

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'ए', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH KOLKATA

श्री संजय गर्ग, न्यायिक सदस्य एवं श्री मनीष बोरड, लेखा सदस्य के समक्ष

Before Shri Sanjay Garg, Judicial Member and Dr. Manish Borad, Accountant Member

I.T.A No.481/Kol/2023
Assessment year: 2019-20

Bagaria More Co. Ltd.....Appellant
Room No.31, 1st Floor,
Fortuna Tower,
23A, Netaji Subhash Road,
Kolkata-1.
[PAN: AABCB4387R]

vs.

ADIT, CPC, Bengaluru.....Respondent

Appearances by:

Shri P. R. Kothari, AR, appeared on behalf of the appellant.

Shri B. K. Singh, JCIT- Sr. DR, appeared on behalf of the Respondent.

Date of concluding the hearing : August 02, 2023

Date of pronouncing the order : August 02, 2023

आदेश / ORDER

संजय गर्ग, न्यायिक सदस्य द्वारा / Per Sanjay Garg, Judicial Member:

The present appeal has been preferred by the assessee against the order dated 21.03.2023 of the National Faceless Appeal Centre (hereinafter referred to as the 'CIT(A)') passed u/s 250 of the Income Tax Act (hereinafter referred to as the 'Act').

2. The assessee in this appeal has taken the following grounds of appeal:

"For that on the facts and circumstances of case and in law, ld. Commissioner of Income Tax (Appeals) [CIT(A)], National Faceless Appeal Centre (NFAC), erred in sustaining the double addition of Rs.9973966, on account of cost of amenities provided to tenants of appellant's house

property, made by ld. Assessing Officer, CPC u/s 143(1)(a) of the Income Tax Act, 1961 (Act) while computing income under the head 'Profit and gains from business.'"

3. At the outset, the ld. counsel for the assessee has invited our attention to the intimation passed u/s 143(1) of the Act to submit that the assessee had suo moto made disallowance of Rs.9973966/- on account of cost of amenities to the tenants out of his business/professional income. However, the ld. CPC again disallowed the said amount and assessed the income from profit and gains from profession at Rs.47,86,959/- after setting off the losses of Rs.51,87,007/- making the total addition of Rs.9973966/-. The ld. counsel has further invited our attention to the impugned order of the CIT(A) to submit that the ld. CIT(A) however considered the said disallowance out of the income from house property and confirmed the addition. The ld. counsel has submitted that so far as the disallowance out of the income from house property was concerned, the issue relating to the allowances of expenditure incurred on amenities provided to the tenants has been settled by the Tribunal in the own case of the assessee from A.Y 1996-97 onwards. He, in this respect, has relied upon the decision of the Tribunal dated 08.04.2004 passed in ITA No.995/Kol/2003 for A.Y 1996-97 and further on the decision of the Tribunal dated 07.03.2008 passed in ITA Nos.1511 to 1514/Kol/2007 for A.Ys 1998-99 to 2001-02. He has further relied upon the decision of the Tribunal dated 29.04.2016 passed in ITA No.1738/Kol/2013 for A.Y 2009-10. In all the said decisions, the Tribunal has consistently allowed the claim of the assessee in respect of expenditure incurred on amenities provided to the tenants duly considering the nature of services rendered to the tenants in the form of repair and maintenance of lift and other

electrical installations apart from the standard deduction in relation to the income from house property u/s 24 of the Act.

4. Since, there is no change in the facts or circumstances of the case, the Id. CIT(A) ought to have applied the binding decision of the Tribunal in the case of the assessee in earlier assessment years on the same issue. So far as the disallowance by CPC is concerned, not claimed the above amount as business expenditure, there was no question of disallowance of the same from business expenditure. In view of the above discussion, the addition made by the lower authorities, in this case, is not justified and the same is accordingly ordered to be deleted.

5. In the result, the appeal of the assessee stands allowed.

Kolkata, the 2nd August, 2023.

Sd/-
[डॉक्टर मनीष बोरड /Dr. Manish Borad]
लेखा सदस्य /Accountant Member

Sd/-
[संजय गर्ग /Sanjay Garg]
न्यायिक सदस्य /Judicial Member

Dated: 02.08.2023.

RS

Copy of the order forwarded to:

1. Bagaria More Co. Ltd
2. ADIT, CPC, Bengaluru
3. CIT(A)-
4. CIT- ,
5. CIT(DR),

//True copy//

By order

Assistant Registrar, Kolkata Benches