

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI “C” BENCH: NEW DELHI**

**BEFORE SHRI N.K.BILLAIYA, ACCOUNTANT MEMBER &
SHRI KUL BHARAT, JUDICIAL MEMBER**

ITA No.2332/Del/2019

[Assessment Year : 2014-15]

FJS Holdings Pvt.Ltd., 212, Tribhuvan Complex, 10 th Milestone, Mathura Road, New Delhi. PAN-AAACF8757G	vs	ITO, Ward-9(2), New Delhi
APPELLANT		RESPONDENT
Appellant by	None	
Respondent by	Shri Sanjay Tripathi, Sr. DR	
Date of Hearing	17.11.2022	
Date of Pronouncement	17.11.2022	

ORDER

PER KUL BHARAT, JM :

This appeal filed by the assessee for the assessment year 2014-15 is directed against the order of Ld. CIT(A)-34, New Delhi dated 27.12.2018.

2. The assessee has raised following grounds of appeal:-

Ground No. 1

“On the facts and circumstances of the Case and in law the Learned CIT (Appeal) has erred in not giving relief to the Appellant and treating the Income from Maintenance Charges as Income from House Property as against Assessee’s Claim as “ Business Income11.

Ground No. 2

On the facts and circumstances of the Case and in law the Learned CIT (Appeal) has disregarded the fact that as per Income Tax Act “ Annual Value of the Building and Land appurtenant thereto” does not include the amount charged for amenities provided by the

Assessee Company and the obligation of providing maintaining the service was independent from leasing of the Units.

Ground No. 3

Without prejudice to Ground No. 1 & 2, the Ld. CIT (Appeal) has even not considered “ Rent Paid” of Rs. 17,18,000/- as expenditure directly attributable to earning the “Rental Income” even if the Income was considered as Income from House Property.

Ground No. 4

On the facts and circumstances of the Case and in law the Learned CIT (Appeal) has erred by treating the expenses of the Assessee Company as not directly or indirectly allowable as there are essential expenses for a Private Limited Company.

That the appellant craves the leave to amend and substitute or withdraw any or all of the grounds of appeal before or at the time of hearing of Appeal.”

3. At the time of hearing, no one attended the proceedings on behalf of the assessee. Notice of hearing sent through speed post is returned back unserved by the Postal Authority. Therefore, the appeal of the assessee is taken up for hearing in the absence of the assessee and is being disposed off on the basis of material available on record.

BRIEF FACTS OF THE CASE

4. Facts giving rise to the present appeal are that the assessee e-filed its return of income declaring total income of Rs.24,66,040/- on 25.09.2014. The case was selected for scrutiny through CASS. Accordingly, notice u/s 143(2) of the Income Tax Act, 1961 (“the Act”) was issued on 14.09.2015 and duly served upon the assessee. Thereafter, fresh notice u/s 142(1) of the Act alongwith detailed questionnaire dated 18.05.2016 was also issued to the

assessee. In response thereto, Ld. Authorized Representative of the assessee attended the proceedings and furnished the requisite details from time to time as and when required by the Department which were examined and placed on record. Thereafter, assessment was framed vide order dated 22.11.2016 u/s 143(3) of the Act and the Assessing Officer (“AO”) assessed the income of the assessee at Rs.85,31,860/-.

5. Aggrieved against this, the assessee preferred appeal before Ld.CIT(A), who after considering the submissions, dismissed the appeal of the assessee.

6. Aggrieved against the order of Ld.CIT(A), the assessee preferred appeal before this Tribunal.

7. Apropos to grounds raised by the assessee, it is stated that the authorities below treated the “income from maintenance charges” as “income from house property” as against the assessee’s claim as business income. It is further submitted that expenditure contributable to such income was required to be allowed set off.

8. Ld. Sr. DR opposed these submissions and submitted that Ld.CIT(A) has considered the submissions elaborately and decided against the assessee as the assessee failed to furnish the evidences in support of his claim.

9. We have heard Ld. Sr. DR and perused the material available on record. We find that Ld.CIT(A) has decided the issue by observing as under:-

4.4. “I have considered the facts of the case, finding of the AO and submissions filed by the appellant. Appellant has shown maintenance charges received at Rs. 6,04,152/- as business income

against which it has claimed huge expense of Rs.70,86,561/-. The appellant has shown rental income of Rs.1,15,86,360/- from renting of properties under the head "Income from House Property" and maintenance charges received as business income. The appellant is receiving both the incomes that is rent and maintenance charges under the same agreement and building was shown by it as fixed assets. The claim of the appellant that maintenance charges are related to deliver the services of lift, security, providing water, electricity, etc. but appellant failed to furnish any evidence in support of the expenses incurred by it and justify its claim. The appellant has filed the copy of invoices of the maintenance charges that is related to power backup and society maintenance. Since rent and maintenance both are the part of the same agreement, different treatments could not be given to the income received from letting of the properties. Maintenance charges are part and parcel of rental income and they should be considered under the head "Income from House Property". Against the maintenance charges of Rs.6,04,152/-, appellant has debited huge expenses under the head "Salary" Rs.17,25,392/-, business promotion expenses of Rs.6,62,633/—, rent paid Rs.17,10,000/-, repair and maintenance Rs.4,24,867/- etc. These expenses are not directly or indirectly linked with the income from the house property and statutory deduction u/s 24 is allowable against the income from house property which shall take care expenses and taxes etc.

- 4.5. Further, appellant is not sure the stand which it has taken for treating maintenance charges as business income and claiming expenses against it thereof. The appellant has filed another letter on 13.11.2018 during the appellate proceedings that gross total income figure would arrive at Rs.55,46,495/- in contrast to the total income of Rs.85,33,360/- as determined by the AO without any basis. The appellant is not furnished any justification of its revised claim. Considering the above facts in the case of the appellant, it's a clear case of inflating expenses and AO has taken correct stand that

maintenance charges is a part of income from house property and not the business, income. The deduction u/s 24 @ 30% is already allowed by the AO, balance addition made by the AO after disallowing the expenses is hereby confirmed and income from house property as assessed by the AO is taken at Rs.1,21,90,512/- including maintenance charges at Rs.6,04,152/- and after allowing deduction u/s 24 @ 30% at Rs.36,57,153/-, net income assessed at Rs.85,33,360/- is upheld.”

10. We find that Ld. Counsel for the assessee has not rebutted the findings of Ld.CIT(A) by placing any credible evidences. In the absence of such evidences, we do not see any reason to interfere in the findings of Ld.CIT(A), the same is hereby sustained. Thus, grounds raised by the assessee are dismissed.

11. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 17th November, 2022.

Sd/-

(N.K.BILLAIYA)
ACCOUNTANT MEMBER

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

** Amit Kumar **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI