

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "C" : DELHI
[THROUGH VIDEO CONFERENCING]
BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER
AND
Ms. SUCHITRA KAMBLE, JUDICIAL MEMBER
ITA.Nos.1692 & 1693/Del./2018
Assessment Years 2013-2014 & 2014-2015

The ACIT (E), Circle-1(1), Room No.2418, 24 th Floor, E-2 Block, Pratyaksh Kar Bhawan, Dr. Shyama Prasad Mukherjee Civic Center, Jawahar Lal Nehru Marg, New Delhi – 110 002	vs.	India Trade Promotion Organization, Pagati Bhawan, Pagati Maidan, New Delhi – 110 001. AAATI2955C
(Appellant)		(Respondent)

For Revenue :	Shri Mahesh Thakur, Sr. D.R.
For Assessee :	Ms. Anjali Goel, C.A.

Date of Hearing :	22.03.2021
Date of Pronouncement :	22.03.2021

ORDER

PER N.K. BILLAIYA, A.M.

ITA.No.1692/Del./2018 and ITA.No.1693/Del./2018 are separate appeals by the Revenue preferred against two separate Orders of the Ld. CIT(A)-40, Delhi, Dated 14.12.2017, for the A.Ys. 2013-2014 and 2014-2015. The common grievance in both the appeals read as under :

“On the facts and in the circumstances of the case and in law, Ld. CIT(A) has erred in allowing the appeal of the assessee by ignoring the fact that assessee is following mercantile system of accounting and rental income has not been accounted for in the books and that such income as per mercantile method of accounting should have been offered to tax on accrual basis. Such income which has accrued but not received is shown as receivable or under the head Sundry Debtor as the case may be in the Balance Sheet. Such income is entitled as and to be written off subsequently when it actually becomes bad, as per provisions of the Act.”

2. Both these appeals were heard together and are disposed of by this common order for the sake of convenience and brevity.]

3. At the very outset the Counsel for the assessee stated that the issue raised by the Revenue in the present appeals have already been decided by the Coordinate Bench of the Tribunal in favour of the assessee and against the

Revenue in A.Ys. 2009-2010 and 2010-2011 which was followed by the Tribunal in A.Y. 2011-2012.

4. Per Contra, though the Ld. D.R. strongly placed reliance on the assessment order, but, could not bring any distinguishable decision in favour of the Revenue.

5. We have given a thoughtful consideration to the Orders of the authorities below and have also the benefit of the Order of the Coordinate Bench in ITA.No.1919/Del./2016, ITA.No.3356/Del./2016, ITA.No.2508/Del. /2016 and ITA.No.3135/Del./2016 for the A.Ys. 2009-2010, 2010-2011 and 2011-2012. In A.Ys. 2009-2010, 2010-2011 and 2011-2012 the Tribunal had considered the similar grievance vide Ground No.3 of those appeals. The relevant findings read as under :

*“GROUND NO.3
IN AYS 2009-10, 2010-11 & 2011-12 12.*

12. AO made addition of Rs.1,68,73,663, Rs.2,01,86,003 & Rs.1,83,00,000 in AYS 2009-10, 2010-11 & 2011-12 respectively on a/c of space rent

income on the basis of disclosure in Notes to Accounts of the assessee. However, ld. CIT(A) deleted the addition on the ground that since space rent account is disputed by two Government Departments viz. National Science Centre and Crafts Museum by contesting the ownership of land attracting rent by the assessee and claimed that they are in possession of the land and as such it is uncertain, no addition can be made.

13. *Ld. CIT (A) has thrashed the facts in detail and by applying the decision rendered by various Hon'ble High Courts and Hon'ble Supreme Court, decided the issue in favour of the assessee on the ground that since the dispute has not been resolved till date, the addition is not sustainable.*

14. *Assessee has brought on record documents and letter of discussion to resolve the disputes between National Science Centre & Crafts Museum and India Trade Promotion Organisation (ITPO) for non-payment of rent, available at pages 93 to 130 of the paper book,*

which have been duly examined by the ld. CIT(A). We are of the considered view that when income on account of space rent has not been accrued, as in the instant case due to dispute, there cannot be any rent even though entry in the books of account have been made on account of notional income. So, when the income would be received its taxability can be examined by the Revenue. Ld. DR for the Revenue has not brought on record any document if the dispute between the parties qua the space rent has been resolved. So, in these circumstances, we are of the considered view that there is no illegality or perversity in the findings returned by the ld. CIT (A), consequently ground no.3 in AYs 2009-10, 2010-11 & 2011-12 is determined against the Revenue. “

5.1. Respectfully following the findings of the Coordinate Bench both the appeals of the Revenue are dismissed.

6. In the result, both the appeals of the Revenue are dismissed.

Order pronounced in the open Court.

Sd/-
(Ms. SUCHITRA KAMBLE)
JUDICIAL MEMBER

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

Delhi, Dated 22nd March, 2021

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'C' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.