

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'G' NEW DELHI**

**BEFORE SHRI G.D. AGRAWAL, HON'BLE PRESIDENT
&
SHRI K.N. CHARY, JUDICIAL MEMBER**

**ITA No.-1218/Del/2015
(Assessment Year: 2010-11)**

ACIT Circle 22(2), Room No. 226, 2 nd Floor, C.R. Bldg., I.P. Estate, New Delhi.	vs	S.G.S. Infratech Ltd. (Formerly SGS Agencies Ltd.) R-10, Green Park Main, New Delhi. PAN No. AABCS6180M
APPELLANT		RESPONDENT
Revenue by		Sh. K. Tewari, Sr. DR
Assessee by		None

Date of Hearing	11.07.2018
Date of Pronouncement	11.07.2018

ORDER

PER K. NARSIMHA CHARY, J.M.

This is an appeal by the Revenue against the order dated 16.12.2014 of Ld. Commissioner of Income Tax (Appeals)- 8, ("Ld. CIT(A)) New Delhi relating to AY 2010-11.

2. The assessee is a company deriving income from the business of operating commercial mall at Pune and renting of shops at the commercial mall at Pune and also the factories at Gurgaon. For the AY 2010-11 assessee filed their return of income on 14.10.2010 declaring a loss of Rs. 5,71,64,383/-. Though the assessee initially divided its operations in the mall as income from house property and profits and gains of business or

profession, at the instance of the Ld. AO they have bifurcated the expenses, advice into rental income, business income and mall tenants share of common expenses recovered from them on Pro-Rata basis in ration of business income to rental income. Similarly, the expenses have been bifurcated as expenses exclusively against Rental income, inadmissible expenses added back to returned income, common joint expenses incurred on behalf of Mall tenants and on own business (recovered from tenants on pro-rata basis), direct expenses incurred exclusively for own business and lastly administrative and corporate expenses incurred.

3. AO found that the total receipts of the assessee were 16,60,86,641/- and the business income was Rs. 1,40,43,948/-. The business income constitutes only 8.5% of the total income. However, the assessee charged the entire administrative and corporative expenses to the tune of Rs. 1,20,23,094/- to the business income alone. According to the Ld. Assessing Officer ("the AO") it is not justified, because the rental income from Mall and other receipts of common expenses recovered from tenants is a full time job and require a law of administrative attention. On this premise, Ld. AO disallowed 50% of the administrative expenses and added it back to the income of the assessee.

4. In appeal, Ld. CIT (A) considered the facts of the case in the light of the decision of the Hon'ble Apex Court in CIT vs. Chennai Properties and Investments Ltd. (2008) 303 ITR 33 and held that the rental income received from the shops and factories should be treated as income from house property and other receipts should be treated as income from other sources. Therefore, he directed

the Ld. AO to consider the allocation of the interest income on borrowed funds in the ratio of the area of shops for the calculation of proportionate interest relatable to the shops and other activities of the Mall.

5. Challenging the order of the ld. CIT (A) Revenue preferred this appeal on the following grounds:

1. *“The Ld.CIT (A) has erred in law and on facts in deleting addition of Rs. 60,11,547/- made by the AO on account of disallowances out of administrative expenses.*
2. *The appellant craves to amend, modify, alter or forego any ground(s) of appeal at any time before or during the hearing of this appeal.”*

6. We have perused the record in the light of the submissions of the Ld. DR. In this matter Ld. CIT(A) recorded that the Ld. AO did not find the expenses as bogus, as such, no disallowance of expenses can be made. However, Ld.CIT (A) directed the Ld. AO to consider the area of shops for calculating the proportionate of interest relatable to the shops and other activities of the Mall, while allocating the interest income on borrowed funds which was taken for the purpose of the Mall.

7. In this set of circumstances, we do not find any reason to interfere with the findings of the Ld. CIT (A) in the impugned order because the Ld. CIT (A) while recording the fact that there was no finding on the part of the Ld. AO that the expenses claimed were bogus. Inasmuch as the entire dispute in this matter revolves around the question of the allocation of the expenditure which the assessee charged to the business income. Ld. CIT (A) in the light of the judgment of the Apex Court in CIT vs. Chennai Properties and Investments Ltd. (2008) 303 ITR 33

rightly held that the rental income received from shops and factories should be treated as income from house property and other receipts should be treated as the income from other sources.

8. We, therefore, do not see any illegality or irregularity in the findings of the Ld. CIT(A). There is no reason for us to interfere with the same. Hence, we find that the grounds of appeal are *devoid* of merits and are liable to be dismissed.

9. We, accordingly, dismissed the same.

10. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 11.07.2018

Sd/-

(G.D. AGRAWAL)
PRESIDENT

Dated: 11.07.2018

*Kavita Arora

Sd/-

(K. NARSIMHA CHARY)
JUDICIAL MEMBER

Copy forwarded to:

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

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ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	11.07.2018
Date on which the typed draft is placed before the dictating Member	11.07.2018
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	11.7.18
Date on which the fair order is placed before the Dictating Member for pronouncement	11.7.18
Date on which the fair order comes back to the Sr. PS/PS	11.7.18
Date on which the final order is uploaded on the website of ITAT	11.7.18
Date on which the file goes to the Bench Clerk	11.7.18
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	