

**IN THE INCOME TAX APPELLATE TRIBUNAL “G” BENCH, MUMBAI**

**BEFORE SHRI RAJESH KUMAR, AM AND SHRI AMARJIT SINGH, JM**

आयकरअपीलसं/I.T.A. No.4836/Mum/2018

(निर्धारणवर्ष / Assessment Year: 2013-14)

M/s. SNT Associates 147, 14 <sup>th</sup> Floor, Nariman Point, Mumbai-400021.	<b>बनाम/</b> Vs.	ACIT17(3) Mumbai.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No. :ABSFS1497E		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
Assessee by:	ShriJitendra Jain	
Revenue by:	Shri V. Vinod Kumar (Sr. AR)	

सुनवाईकीतारीख / Date of Hearing: 03/12/2019  
घोषणाकीतारीख /Date of Pronouncement: 29/01/2020

**आदेश / ORDER**

**PER AMARJIT SINGH, JM:**

The assessee has filed the present appeal against the order dated 29.06.2018 passed by the Commissioner of Income Tax (Appeals) -28, Mumbai [hereinafter referred to as the “CIT(A)”] relevant to the A.Y.2013-14.

2. The assessee has raised the following grounds: -

“1. The CIT(A)-28, Mumbai (hereinafter ‘the CIT(A)’ erred in confirming the disallowance of office rent aggregating to Rs.9,26,397/- (i.e. Rs.7,46,397 + 180,000) made by the AO holding the same as personal expenses not allowable u/s 37 of the Act.

*The appellant submits that the office rent expense is incurred wholly and exclusively for the purpose of business of the appellant and same shall be allowed as deductible revenue expense u/s 37(1) of the Act.*

2. The CIT(A) erred in issuing direction to the AO u/s 150(1) of the Act to investigate the issue of payment of security charges and to reopen the assessment after forming reason to believe.

3. The CIT(A) erred in issuing direction u/s 150(1) of the Act to AO to investigate the claim of rent and security charges in prior and subsequent years return of income.

*Your appellant craves leave to add, to alter or to amend the aforesaid grounds of appeal.”*

3. The brief facts of the case are that the assessee filed its return of income on 28.09.2012 declaring total income to the tune of Rs.1,32,27,680/- for the A.Y. 2013-14. The return was processed u/s 143(1) of the I. T. Act, 1961. The case was selected for scrutiny under CASS. Notices u/s 143(2) & 142(1) of the Act were issued and served upon the assessee. The assessee was engaged in the business of Management Consultancy Service and also earned interest income. During the course of assessment, it was noticed that the assessee has debited rent on office Premises amounting to Rs.19,75,897/-. It was noticed that the assessee made payment to Anish Bindra & Tamanna Bindra amounting to Rs.7,46,397/- for rent of the premise being Flat No.B-101, Pearls Gateway Tower, Sector-44, Noida. The said flat was for the residential purpose. According to the Licence Agreement clause-9, it was also noticed that the assessee paid the rent expenses of the premises E-19, Jangpura Extn., New Delhi-110014 amounting to Rs.1,80,000/-. The said amount was paid as rent of residential premises of the assessee firm. Since both the premises were used for the residential purpose of the assessee's partnership, therefore, the same was treated as personal expenses which was not liable to be allowed u/s 37 of the Act, therefore, the rent was disallowed and added to the income of the assessee. The security charges of the said flats were also in sum of Rs.1,39,250/- which was also disallowed and added to the income of the assessee. The assessee filed an appeal before the CIT(A) who confirmed the addition, therefore, the assessee has filed the present appeal before us.

5. We have heard arguments advanced by the Ld. Representative of the parties and perused the record. The assessee has challenged the disallowance of the lease rent in connection with the flats bearing no.Flat No. B-101, Pearls Gateway Tower, Sector-44, Noida and bearing no.E-19, Jangpura Extn., New Delhi-110014 in sum of Rs.9,26,397/-. The copy of lease agreement in connection with the Noida Property is on the file in which the assessee company has taken flat on lease from Mr. Anish Bindra s/o Maj Gen s. Bindra and Mrs. Tamanna Bindra w/o Mr. Anish Bindra. The monthly license fees was settled @ 82933/- excluding maintenance. Both lease agreements have been executed by assessee firm M/s. SNT Associate. The contention

of the Ld. Representative of the assessee is that the assessee was having office at Bombay and use to go Noida and Delhi for business purpose and the assessee was unable to maintain hotel expense which was having higher charges, therefore, the assessee has taken the said property on lease for business purpose. The Ld. Representative of the assessee has also filed the travelling details from Delhi to Lucknow and Bombay to Lucknow and Delhi etc. The claim of the assessee has been declined on the basis of this fact that the property is residential. All the documents speak about the lease and licence agreement with the assessee firm. Frequently, visits by assessee employees/partners are apparent on record. We nowhere found any justifiable reasons to decline the claim of the assessee specifically in the circumstances when the payment was paid by assessee well in time to the owner's. Security charges were also paid to the security service providers. Declining the claim seems nowhere justifiable, therefore, we set aside the finding of the CIT(A) on this issue and allowed the claim of the assessee.

6. In the result, the appeal filed by the assessee is hereby ordered to be allowed.

Order pronounced in the open court on 29/01/2020

Sd/-

(RAJESH KUMAR)

लेखासदस्य / ACCOUNTANT MEMBER

मुंबई Mumbai; दिनांक Dated : 29/01/2020

Vijay Pal Singh/Sr. P.S.

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent.
3. आयकरआयुक्त(अपील)/ The CIT(A)-
4. आयकरआयुक्त/ CIT
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल /Guard file.

Sd/-

(AMARJIT SINGH)

न्यायिकसदस्य/JUDICIAL MEMBER

आदेशानुसार/ BY ORDER,

(Sr. Private Secretary)

आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai