. He also submitted that right from 1986-87 to 1996-97, the department has accepted this arrangement and never this expenditure was disallowed to the assessee. He took us through various details exhibiting such payments to M/s. Amrit Properties directly by the Ministry of Defense.

7. On the other hand, the ld. DR contended that against rental income, the assessee can only claim expenditure as provided u/s. 24 of the Income-tax Act.

8. On due consideration of the facts and circumstances, we are of the view that clause 17 of the Lease Agreement exhibits incurrence of expenditure for modification, addition and alteration to the premises. This has generated additional space also. A simultaneous agreement was executed with M/s. Amrit Properties and according to the understanding of the parties, certain amount was earmarked for this modification and it was paid continuously to M/s Amrit Properties directly by the tenant. This arrangement was accepted

by the Department for 8-9 years. All of a sudden, the department has disallowed the expenditure to the assessee without there being any variation in the factual position. Considering the factual consistency allowed by department from 1986-87 to 1996-97 when agreement was construed in a particular manner and the expenditure was allowed to the assessee, we do not see any reason for deviation. We, therefore, allow both the appeals of the assessee and delete the disallowance of Rs.6,60,000/- in each year.

9. In the result, both the appeals of the assessee are allowed.

Order pronounced in the open court on 6<sup>th</sup> October, 2017.

**Sd/-**  
**(G.D. Agrawal)**  
**President**

**Sd/-**  
**(Rajpal Yadav)**  
**Accountant Member**

Dated: 06/10/2017

*\*aks\**

*Copy of order forwarded to:*

(1) <i>The appellant</i>	(2) <i>The respondent</i>
(3) <i>Commissioner</i>	(4) <i>CIT(A)</i>
(5) <i>Departmental Representative</i>	(6) <i>Guard File</i>

*By order*

*Assistant Registrar*  
*Income Tax Appellate Tribunal*  
*Delhi Benches, New Delhi*

		Date		
1.	Draft dictated / (DNS)	05.10.17		PS
2.	Draft placed before author	05.10.17		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			PS/PS
6.	Kept for pronouncement on			PS
7.	File sent to the Bench Clerk			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.			