

आयकर अपीलिय अधिकरण  
दिल्ली पीठ "ई", दिल्ली  
श्री विकास अवस्थी, न्यायिक सदस्य एवं  
श्री नवीन चंद्र, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "E", DELHI  
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &  
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER

आअसं. 3776/दिल्ली/2018 (नि. व. 2011-12)  
ITA NO.3776/DEL/2018 (A.Y.2011-12)

Smt. Leela Sethi,  
Esskay Farm, 19 Oak Drive,  
Mehrauli-Sultanpur Road,  
New Delhi 110030.  
PAN: AAUPS-5021-M

..... अपीलार्थी / Appellant

बनाम Vs.

Assistant Commissioner of Income-Tax,  
Circle-24(1), New Delhi 110002

..... प्रतिवादी / Respondent

अपीलार्थी द्वारा / Appellant by : Shri Manish Malik, Advocate  
Shri Vinod Gupta, CA  
प्रतिवादीद्वारा / Respondent by : Shri Bhopal Singh, Sr. DR  
सुनवाई की तिथि / Date of hearing : 11/06/2024  
घोषणा की तिथि / Date of pronouncement : 13/06/2024

आदेश / ORDER

**PER VIKAS AWASTHY, JM:**

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-11, New Delhi [in short 'the CIT(A)'] dated 14.03.2018, for assessment year 2011-12.

2. The assessee in appeal has assailed the order of CIT(A) on two counts:-
  - i. Upholding addition of Rs. 6,72,000/- on account of rent;

ii. Disallowance of claim of deduction Rs. 1 lakh u/s. 80C of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

3. Shri Manish Malik, appearing on behalf of the assessee submits that the assessee is a owner of property 18/14, WEA, Karol Bagh, New Delhi. The assessee is a director in M/s. Onwheels Auto Finance and Leasing P. Ltd., and M/s Ess Kay Beauty Resources Pvt. Ltd. The assessee has rented the aforesaid property to M/s. Ess Kay Beauty Resources Pvt. Ltd. on a monthly rent of Rs. 80,000/-, the said company is having its registered office and corporate office in the aforesaid premises. The corporate office of M/s. Onwheels Auto Finance and Leasing P. Ltd. is elsewhere, the said company is only using address 18/14, WEA, Karol Bagh, New Delhi as its registered office. Since, the assessee is a director in the said company the assessee has allowed the company to use the address for communication purposes without charging any rent. The rent received by the assessee from M/s Ess Kay Beauty Resources Pvt. Ltd. is duly reflected by the assessee in its return of income and has been offered to tax. The rent paid by M/s Ess Kay Beauty Resources Pvt. Ltd. is claimed as expenditure in the books of the said company. The assessee is not receiving any rent from M/s. Onwheels Auto Finance and Leasing P. Ltd. and no such expenditure of payment of rent is claimed in the books of M/s. Onwheels Auto Finance and Leasing P. Ltd. The assessee had brought these facts to the notice of AO and the CIT(A), however, they failed to appreciate the same and made addition of the rent merely on assumptions without there being any material.

3.1. In respect of second issue relating to disallowance of deduction u/s. 80C of the Act, the Id. Counsel submits that the assessee had furnished

acknowledgement from IDBI Federal Life Insurance Company Ltd. indicating payment of Rs. 1 lakh. The said payment was made from Corporation Bank. The assessee had also furnished bank statement indicating debit of Rs. 1 lakh towards payments of insurance premium. The AO rejected assessee's claim on the ground that no documentary evidence was furnished by the assessee, whereas the CIT(A) rejected assessee claim on the ground that the bank statement does not reflect that any investment was made by the assessee. He pointed that the CIT(A) instead of referring to the bank statement of Corporation Bank, only examined bank statement of Axis Bank Ltd. The assessee had furnished bank statements of both the banks before the CIT(A). The acknowledgement receipt from insurance company clearly states that the payment has been received from Corporation Bank, Delhi.

4. Per contra, Shri Bhopal Singh representing the Department vehemently defended the impugned order. The Id. DR submits that the assessee has failed to disclose rental income from letting out part of premises to M/s. Onwheels Auto Finance and Leasing P. Ltd. The AO has given a categoric finding that part of the premises is let-out to M/s. Ess Kay Beauty Resources Pvt. Ltd. on monthly rental of Rs. 80,000/- and the remaining part has been let-out to M/s. Onwheels Auto Finance and Leasing P. Ltd.

4.1 In respect of second issue, the Id. DR submits that the assessee has failed to provide documentary evidence regarding investment of Rs. 1 lakh for claiming deduction u/s. 80C of the Act, either before the AO or CIT(A). Hence, the addition was rightly confirmed by the CIT(A).

5. We have heard the submissions made by rival sides and have examined the order of authorities below. We have also considered the documents furnished by the assessee before the Assessing Officer and the First Appellate Authority.

6. The first issue in appeal is with regard to addition of Rs. 6,72,000/- made in relation to rental income. The contention of the assessee is that the assessee has rented out entire premises i.e. 18/14, WEA, Karol Bagh, New Delhi to M/s Ess Kay Beauty Resources Pvt. Ltd. on a monthly rent of Rs. 80,000/-. The said company is having its registered cum corporate office in the said premises. The other company M/s. Onwheels Auto Finance and Leasing P. Ltd. is only having registered office at the said premises for correspondence purposes. No activities of the said company are carried out from the aforesaid premises, the said company is having its corporate office somewhere else. The contention of assessee is that the assessee being a director of M/s. Onwheels Auto Finance and Leasing P. Ltd. has allowed the company to use the address as registered office of the company. No rent is being allegedly charged by the assessee from the said company. We are of considered view that the authorities below have failed to examine contentions of the assessee. The assessee may furnish necessary documentary evidences to substantiate its contentions. The findings of CIT(A) on this issue are *set aside* and the issue is restored back to AO for *denovo* adjudication, after affording reasonable opportunity of making submissions to the assessee, in accordance with law. The AO shall consider the documentary evidences, if any, filed by the assessee and thereafter pass a speaking order adjudicating the issue. The ground no. 1 of appeal is allowed for statistical purposes.

7. In ground no. 1.1 & 1.2 of appeal, the assessee has assailed disallowance of deduction claimed u/s. 80C of the Act. The assessee has placed on record acknowledgement indicating payment of Rs. 1 lakh to IDBI Federal Life Insurance Company Ltd. on 13.09.2010. The said payment was made by assessee through cheque drawn on Corporation Bank, Delhi. This fact is reflected in the said acknowledgment. The assessee has also placed on record the bank statement of Corporation Bank at page no. 13 to 25 of the paper book. The bank statement indicates that on 16.09.2010 an amount of Rs. 1 lakh was debited from the account and payment was made to IDBI. The authorities below have failed to take note of evidences furnished by the assessee to support its claim. Considering the documents on record, we find merit in the submissions of assessee. The AO is directed to allow the benefit of deduction u/s. 80C of the Act to the assessee. In the result, ground no. 1.1 & 1.2 of appeal are allowed.

8. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open court on Thursday the 13<sup>th</sup> day of June, 2024.

Sd/-

(NAVEEN CHANDRA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 13/06/2024

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

**प्रतिलिपि अग्रेषितCopy of the Order forwarded to :**

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

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(Dy./Asstt. Registrar) ITAT, DELHI