

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'E', NEW DELHI**
**Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. Manish Agarwal, Accountant Member**

ITA No. 338/Del/2024 : Asstt. Year: 2018-19

ACIT, Circle-16(1), New Delhi-110002	Vs	Minerals Management Services India Pvt. Ltd., DSM 648, DLF Tower, Shivaji Marg, Moti Nagar, Delhi-110015
(APPELLANT)		(RESPONDENT)
PAN No. AAACM6334J		

**Assessee by : Sh. Sumit Lalchandani, Adv. &
Sh. Utkarsa Gupta, Adv.
Revenue by : Ms. Ankush Kalra, Sr. DR**

Date of Hearing: 02.12.2025	Date of Pronouncement: 02.12.2025
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ORDER

Per Satbeer Singh Godara, Judicial Member:

This Revenue's appeal for Assessment Year 2018-19, arises against the CIT(A)/NFAC, Delhi's DIN & order No. ITBA/NFAC/S/250/2023-24/1058271952(1) dated 28.11.2023, in proceedings u/s 143(3) of the Income Tax Act, 1961.

2. Heard both the parties at length. Case file perused.
3. The Revenue raises the following substantive grounds in the instant appeal:

"1. Whether on the facts and circumstances of the case, the Id. CIT(A) was right in deleting the addition on account of under reporting of rental income amounting to Rs.2,10,25,610/- made by the AO?"

2. *Whether on the facts and circumstances of the case, the Id. CIT(A) was right in deleting the disallowance of interest charges claimed as deduction amounting to Rs.4,53,597/- without appreciating the fact that the assessee failed to clarify that whether the internet facility was used for solely and entirely for the business's operations or not?*

3. *Whether on the facts and circumstances of the case, the Id. CIT(A) was right in deleting the disallowances of legal & professional charges amounting to Rs.8,77,712/- without appreciating the fact that the assessee failed to provide documentary evidences in support of legal & professional charges to the extent of Rs.1,34,444/- and regarding to the prior period expenses on account of legal & professional charges of Rs.7,42,668/-?"*

4. We advert to the first and foremost issue herein as the Revenue seeks to revive the Assessing Officer's action alleging under reporting of rental income amounting to Rs.2,10,25,610/- at the assessee's behest which stands deleted in the CIT(A)'s lower appellate discussion reading as under:

"5.4 During the course of the appeal proceedings, the Appellant company contended that it had entered into a lease agreement on 11/12/2017 with the lessee (Sh. Navin Jindal) vide registration no. 15032 in Book No. 1, Volume No. 6549 on pages 58-65 in the office of the Sub-Registrar VII, New Delhi for a period of 05 years commencing from 01/11/2017 to 31/10/2022 for an agreed monthly rental/ lease value of Rs.20,00,000/- per month and a copy of the lease deed is also submitted during the appeal as well as assessment proceedings. On perusal of the same, it is observed that the rental amount declared by the appellant is at par with the agreement of the lease deed cited supra and no contrary claim has been observed.

5.5 It is further submitted by the appellant that out of total area of 3.85 Acre which is equal to 1,67,706 sq. ft., the actual covered area for the dwelling unit (building) is 1566.3 sq. mtrs i.e. 16,860 sq. ft.(approximately) as per

the NDMC sanctioned building plan and the rental rate adopted by the AO according to the online portal is only for the covered area and as such it is the claim of the appellant that the rental rate of the appellant's property as per the AO's value @ Rs. 37/- per sq. ft. stands at Rs.6,23,820/- (Rs. 37/- x 16860) per month, whereas, the appellant has charged Rs.20,00,000/- per month which is much more than the value as per the rate shown in the online portal. The appellant further submitted that during the course of the assessment proceedings, in response to the show cause notice dated 23/03/2021, it had submitted its reply to the AO vide letter dated 30/03/2021, wherein, followings were claimed:

"Vide Para 4.2 (i) and (ii), you have mentioned that the assessee has failed to provide documentary evidence in support of its claim regarding the covered area. In this context, we wish to clarify that on earlier occasion, we had categorically stated that the total covered area is 1566.3 sq mtrs i.e. 16860 sq ft. (approx). We are hereby enclosing the relevant extract of the Building Plan duly sanctioned by NDMC. You will observe that there are two floors - one Ground Floor (having covered area admeasuring 1129.18 sq mtrs) and another First Floor (having covered area admeasuring 437.12 sq mtrs). For your ready reference, we hereby summarize the details/data, as extracted out of the Sanctioned Building Plan-

Particulars	Sanctioned Area (In sq mtrs)	Total Area (In sq mtrs)
Ground Floor	1129.586	1129.18
First Floor	443.732	437.12
Total	1573.318	1566.300

Vide Para 4.2 (iii), you have mentioned "In absence of such documentary evidence the area of the residential property is hereby treated as 3.85 Acre (Approx. 1,67,706 sq ft.) as mentioned in the rent agreement ". In this context, we wish to clarify that the area of the total land, on which the building is constructed, is 3.85 Acre. It will be incorrect to treat the total covered area of the building as 1,67,706 sq. ft. approx. As a matter of fact, the total covered area on the Ground Floor and the First Floor is 1566.300 sq mtrs i.e. 16860 sq. ft. Further, since the documentary evidence in support of our claim that the total covered area is 1566.300 sq. mtrs. i.e. 16860 sq.

ft., your proposal to treat the total area as 3.85 Acres is liable to be dropped.

