

IN THE INCOME TAX APPELLATE TRIBUNAL “D” BENCH MUMBAI

**BEFORE MS. KAVITHA RAJAGOPAL, JUDICIALMEMBER
AND
SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

ITA No. 571 & 572/MUM/2024

Assessment Year: 2014-15 & 2013-14

Rajdeep Construction Pvt. Ltd. 94-A, Shailesh Building, Linking road, Santacruz West, Mumbai – 400054 (PAN : AAACR1798K)	Vs.	Deputy Commissioner of Income Tax, Central Circle – 4(2), Mumbai
(Appellant)		(Respondent)

Present for:

Assessee : Shri Mayur Makadia, CA
Revenue : Smt. Mahita Nair, Sr. DR

Date of Hearing : 18.06.2024
Date of Pronouncement : 24.06.2024

ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

These both appeals filed by the assessee are against the orders of Ld. CIT(A)-52, Mumbai vide order nos. ITBA/APL/S/250/2023-24/1058647530(1) and ITBA/APL/S/250/2023-24/1058646292(1), dated 11.12.2023 passed against the assessment orders by Deputy Commissioner of Income Tax, Central Circle 4(2), Mumbai, u/s. 143(3) of the Income-tax Act, 1961 (hereinafter referred to as the “Act”), dated 30.08.2016 for AY 2014-15 and 19.01.2016 for AY 2013-14.

2. Both the appeals are on identical issues, except for variation in quantum of addition. Therefore, both these appeals are taken up together for adjudication by passing a consolidated order. The issue involved is in respect of the addition made by the ld. Assessing Officer towards compensation received by the assessee against various amenities and services provided in respect of letting out of premises by

treating it as income from other sources instead of income from house property. We draw facts from the appeal in ITA No.571/Mum/2024 for Assessment Year 2014-15. Return of income was filed on 20.09.2014 reporting total income of Rs.89,51,820/-. In the year under consideration, assessee has given shop premises on rent basis to Yes Bank (Licensee) vide Leave and Licence Agreement and provision of Service Agreement, both dated 31.05.2011. Assessee received compensation against these agreements which was offered to tax under the head 'Income from House Property' in the return filed by the assessee. However, ld. Assessing Officer treated the same as income from other sources, since assessee could not furnish required documents and details. Aggrieved, assessee went into appeal before the ld. CIT(A).

3. From para 9 of the order of the ld. CIT(A), it is noted that multiple opportunities were given to the assessee to make its submission, however, on most of the dates, assessee sought adjournment, which were granted. Assessee could not comply with the requirements for substantiating its claim. In absence of any submission from the assessee, ld. CIT(A) considered the statement of facts and other material on record to hold the Assessing Officer has rightly brought a sum of Rs.64,50,000/- to tax as income from other sources. Thus, he dismissed the appeal by passing an *ex parte* order. Aggrieved, assessee is in appeal before the Tribunal.

4. Before us, the Ld. Counsel for the assessee at the outset prayed for remitting the matter to the file of Ld. CIT(A), so as to afford an opportunity of making all the required submissions alongwith documentary evidences and justify the claim made in the return.

5. Per contra, Ld. Sr.DR objected on the prayer so made.

6. We have heard the rival contentions and perused the material available on record. We note that assessee had made detailed submissions before the Assessing Officer though adverse view was taken by him. Assessee could not represent its case effectively on the dates of hearing fixed by the Ld. CIT(A). It has sought adjournments on several occasions. Since the order have been passed *ex parte* by the Ld. CIT(A), in the interest of justice and fair play, we find it appropriate to accept the prayer made by the ld. Counsel, so as to remit the matter back to the file of ld. CIT(A) for *denovo* meritorious adjudication of the grounds of appeal taken at the 1st appellate stage. We direct the ld. CIT(A) to provide reasonable opportunities to the assessee for making his submissions and also call for remand report from the Assessing Officer, if so required. We direct the assessee also, to be diligent in attending the hearings fixed for the appeal and assist in its expeditious and effective disposal. Assessee should not seek adjournments unless warranted by compelling reasons.

7. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order is pronounced in the open court on 24 June, 2024

Sd/-
(Kavitha Rajagopal)
Judicial Member

Sd/-
(Girish Agrawal)
Accountant Member

Dated: 24 June, 2024

MP, Sr.P.S.

Copy to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt.Registrar)
ITAT, Mumbai