

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“H-SMC” BENCH, MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER &  
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**I.T.A. No. 162/Mum/2025  
Assessment Year: 2015-16**

SV Associates 101, Gulshan CHSL, Junction of 14 <sup>th</sup> A Road, & C.D Marg, Khar (W) Maharashtra PAN – AAIFS6665F	Vs	ITO – 22(3)(1) Piramal Chamber, Lower Parel, Mumbai – 400012.
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by	Shri Anil Masand (Virtually appeared)
Revenue by	Shri Pravin Salunkhe, Sr. DR

Date of Hearing	11.08.2025
Date of Pronouncement	13.10.2025

**ORDER**

**Per: SHRI. SANDEEP GOSAIN, J.M.:**

The present appeal has been filed by the assessee challenging the impugned order dt. 13.11.2024 passed under section 250 of the Income Tax Act, 1961 (‘the Act’), by the National Faceless Appeal Centre (NFAC) / CIT(A) for the assessment year 2015-16.

2. As per the facts of the present case, the assessee had claimed huge expenses in various heads. Since the assessee did not respond to the notices issued by the AO during the assessment proceedings, therefore expenses claimed were disallowed and additions to the income were

made vide order of assessment u/s 147 r.w.s 144 of the Act.

3. During the appellate proceedings, it was specifically pleaded by the assessee that the main object of business of the firm is to let out premises for commercial use as is evident from the partnership agreements. And during the year under consideration, the assessee had given one of the premises to Bata India Ltd on Joint Retail Venture. As per the agreement with Bata India it is clearly mentioned in clause 1.5 that "*the subject matter is Joint Retail Venture Business and there is no intention of whatsoever nature to create tenancy, sub tenancy of the premises*"

4. The assessee is being owners of Big Cinemas have entered into a Conducting Agreement with Reliance Media Works for conducting and managing the theatre on monthly conducting charges as is mentioned in clause "B" and "C" of the conducting agreement.

5. It was submitted that the essence of the agreements was business agreement and not tenancy agreement, thus the income derived from the same is income from business and profession and not property income. In this regard reliance is placed upon the decision in the case of **Chennai Properties & Investment Ltd Vs CIT, in civil appeal No. 4491-4493 of 2004** decided on 9 April 2015 by Hon'ble Supreme Court wherein it was held that *if main objects of the assessee is to won, develop and letting out properties,*

*then rental income derived from said activities is assessable under the head "income from business".*

6. From the orders of Ld. CIT(A) we noticed that the revenue authorities proceeded on the presumption that the income earned by the assessee is in the nature of '*income from house property*' as Ld. CIT(A) while deciding the appeal granted 30% standard deduction on the income earned. In our view, such a reduction is available under section 24(a) of the Act, which applies exclusively to income taxable under the head income from house property.

7. Since the assessee firm is engaged in the business of leasing/subleasing and the income earned is a direct result of its business operations. However, this aspect has not been dealt with by the revenue authorities. We are of the view that it was the statutory duty of the revenue authority to have considered the factual aspect after analysing the documents placed on record by the assessee.

8. Be that as it may, in our view, the interest of justice would be met in case the issues between the parties are decided on merits, after considering every factual aspect of the case, thus, keeping in view the above factual position, the present appeal of the assessee is restored to the file of Ld. CIT(A) for deciding it afresh on merits keeping in view the facts of the present case and also the applicability of the decision of Hon'ble Supreme Court in the case of

**Chennai Properties & Investment Ltd (supra).** Needless to mention after providing opportunity of hearing to both the parties.

9. Before parting we make it clear that our decision to restore the matter back to the file of Ld. CAT(A) shall in no way be construed as having any reflection or expression on the merits of the dispute, which shall be adjudicated by the Ld. CIT(A) independently in accordance with law.

10. In the result, the appeal filed by the assessee stands allowed for statistical purposes.

Order pronounced in the open court on 13/10/2025

Sd/-  
**(PRABHASH SHANKAR)**  
**(ACCOUNTANT MEMBER)**

Sd/-  
**(SANDEEP GOSAIN)**  
**(JUDICIAL MEMBER)**

Mumbai:  
Dated: 13/10/2025

*KRK, Sr. PS.*

Copy of the order forwarded to:

- (1) The Appellant
- (2) The Respondent
- (3) The CIT
- (4) The CIT (Appeals)
- (5) The DR, I.T.A.T.

True Copy

By order

(Asstt. Registrar)  
**ITAT, Mumbai**