

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

BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND SMT. BEENA PILLAI, JUDICIAL MEMBER

ITA Nos.2327 to 2329/Bang/2018
Assessment years : 2010-11 to 2012-13

M/s. SNC Power Corporation Pvt. Ltd., (Presently known as Shankarnarayana Constructions Pvt. Ltd.), 'SNC' House, 4 th Floor, No.7, Residency Road, [Old No.9, Rajaram Mohan Roy Road] Bengaluru – 560 025. PAN: AAJCS 7901C	Vs.	The Deputy Commissioner of Income Tax, Circle 12(3), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri S.V. Ravishankar, Advocate
Respondent by	:	Shri Kannan Narayanan, Jt. CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	17.08.2021
Date of Pronouncement	:	17.08.2021

ORDER

Per Chandra Poojari, Accountant Member

These three appeals are by the assessee directed against different orders, all dated 21.03.2018 of the CIT(Appeals), Bengaluru-6, Bengaluru for the assessment years 2010-11 to 2012-13.

2. The issues involved in these appeals are common, they were heard together and disposed of by this common order for the sake of convenience.

3. The first common ground for consideration is with regard to disallowance of lease rental expenses by observing that it is excessive and

unreasonable. The lease rental expenses claimed by the assessee and allowed by the AO are as follows:-

Asst. Year	Claimed by assessee	Allowed by the AO
2010-11	6,00,000	3,40,919
2011-12	6,00,000	3,73,120
2012-13	6,60,000	4,10,433

4. Against the above, the assessee went in appeal before the CIT(Appeals), who confirmed the order of the AO. Against this, the assessee is in appeals before the Tribunal.

5. We have heard both the parties and perused the material on record. Similar issue came up for consideration before the Tribunal in assessee's own case in ITA No.65/Bang/2013 for the AY 2007-08 and the Tribunal vide order dated 20.02.2020 held 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”.

6. Respectfully following the above order of the Tribunal, we are inclined to dismiss the ground of the assessee on similar lines.

7. The next ground is with regard to disallowance towards amortization of lease expenses. The Appellant has taken up a property on lease for 28 years and constructed a building thereon out of which 14,300/- sq.ft. is being used for purposes of business and consequently the proportionate expenses require to be allowed as revenue. The total expenditure incurred on construction is Rs.4,24,17,518/- and proportionate cost of construction of business premise is Rs.1,38,17,089/- [(Rs.4,24,17,518/- / 43,900 Sq. Ft) * 14,300 Sq. Ft]. The same is claimed as revenue expenditure following the ratio of the Hon'ble Madras High Court decision in the case of *M/s. TVS Lean Logistics Ltd., Vs. CIT* reported in 293 ITR 432 (Mad). It is further submitted that the Hon'ble Apex Court in the case of *CIT Vs. M/s. Tamilnadu Police Housing Corporation, reported in 313 ITR [Statute] 28*, has also dismissed the department's special leave petition. It is further submitted that the Appellant has amortized the cost of building attributable to the let-out portion and claimed as reduction from the rental receipts and relied on the decision of this Tribunal in the case of *Shankarnarayana Industries and Plantations Pvt. Ltd. in ITA No.860/Bang/93, 783/Bang/94 & 661/Bang/95 dated 22.08.1997*. Thus it is submitted that the amount of Rs. 1,38,17,089/- requires to be allowable as revenue expenditure. Similar are the facts for the other assessment years, with only change in the figures.

8. Similar issue came up for consideration before the Tribunal in assessee's own case in ITA No.65/Bang/2013 for the AY 2007-08 and the Tribunal vide order dated 20.02.2020 held 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 letout 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.”

9. In view of the aforesaid order of the Tribunal, we dismiss this ground of appeal by the assessee.

10. In the result, the assessee's appeals are dismissed.

Pronounced in the open court on this 17th day of August, 2021.

Sd/-

Sd/-

(BEENA PILLAI)
JUDICIAL MEMBER

(CHANDRA POOJARI)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 17th August, 2021.

/Desai S Murthy/

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.