

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'D', NEW DLEHI**

**BEFORE SHRI G.S. PANNU, PRESIDENT  
AND  
SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

**ITA No. 2375/Del/2017  
Assessment Year: 2012-13**

LPR Company Pvt. Ltd.,  
Publicis House, 1-2, Aaram Bagh,  
Panchkuian Road, New Delhi.

**PAN: AAACL0297R**  
(Appellant)

Versus ACIT, Circle 15(1),  
New Delhi.

(Respondent)

Assessee by: Sh. Amarjit Singh, C.A.  
Revenue by: Sh. Virendra Singh, Sr. DR

Date of hearing : 16.05.2023  
Date of pronouncement : 29.05.2023

**ORDER**

**PER SAKTIJIT DEY, J.M.:**

This is an appeal by the assessee against order dated 15.02.2017 of learned Commissioner of Income-tax (Appeals)-5, Delhi pertaining to the assessment year 2012-13.

2. The effective grounds raised by the assessee are as under :

*"1. That on the facts and circumstances of the case and in law, the Learned CIT (A) erred in upholding the Maintenance Income of Rs.7,70,688/- received from tenants*

*as Income from House Property and erred in upholding allowing of Standard Deduction @30% only against the same and further erred in upholding disallowance of all the expenses incurred against the Maintenance Income.*

*2. That on the facts and circumstances of the case, the Ld. CIT (A) further erred in upholding disallowance of all the expenses claimed against Maintenance Income under the head "Profits and Gains from Business & Profession" without appreciating the fact that all the expenses incurred are otherwise allowable to the appellant company as necessary for maintaining the status of the appellant company as a company."*

3. As can be seen from the grounds raised, the main dispute between the parties is relating to the issue as to whether the maintenance income received by the assessee can be treated as income from house property or income from business or profession.

4. Briefly, the facts relating to this issue are, the assessee is a resident corporate entity. As stated by the Assessing Officer, the source of income of the assessee is rental and other income received from letting out building owned by it. In course of assessment proceedings for the impugned assessment year, the Assessing Officer noticed that in the previous year relevant to assessment year under dispute, the assessee had offered rental income of Rs.73,21,536/- as income from

house property. Whereas, the maintenance income of Rs.7,68,688/- received from the building let out has been treated as business income. The Assessing Officer was of the view that since, the rental income as well as the maintenance income was received by the assessee from the building let out, they cannot be given different treatment, only because, the assessee has received such income under two separate agreements. Thus, ultimately, he concluded that the maintenance income received by the assessee partakes the character of income from house property. Accordingly, the Assessing Officer included it as part of rental income and brought to tax as income from house property.

5. Before us, ld. Counsel for the assessee submitted that the assessee has entered into two separate agreements with the tenants, one for rental income and other for maintenance charges. He submitted, the maintenance charges cannot be treated as part of rental income since, they are for actual expenses incurred by the assessee for certain facilities provided to the tenant. In support of his contention, learned counsel for the assessee relied upon following decisions :

(i). M/s. Kirloskar Systems Ltd. vs. ACIT (ITAT, Bangalore Bench)(ITA Nos. 720 & 721/Bang/2011- order dated 29.11.2013).

(ii). CIT vs. Model Manufacturing Co. Pvt. Ltd. (1986) 159 ITR 270(Cal.)

(iii). CIT vs. Kanak Investments (Pvt) Ltd., (1974) 95 ITR 419 (Cal).

6. Learned departmental representative strongly relied upon the observations of the Assessing Officer and learned Commissioner (Appeals).

7. We have considered rival submissions and perused the materials on record. It is observed, the assessee owns a property/building at 1-2 Aram Bagh, Community Centre, Panchkuian Road, New Delhi. It is observed, the first and second floor of the said building having super area of 2676 sq. ft. each have been leased out to M/s. Oriental Carbon & Chemicals Limited vide agreement executed on 17 December, 2007. On the very same day, the assessee has executed two separate agreements for the first and second floor of the same building towards maintenance and certain common facilities provided to the tenants such as lift from the main lobby to the leased out portion, uninterrupted power supply, provision for clean drinking water from water tank, access to

staircase/landing, sufficient lighting arrangement, up-keeping the common area and common drainage, a generator set in running condition etc. For providing such facilities, the assessee received monthly service charges of Rs.26,760/- for each floor. Thus, as can be seen from the aforesaid facts, the maintenance charges are no way connected to the rental income. Rather, they are for certain additional facilities provided to the tenants, which are unconnected to leasing out the tenanted premises. These facilities, even, could have been provided by a third party. Therefore, in our view, the maintenance charges has no connection with the rental income, hence, cannot be considered to be a part of rental income to treat it as income from house property. The decisions relied upon by the Id. Counsel for the assessee support this view. It has also been brought to our notice by the Id. Counsel for the assessee that this is the only year, in which, the Assessing Officer has assessed the maintenance income under the head 'income from house property'. In view of the aforesaid, we hold that the maintenance income received by the assessee has to be treated as income from business. Since, the departmental authorities have not raised any doubt regarding expenses incurred against maintenance charges, the same has

to be allowed. Accordingly, we decide the grounds in favour of the assessee.

8. In the result, appeal is allowed.

Order pronounced in the open court on 29/05/2023.

Sd/-

**(G.S. PANNU)**  
**PRESIDENT**

Sd/-

**(SAKTIJIT DEY)**  
**JUDICIAL MEMBER**

Dated: 29.05.2023

\*aks/-