

**IN THE INCOME TAX APPELLATE TRIBUNAL
“ C ” BENCH, BENGALURU**

**BEFORE SHRI N.V.VASUDEVAN, VICE PRESIDENT
AND
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. Nos.1607 & 1608/Bang/2019
(Assessment Years : 2013-14 & 2014-15)

M/s Shankaranarayana Constructions Pvt.Ltd.(Formerly known as SNC Power Coprn.Pvt.Ltd.,)No.7, Residency Road, (Old No.9, Rajaram Mohan Roy Road, Bangalore-560 025	Vs.	DCIT, Central Circle-2(4), Bangalore
PAN/GIR No.AAJCS7901C		
(Appellant)	..	(Respondent)

Appellant by :	Shri Narendra Sharma, Advocate
Respondent by :	Smt. R.Premi, JCIT

Date of Hearing	03-03-2020
Date of Pronouncement	-03-2020

ORDER

PER PRADIP KUMAR KEDIA : AM

The captioned appeals have been filed by the assessee against the respective orders of the CIT(A) arising from the respective assessment orders concerning assessment years 2013-14 & 2014-15.

2. We shall first take up appeal of the assessee in *ITA No.1607/Bang/2018* concerning assessment year 2013-14 for adjudication purpose.

3 By way of grounds of appeal, the assessee has raised two substantive issues for determination; (i) Disallowance of Rs.4,10,433/- in respect of leasehold land and (ii) Disallowance of Rs.10,94,871/- being amortization of cost of construction of building on leased land.

4. When the matter was called for hearing, Id. AR for the assessee fairly submitted that both the issues noted above are covered against assessee in its own case by the decision of the co-ordinate Bench of the Tribunal in *ITA No.65/Bang/2013* order dated 20-02-2020 concerning assessment year 2007-08.

5. On perusal of the order of the co-ordinate Bench, we observe that the Co-ordinate bench has dealt with the issue no.1 concerning disallowance of lease rent expenses as under;

“6. As per Ground No. 6, the grievance of the assessee is about confirming of the disallowance of Rs. 468,600/- made by the AO towards the lease rent. In this regard, in para (E) of the Synopsys, it is submitted that the assessee has already disallowed Lease Rent of Rs. 6 Lacs in the computation of income available on page 54 of the paper book and hence, disallowance of lease rent by the AO amounts to double disallowance and therefore, it should be deleted. We find that as per the computation available on page 54 of the paper book, an addition of Rs. 6 Lacs is made on account of lease rent but the same is claimed as deduction while computing income from house property and the AO disallowed Rs. 6 lacs so claimed by the assessee and there is no separate disallowance of

Rs. 480,000/-. The contention that there is double disallowance is not correct because deduction is very much claimed in the computation available on page 54 of the paper book and it is disallowed by the AO by observing that for computing income under the head house property, deduction on account of ground rent is not allowable. We find no infirmity in the order of CIT (A) on this issue. Accordingly, Ground No. 6 is also rejected.

It is thus noticed that the co-ordinate Bench held that the aforesaid expenditure to be capital expenditure and thus not allowable under sec.37(1) of the Act. In parity, the grievance as per issue no. 1 is without merit and thus rejected.

6. Similarly, the Co-ordinate bench has dealt with issue no. 2 above in AY 2007-08 in own case of the assessee as under;

“7. As per Ground No. 7, the grievance of the assessee is about confirming of the disallowance of Rs. 10,21,444/- made by the AO towards the assessee’s claim for amortization of the cost of the let-out property. In this regard, in para (B) of the Synopsys, it is submitted reliance is placed on the tribunal order rendered in the case of Shankarnaryana Industries and Plantations Pvt. Ltd. In ITA No. 860/Bang/1995 dated 22.08.1997. Copy of this tribunal order is also submitted. In this tribunal order, the tribunal has noted about another tribunal order which is against the assessee but the tribunal followed that tribunal order which is in favour of the assessee but it is not clear as to what is the exact basis of those tribunal orders which are in favour

of the assessee by holding that there is diversion of a portion of income at source. In the tribunal order which is against the assessee having been rendered in the case of L. S. Enterprises in ITA No. 940/Bang/1989 dated 21.02.1995, the issue was decided against the assessee on this basis that no such deduction is allowable u/s 23 and 24 of I. T. Act. Since, a valid basis is given by the tribunal for deciding the issue against the assessee and there is no valid basis in the tribunal order in which, the issue is decided in favour of the assessee and since, no deduction is in fact allowable u/s 23 & 24 of the I T Act about cost of building let out even if constructed on lease hold land and for computing annual rent u/s 22 & 23, what is relevant is the amount of rent received or receivable and there is no scope of any deduction on account of diversion of a portion of income at source, we hold that this claim of the assessee is not allowable. Accordingly, Ground No. 7 is also rejected.

Thus, as can be noticed above, issue no.2 noticed has also been decided against the assessee by the co-ordinate Bench on the ground that amortization of expenses on cost of construction of building on leasehold land is not a permissible deduction under sec.24 of the IT Act in the facts of the case. In parity, issue no. 2 of the assessee's appeal is rejected.

7. In the result, appeal of the assessee in ITA no. 1607/Bang/ 2019 concerning AY 2013-14 is dismissed.

8. Grievance of the Assessee in ITA No.1608/Bang/2019 concerning assessment year 2014-15 being identical, the same is also dismissed.

9. In the combined result, both the captioned appeals are dismissed.

This Order pronounced in Open Court on 04-03-2020

Sd/-

(N.V.VASUDEVAN)
VICE PRESIDENT

Place: Bengaluru

Dated: 04-03-2020

am

Sd/-

(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Copy of Order Forwarded to:-

1. Revenue
2. Assessee
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Bengaluru .
6. Guard file.

By order

Asst. Registrar

