

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH : BANGALORE**

**BEFORE SHRI N. V. VASUDEVAN, VICE PRESIDENT AND  
SHRI A. K. GARODIA, ACCOUNTANT MEMBER**

<b>ITA No.2877/Bang/2017</b>
<b>Assessment year : 2014-15</b>

M/s. Raffles Residency Pvt. Ltd., #54, The Planet, Whitefield Main Road, Whitefield, Bengaluru – 560 056. <b>PAN : AAFCR 0615 J</b>	Vs.	Assistant Commissioner of Income Tax, Circle – 5(1)(1), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri. Sumeet Khurana, CA
Revenue by	:	Shri. Manjeet Singh, Addl. CIT (DR)(ITAT), Bengaluru

Date of hearing	:	06.02.2020
Date of Pronouncement	:	20.02.2020

**ORDER**

*Per A.K. Garodia, Accountant Member*

This appeal is filed by the assessee and the same is directed against the order of learned CIT(A)-5, Bengaluru dated 14.09.2017 for the Assessment Year 2014-15.

2. The grounds raised by the assessee are as under:

*1. That, on the facts and circumstances of the case and in law, the order of the learned Commissioner of Income-tax (Appeals) NIT(A)1 dated September 14, 2017, passed under section 250 of the Income-tax Act, 1961 ('the Act') for AY 2014-15 is bad in law and on facts.*

*2.1 That, on the facts and circumstances of the case, the learned CIT(A) erred in not granting the deduction of expenditure amounting to INR 1,19,20,677 incurred during the Financial Year 2013-14.*

*2.2 That, on the facts and circumstances of the case, the learned CIT(A) erred in stating that the evidences for disallowance of expenditure of INR 1,19,20,677 in AY 2016-17 and the basis for such disallowance was not demonstrated by the Appellant.*

*2.3 That, on the facts and circumstances of the case, the learned CIT(A) erred in stating that the Appellant's claim of deduction of expenditure of INR 1,19,20,677 is a fresh claim of deduction without appreciating the fact that such claim was already made before the learned Assessing Officer ('AO').*

*2.4 That, on the facts and circumstances of the case, the learned CIT(A) erred in not granting the deduction of expenditure of INR 1,19,20,677 based on the decision of the Apex Court in the case of Goetze (India) Ltd. [2006] 284 ITR 323 (SC) without appreciating the fact that the said decision was in context of powers of the AO and did not place any limitation on the powers of the CIT(A).*

3. In the course of hearing, it was submitted by learned AR of the assessee that it is observed by learned CIT(A) in para 6.1 of his order that the additional claim cannot be made before AO other than by filing a revised return of income. He submitted that learned CIT(A) has followed the judgment of Hon'ble Apex Court rendered in the case of Goetze (India) Ltd. [2006] 284 ITR 323 (SC) and held that as per this judgment of Hon'ble Apex Court, learned CIT(A) is also not in a position to decide this issue to adjudicate upon this claim because the powers of CIT(A) are co-terminus with that of the AO. He submitted that in fact, the judgment rendered by Hon'ble Apex Court in the case of Goetze (India) Ltd., (supra) does not impinge upon the powers of appellate authorities i.e. learned CIT(A) and the Tribunal and hence, learned CIT(A) should have decided the issue on merit and since this was not done by him, the matter should be restored back to his file for a decision on merit. Learned DR of the Revenue supported the order of CIT(A).

4. We have considered the rival submissions and we find force in the submissions of learned AR of the assessee because as per the judgment of Hon'ble Apex Court rendered in the case of Goetze (India) Ltd. (supra) , although the AO cannot entertain any fresh claim made by the assessee without filing revised return of income but learned CIT(A) and the Tribunal can and has to decide about such claim on merit. Respectfully following this judgment, we restore the matter back to the file of CIT(A) for a decision on merit about the claim of the assessee. In view of this decision, no adjudication on merit is called for at the present stage and we make no comments on merit.

5. In the result, appeal of the assessee is allowed for statistical purposes.

*Pronounced in the open court on the date mentioned on the caption page.*

Sd/-  
**(N. V. VASUDEVAN)**  
Vice President

Sd/-  
**(A.K. GARODIA)**  
**Accountant Member**

Bangalore,  
Dated: 20<sup>th</sup> February, 2020.  
/NS/\*

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|---------------|-------------------------|---------------|
| 1. Appellants | 2. Respondent           | 3. CIT        |
| 4. CIT(A)     | 5. DR, ITAT, Bangalore. | 6. Guard file |

By order

Assistant Registrar,  
ITAT, Bangalore.