आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL , 'A' BENCH, CHENNAI

श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष

BEFORE SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER
AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER

आयकर अपील सं./**I.T.A.No.1242/Chny/2017**
(निर्धारण वर्ष / Assessment Year: 2012-13)

M/s. Sunstar Hotels & Estates Pvt. Ltd., No.16/3,Vidyodaya, 1st Cross Street, T.Nagar, Chennai – 600 017.	Vs	The Asst. Commissioner of Income Tax, Non Corporate Circle – 15(1), Chennai -34.
PAN:AALCS5478E		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri D. Anand, Advocate
प्रत्यर्थी की ओर से/Respondent by	:	Shri AR.V. Sreenivasan, JCIT

सुनवाई की तारीख/Date of hearing	:	20.06.2018
घोषणा की तारीख/Date of Pronouncement	:	27.08.2018

आदेश / **O R D E R**

Per A. Mohan Alankamony, AM:-

This appeal by the assessee is directed against the order passed by the learned Commissioner of Income Tax(Appeals)-15, Chennai, dated 10.02.2017 in ITA No.57/A.Y.2012-13/CIT(A)-15/2015-16 for the assessment year 2012-13 passed U/s. 250(6) r.w.s. 143(3) of the Act.

2. The assessee has raised several grounds in its appeal however the crux of the issue is that the Ld.CIT(A) has erred in confirming the order of the Ld.AO to the extent of not granting deduction towards salary expenditure incurred by the assessee amounting to Rs.1,50,00,000/-.

3. The brief facts of the case are that the assessee is a private limited company engaged in finance, hotel & real estate business, e-filed its return of income for the assessment year 2012-13 on 29.09.2012 admitting income of Rs.1,09,25,509/-. Initially the return was processed U/s.143(1) of the Act and subsequently the case was selected for scrutiny and notice U/s.143(2) of the Act was issued on 08.08.2013. Finally assessment order was passed U/s.143(3) of the Act on 30.03.2015, wherein the Ld.AO made addition of Rs.2,06,42,360/- towards disallowance of expenditure.

4. The Ld.AO had disallowed the expenditure of Rs.2,06,42,360/- because the assessee had only earned interest income and the company had not started the operation with respect to hotel and resort business. On appeal the Ld.CIT(A) allowed interest and miscellaneous expenditure to the tune of Rs.56,42,360/- against the

interest income earned by the assessee, however disallowed the expenditure of Rs.1,50,00,000/- being the expenditure incurred towards payment of salary to the Directors of the company.

5. Before us the Ld.AR submitted that in the relevant assessment year, the assessee was only engaged in finance business and deployed its funds for earning interest income. It was therefore pleaded that the entire expenses incurred by the assessee company ought to be allowed as deduction because the interest income earned by the assessee was in the nature of business income since the company was only indulging in finance business during the relevant assessment year. On the other hand, the Ld.DR vehemently argued stating that only the expenditure incurred towards earning interest can be allowed as deduction while computing the net interest income of the assessee which has to be taxed under the head "Income from other source". Hence it was pleaded that the order of the Ld.CIT(A) may be confirmed.

6. We have heard the rival submissions and carefully perused the materials on record. From the facts of the case, it is abundantly clear that during the relevant assessment year, the assessee was only

engaged in the business of financial services though the main objects in the Memorandum of Association was Hotel Business. It is pertinent to mention that the ancillary objects in the Memorandum of Association also permitted the assessee company to carry on the business of financial services. In the process the assessee company had deployed its fund towards earning interest income because during the relevant assessment year the assesse company did not commenced activities with respect to Hotel Business. Since the business of the assessee company during the relevant assessment year was only financial services, the income earned during the relevant assessment year ought to be assessed as business income and the entire expenditure incurred by the assessee for earning such income has to be allowed as deduction. Needles to mention, nothing on record is before us to suggest that the assessee company was indulging in any other business activity during the relevant assessment year. Therefore we are of the considered view that the expenditure incurred by the assessee towards salary for Rs.1,50,00,000/- has also to be allowed as deduction while computing the business income of the assessee for the relevant assessment year. Accordingly we hereby direct the Ld.AO to delete the addition of Rs.1,50,00,000/- sustained by the Ld.CIT(A).

7. In the result the appeal of the assessee is allowed.

Order pronounced on the 27th August, 2018 at Chennai.

Sd/-	Sd/-
(धुव्वुरु आर.एल रेड्डी)	**(ए. मोहन अलंकामणी)**
(Duvvuru RL Reddy)	(A. Mohan Alankamony)
न्यायिक सदस्य /Judicial Member	लेखा सदस्य **/** Accountant Member

चेन्नई/Chennai,
दिनांक/Dated 27th August, 2018

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF