

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. C.N. PRASAD, JUDICIAL MEMBER**

ITA No.7506/Del/2018
Assessment Year: 2015-16

ACIT Circle – 20 (2) New Delhi	Vs.	QNS Facility Management Pvt. Ltd. 6th Floor, Unitech House, 6, Community Centre, Saket New Delhi PAN No.AAACU1291Q
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Rohit Garg, CIT DR
Respondent by	Sh. D. C. Garg, CA

Date of hearing:	13/12/2023
Date of Pronouncement:	13/12/2023

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the revenue is preferred against the order of the CIT(A)-7, New Delhi dated 10.09.2018 pertaining to A.Y.2015-16.

2. The grievance of the revenue read as under :-

1. Whether on the facts and under the circumstances of the case, the Learned CIT(A) has erred in deleting disallowance of Rs. 6,31,26,422/- ignoring the fact that the total maintenance fees and charges received by the appellant irrespective of its nomenclature constitutes

revenue receipts and appropriation out of the same for so called sinking funds cannot be allowed as deduction and also the assessee is not the owner of the property and plant/equipments installed in the complex.

2. Whether on the facts stances of the CIT(A) erred in law in deleting the addition/ under SPVR disallowance of Rs. 2,08,40,221 made by the Learned Act 1961 by ignoring the mandatory provisions of section 144 r. 8D of the IT Act. 1961.

3. Whether on the facts and under the circumstances of the case, the Learned CITA) erred in deleting the addition of Rs. 64,00,817/ us 41(1) of the Act, 1961 as there was no movement in amount required to be paid by appellant to vendors for 3 to 4 years at all. Appellant also could not produce correct and accurate particulars in respect of cessation or remission of liability.

4. Whether on the facts and under the circumstances of the case, the Learned CITA) erred in deleting the addition of Rs. 61,53,68,298/u/s 37 of the I.T.Act, 1961 as legal and profession expenses of Rs. 119,34,01,541/ were either not covered by section 37 of the Act or as appellant wanted to expand its business or set up a new unit, said expenditure was covered by section 35D of the Act, or capital expenditure in nature.

5. *Whether on the facts and under the circumstances of the case, the Learned CIT(A) erred without knowing the fact that subsequently a survey u/s 133(A)(1) of the I.T. Act was conducted on 09.03.2018 on the office premise of the assessee company where assessee was not able to provide/ produce supporting documentation asked for various expenditure in relation to various parties which is generally available in cases where consultancy or such nature of service is involved.*

6. *Whether on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in law in accepting the assessee submissions/ documents without providing any opportunity to the AO for verification of additional evidences under Rule 46A of the I.T. Rules.*

3. The assessee company is a subsidiary of Unitech Limited.

4. At the very outset the Counsel for the assessee brought to our notice the order of the Hon'ble Supreme Court by which the Hon'ble Supreme Court issued directions for moratorium against all the proceedings against M/s. Unitech Limited and its subsidiaries. The relevant portion of the directions is as under :-

"(vii) Pending further orders of this Court, there shall be a moratorium against the institution of proceedings against Unitech Limited and its subsidiaries. The moratorium shall

also extend to existing proceedings against the company as well as enforcement of orders that may have been passed against the company.”

5. In view of the above this appeal of the revenue is dismissed. However, the revenue is at liberty to approach this Tribunal as and when the final judgment of the Hon'ble Supreme Court comes and this appeal will be revived.
6. Decision announced in the open court on 13.12.2023.

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

NEHA

Date:- .12.2023

Copy forwarded to:

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

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI