

**आयकर अपीलीय अधिकरण, 'बी' न्यायपीठ, चेन्नई**  
**IN THE INCOME TAX APPELLATE TRIBUNAL, 'B' BENCH, CHENNAI**  
**श्री वी. दुर्गा राव, न्यायिक सदस्य एवं श्री जी. मंजुनाथ, लेखा सदस्य के समक्ष**  
**BEFORE SHRI V.DURGA RAO, JUDICIAL MEMBER**  
**AND SHRI G.MANJUNATHA, ACCOUNTANT MEMBER**

**आयकरअपीलसं./I.T.A.No.2767/Chny/2017**

(निर्धारणवर्ष / Assessment Year: 2013-14)

Mr. K.M.K. Sundara Prakash 37, New No,3, 2 <sup>nd</sup> Cross Street East Shenoy Nagar, Chennai-600030.	Vs	The Income Tax Officer, International Taxation-2(2) Chennai.
PAN: AASPS 1884Q		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Mr. T.Banusekar, C.A
प्रत्यर्थीकीओरसे/Respondent by	:	Mr. G.Johnson, Addl.CIT

सुनवाईकीतारीख/Date of hearing	:	04.08.2021
घोषणाकीतारीख /Date of Pronouncement	:	18.08.2021

**आदेश / ORDER**

**PER G.MANJUNATHA, AM:**

This appeal filed by the assessee is directed against the order of the learned CIT(A)-16, Chennai dated 01.08.2017 and pertains to assessment year 2013-14.

2. The learned A.R for the assessee referring to the order of the Tribunal in M.P. No.175/Chny/2019 dated 14.02.2020 submitted that the Tribunal has recalled order of the Tribunal in ITA No.2767/Chny/2017 dated 10.05.2019, *qua*, ground nos. 7 to 9. Therefore, it is necessary to reproduce ground Nos.7 to 9 of the assessee's appeal, which are reproduced here under:-

*"7. For that without prejudice to the above, the Commissioner of Income Tax (Appeals) ought to have directed to assess the*

*entire rental income under the head income from other sources and allowed the entire expenses claimed against the same as the letting out of building and furnishing are inseparable.*

*8. For that, without prejudice to the above, having assessed the receipts for furnishings and Maintenance Cost Reimbursement under the head Income from Other Sources, the Commissioner of Income Tax (Appeals) ought to have allowed deduction u/s.57 of all expenses claimed by the appellant.*

*9. For that the Commissioner of Income Tax (Appeals) failed to appreciate that all expenses incurred by the appellant were towards maintenance of the immovable properties.”*

3. The learned A.R for the assessee submitted that the assessee has taken alternative ground, without prejudice to the grounds taken for challenging action of the Assessing Officer in assessed rental income derived from property under the head ‘income from house property’ as against income admitted under the head ‘income from business or profession’ and argued that when part of income is assessed under the head income from other sources, relevant expenditure relating to earning said income is deductible u/s.57 of the Act. However, the Tribunal has not considered alternative ground taken by the assessee. Therefore, the assessee has filed Miscellaneous Application No.175/Chny/2019 to recall the order and the Tribunal has recalled the order to decide ground

Nos.7, 8 & 9 of assessee appeal. He further submitted that through ground Nos.7 to 9, the assessee sought to deduct certain expenses relatable to income which was assessed under the head 'income from other sources'. However, the Assessing Officer has not allowed particular expenses. He further submitted that the Assessing Officer has considered rental income received towards furnishings, furniture and fixtures from M/s. Nuance Transcription Services India (P) Ltd. under the head 'income from other sources' along with maintenance cost of reimbursement, however, not allowed deduction towards expenditure relatable to said income including depreciation and AMC service charges. He further submitted that when income is assessed under the head 'income from other sources' expenses in connection with said income needs to be allowed u/s.57 of the Act.

4. The learned DR, on the other hand, supporting order of the Assessing Officer as well as learned CIT(A), submitted that the Assessing Officer has allowed expenses in connection with earning of income like cleaning and housekeeping charges,

electricity charges, generator maintenance, lift maintenance, security charges etc., however, not allowed claim of the assessee regarding depreciation and AMC charges, because said expenditure is not directly relatable to earning of such income. Hence, there is no error in the order of the learned CIT(A) and his order should be upheld.

5. We have heard both the parties, perused material available on record and gone through orders of the authorities below. There is no dispute with regard to the fact that head under which rental income derived from property is assessable. The Tribunal has considered arguments of the assessee and held that rental income derived from property is partly assessable under the head income from house property and partly under the head income from other sources. The only dispute with regard to deduction allowed towards expenditure wholly incurred to earn such income. The Assessing Officer has allowed deduction towards certain expenses against income from other sources being rent received for furnishing and maintenance cost of reimbursement, however, not allowed

depreciation on furniture and fixtures, interior decoration etc. The Assessing Officer has also not allowed deduction for AMC service charges. It was explanation of the assessee that when income from furniture and fixtures & other assets excluding building is assessed under the head 'income from other sources' depreciation on said asset is also in the nature of expenditure wholly incurred for earning such income. Similarly, when maintenance cost reimbursement has been considered under the head 'income from other sources', relevant expenditure incurred to earn said income including AMC service charges also needs to be deducted against such income.

6. Having heard both sides, we find that when the Assessing Officer has allowed deduction for certain expenses expended wholly in connection with earning such income, failed to allow deduction towards depreciation on relevant assets, including furniture, fixtures, interior decoration, modular, air-conditioner, fan and generator etc., because the assessee has earned income from letting out of furniture, fixtures and other assets.

Similarly, when the assessee has treated maintenance cost reimbursed by tenants as income, which is assessable under the head 'income from other sources', then relevant cost incurred to earn said income needs to be deducted. The assessee claims that AMC service charges is relatable to income being maintenance cost reimbursement which is assessed under the head 'income from other sources'. Therefore, we are of the considered view that when the Assessing Officer has assessed particular income under the head 'income from other sources' relevant expenditure also needs to be deducted u/s.57 of the Act. Since depreciation on furniture and fixtures & other assets is also in the nature of expenditure incurred in relation to earning said income and further AMC service charges also relates to income in the nature of maintenance cost reimbursement, the Assessing Officer ought to have allowed deduction towards said expenses. But, facts are not clear, whether depreciation on furniture, fixtures and other assets and AMC service charges is fully relatable to income forming part of income from other sources or it is also relatable to rental income assessed under the head

'income from house property'. Therefore, to ascertain the facts and also to allow proportionate deduction towards depreciation on assets excluding building and also AMC service charges , we, set aside the issue to the file of Assessing Officer and direct him to verify facts and allow deduction towards proportionate expenses relatable to earning income from other sources, including depreciation on asset and AMC service charges.

7. In the result, appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 18<sup>th</sup> August, 2021

Sd/-  
( वी.दुर्गा राव )  
(V.Durga Rao)  
न्यायिक सदस्य /Judicial Member

Sd/-  
( जी. मंजुनाथ )  
( G.Manjunatha )  
लेखा सदस्य / Accountant Member

चेन्नई/Chennai,  
दिनांक/Dated 18<sup>th</sup> August, 2021  
DS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. Appellant
2. Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.