

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD ' SMC ' BENCH, HYDERABAD.**

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER**

<b>ITA No.429/Hyd/2021 (Assessment Year : 2017-18)</b>		
Ms. Ruchi Khattar, Hyderabad. PAN AFCPK 8534J	<b>Vs.</b>	Income Tax Officer, Ward 6(3), Hyderabad.
Appellant		Respondent

Appellant By : Shri Shashank Dundu, Adv.

Respondent By : Shri Jeevanlal Lavidiya, (D.R.)

Date of Hearing : 10.03.2022.

Date of Pronouncement : 15.03.2022.

**ORDER**

This assessee's appeal for the Asst. Year 2017-18 arise from the Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi's order dt.24.08.2021 passed in the case No. ITBA/NFAC/S/250/2021-22/1035053123(1) involving proceedings under Section 143(3) of Income Tax Act, 1961 ('the Act').

Heard both the parties. Case file perused.

2. I straightaway come to the assessee's twin substantive grounds regarding determination of assessee's annual rental value involving its income from house property as well as disallowance of expenditure pertaining to municipal tax litigation against her income from "other sources" involving very same; respectively. Both the learned representatives referred at the outset to the CIT(A)'s detailed discussion on the foregoing twin issues as under :

5.4 Ground No. 3 Disallowance of Municipal taxes paid by the tenant. During the year, the tenant ( SEFW Projects) paid Rs 10, 53,510/- ( being Rs 6,00,000/- municipal tax and Rs. 4, 53,510/- interest) on behalf of assessee (50%) and co-owner ( 50 %). The assessee has claimed 50 % of Municipality tax paid i.e. 50 % of Rs 6,00,000/- = Rs. 3,00,000/- as deduction against the annual value. The Id Assessing Officer has disallowed the same stating that ; from the enclosed information, it is not clearly known whether the claim is applicable to assessee to which extent. After carefully examining the submissions of assessee and details enclosed, I agree with the Id Assessing Officer in this conclusion. From the details enclosed by the assessee one cannot ascertain what is gross rent payable and what amount is actually paid by the tenant, after paying municipal tax. It is also not clear whether the assessee has offered gross rent receivable as annual value or the amount actually paid by tenant. Only when the gross rent receivable is offered as Annual value, the municipal tax paid can be allowed as deduction to arrive at NAV. In the circumstances, the facts are not clearly stated by the assessee. Hence, this ground of appeal is **dismissed**.

5.5 Ground no. 4 Disallowance of legal fee paid to advocate regarding litigation connected with high municipal tax. The assessee has claimed it against income from sources. The Id Assessing Officer has disallowed the same. On examination of the issue, I am in agreement with the Id AO that this expenses are not allowable against income from ` other sources`, as it pertains Municipal tax litigation on the house property. In case of income from house property, 30% of Annual value is already allowed as standard deduction towards all such expenses incidental to property. The payment to advocate is covered with the deduction allowed u/s 24(a) of the Act. Hence no further deduction is allowable . This ground of appeal is dismissed.

3. I have given my thoughtful consideration to rival contentions. There is hardly any dispute that neither the Assessing Officer nor the CIT(A) have considered the assessee's rental income which is evident in its form 26AS in light of the corresponding rent agreement with its tenant as well as the municipal tax payment said to be allowable as a deduction under the very head. I therefore deem it appropriate to restore the instant former issue back to the Assessing Officer for his afresh adjudication as per law within three effective opportunities of hearing.

4. Later issue of disallowance of municipal tax litigation expenses also follows the suit since both the learned lower authorities' appear to have ignored the clinching fact that the assessee had declared its maintenance income under the residuary head of income from "other" sources than income from house property which would lead to 30% standard deduction allowable u/s.24(a) of the Act in later case. It is made clear that the assessee's stand all along has been that the expenditure claim had been incurred wholly and exclusively incurred for deriving its income from other sources only. I therefore direct the Assessing Officer to decide the instant latter issue as well afresh in preceding terms. Ordered accordingly.

5. This assessee's appeal is allowed for statistical purposes in above terms.

Order pronounced in the open court on 15.03.2021.

Sd/-

**(S.S. GODARA)**  
Judicial Member

\* Reddy gp

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2.	ITO, Ward 6(3), Hyderabad.
3.	CIT(Appeals), NFAC, Delhi.
4.	DR, ITAT, Hyderabad.
5.	Guard File.

By Order

Sr. Pvt. Secretary, ITAT, Hyderabad.