

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

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER  
&  
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

**ITA No. 3606/Del/2019  
Assessment Year: 2015-16**

Vinod Kumar Manchanda A-70, Naraina Industrial Area, Phase-1, Delhi. <b>PAN No. AALPM8076D</b>	vs	ACIT Circle 63(1) New Delhi.
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Assessee by</b>	<b>Shri Manpreet Singh Kapoor, CA</b>
<b>Revenue by</b>	<b>Shri B.S. Raj Purohit, Sr. DR</b>

<b>Date of Hearing</b>	<b>20.08.2019</b>
<b>Date of Pronouncement</b>	<b>20.08.2019</b>

**ORDER**

**PER SHRI N.K. BILLAIYA, A.M.**

With this appeal, the assessee has challenged the correctness of the order of the CIT(A)-38, New Delhi dated 25.12.2017 pertaining to AY 2015-16.

2. The sum and substance of the grievance of the assessee is that the CIT(A) erred in confirming the addition of Rs. 15.75 lakhs on account of notional rent for nine months.

3. Briefly stated the facts of the case are that during the course of the scrutiny assessment proceedings, the AO noticed that the

assessee has shown only three month rent from the property at CC-28, Nehru Enclave, Kalkaji, New Delhi. The assessee was asked to show cause as to why deemed rent for the remaining nine months should not be added to the income of the assessee. The assessee submitted that the tenant vacated the property and the assessee tried to the best level to get the property on rent.

4. The reply of the assessee did not find any favour with the AO who proceeded by making addition on account of notional rent of Rs. 15.75 lakhs.

5. Assessee carried the matter before the CIT(A) but without any success.

6. Before us, the Counsel for the assessee stated that the impugned property was let out since FY 2007-08 and the tenants kept on changing. It is the say of the Counsel that the last tenant Samsung India Electronics Pvt. Ltd. vacated the property after three months thereafter, the property remained vacant. The Counsel stated that since the property could not be rented out the actual rent received for three months has been shown as income from house property. The Counsel prayed for the deletion of the notional rent added by the AO amounting to Rs. 15.75 lakhs.

7. Per contra, the DR strongly supported the findings of the CIT(A) and read the relevant operative part of the order of the CIT(A).

8. We have carefully considered the orders of the authorities below. There is no dispute that the property was let out in earlier assessment years which can be seen from the following chart:

<b>FY</b>	<b>AY</b>	<b>Name of Tenant</b>	<b>Total Rent</b>	<b>Rent/ Month</b>	<b>Month</b>
2007-08	2008-09	SAMSUNG INDIA ELECTRONICS PVT. LTD.	2,594,440	216200	12
2008-09	2009-10	SAMSUNG INDIA ELECTRONICS PVT. LTD.	17,29,600	216200	8
2009-10	2010-11	GREEN VALLEY HOSPITALITY PVT. LTD.	25,20,000	240000	10.5
2010-11	2011-12	GREEN VALLEY HOSPITALITY PVT. LTD.	19,20,000	240000	8
2014-15	2015-16	SAMSUNG INDIA ELECTRONICS PVT. LTD.	7,50,000	250000	3

9. From the above chart, it can be seen that even in earlier financial years the property could not be let out for the entire year which shows that the tenants keep on vacating the property. In our considered view, the observations of the CIT(A) are not correct on the given facts of the case. Our view is fortified by the CBDT Circular No. 14/2001 dated 09.11.2001, wherein, *inter alia*, the board has explained “where the property or any part of the property is let and was vacant during the whole or any part of the previous year and owing to such vacancy the actual rent received or receivable is less than the ALV the sum so received or receivable shall be the annual value. In case, the actual rent received or receivable during the year is less than the ALV, but not because of vacancy, it is the ALV which shall be taken to be the annual value”.

10. Thus, it can be seen that even the board has recognized that there may be a situation in the case of let out property where the said property remains vacant.

11. Considering the facts of the case in totality, we direct the AO to delete the addition on account of notional rent of Rs. 15.75 lakhs.

12. In the result, the appeal filed by the assessee is accordingly allowed.

Order pronounced in the open Court.

Sd/-  
**(PAVAN KR. GADALE)**  
**JUDICIAL MEMBER**

Dated: 20/08/2019

\*Kavita Arora

Sd/-  
**(N.K. BILLAIYA)**  
**ACCOUNTANT MEMBER**

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

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ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	20.08.2019
Date on which the typed draft is placed before the dictating Member	20.08.2019
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	21.08.2019
Date on which the fair order is placed before the Dictating Member for pronouncement	20.08.2019
Date on which the fair order comes back to the Sr. PS/PS	21.08.2019
Date on which the final order is uploaded on the website of ITAT	21.08.2019
Date on which the file goes to the Bench Clerk	21.08.2019
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	