5.6 On perusal of the above, I am inclined to agree with the contention of the appellant. First of all, I opine that the AO has misinterpreted the area of the land with the actual covered area of the building. In support of its contention, the appellant company furnished the copy of building plan wherein it is clearly mentioned that the covered area was only 1566.300 Sq. Meters. It is also seen that during the course of the assessment proceedings, the appellant company had strongly objected the proposal and stand taken by the AO; however, the same was negated. Further, on perusal of the assessment order and the arguments backed with the evidences brought on record, it is seen that other than relying on the online portal, the AO had no other material evidences prior to adopting the rental value of Rs.37/- per square foot on entire land of the property. The AO arrived at the rate of Rs.37/- per square feet only on the opinion of rent received from property broker firms and online websites.

5.7 The Appellant company has duly audited its books of accounts and as per the ITR and Form 26AS, the rental income was declared/received @ Rs.1,00,00,000/-, also it is observed that the AO had not pointed out any defects in the books of accounts nor did he bring on record any other material facts in support of the estimation of the rental income other than the reliance on the online portal.

5.8 Further the AO in para 4.3 of the assessment order mentioned as under:

"4.3 Without prejudice to the above, if the contention of the assessee is accepted in any appellate proceedings for the rental income only for the covered area of 1566.3 sq. mtrs i.e. 16860 sq. ft. (approx) as claimed by the assessee, then the claim of depreciation by the assessee company will also requires modification."

It is further held by the AO that the appellant had capitalized Rs.3,42,12,19,775/- and claimed depreciation of Rs.8,55,30,494/- on the entire property and since the appellant claimed the rental income only on the covered area of 16,860 sq. ft., hence the depreciation was required to be restricted to that extent only which stands @ Rs. 85,95,815/- (Total area of the property worked out @ 10.05%, depreciation to be allowed 10% of Rs.

8,55,30,494/-). In this regard, the appellant claimed that it had charged depreciation on the cost of the building valued @ Rs.3,42,12,19,775/- which is substantiated from the financials for the year ended March 31, 2018. Further on perusal of the details of the fixed assets in the computation sheet, it is apparent that depreciation of Rs.8,55,30,494/- was claimed at the rate of 2.5% on the value of the building declared of Rs.3,42,12,19,775/- as it was put to use for less than 180 days, which is in my considered opinion is as per the permissible limit prescribed under the provisions of the Act and requires no alteration. Thus, considering the totality of the facts of the case and discussions made above, I find no reason to agree with the computation of the rental income estimated by the AO based on the information gathered from the online portal without bringing in any material facts on record. In view of this, the rental income shown by the appellant is upheld and the AO is directed to delete the addition of Rs.2,10,25,610/- on account of estimated rental income. Accordingly, Ground No. 5 & 6 are allowed.

5.7. Ground No. 7 pertains to the issue of addition of Rs.4,53,597/- on account of disallowance of internet charges and the same is adjudicated as under:

5.8 AO's Observation:- The relevant portion of the assessment order is reproduced as under:

"5. Further, on perusal of the details submitted by the assessee it is seen that the assessee has debited Rs. 4,53,597/- on account of internet charges. On perusal of the internet charges bills it is seen that the same was paid for the residential property which has been given for rent for the year under consideration. However, nothing has been mentioned in rent agreement regarding internet charges. Therefore, the assessee was requested to provide as to why the internet charges of Rs. 4,53,597/- should not be disallowed. In response to the same vide its submission dated 16.03.2021 the assessee has submitted as under:

"For the sake of providing security to the building, internet facility was felt to be provided. Hence, the expenses in connection with internet charges were incurred for the purpose of business."

From the submission of the assessee company it is not clear whether the assessee company has used the internet or the tenant used the same. It is not clear that the

providing internet facility to tenant how the building was provided security.

5.1 In this case Show Cause Notice (SCN) alongwith Draft Assessment Order and Draft Computation Sheet of Tax was issued to the assessee on 23.03.2021 proposing disallowance of internet expenses. In response to the same, the assessee has submitted its reply to the SCN on 30.03.2021. The relevant part of the same is reproduced as under:

"Vide Para 5, you have proposed to disallow whole of the deduction claimed on account of Internet Charges amounting to Rs. 4,53,597/-. In this context, we wish to state that without providing Internet, the surveillance would not have been possible. Such expenditure deserves to be allowed."

5.2 The reply of the assessee has been carefully considered but found not to be acceptable. From the reply submitted by the assessee it is not clear whether the assessee company has used the internet or the tenant used the same. Further, no documentary evidence has provided by the assessee in support of its claim that such huge amount is required to be spent on surveillance of the building.

In view of the above discussion, the claim of the assessee for debited internet charge is hereby disallowed and Rs. 4,53,597/- is hereby added back to the total income of the assessee for the year under consideration."

5. Suffice to say, the Revenue/appellant could hardly dispute the clinching fact that what all the learned Assessing Officer had done was to go by an online portal namely property.sulekha.com's rates to conclude that the assessee had "under-reported" its rental income to the tune of Rs.2,10,25,610/-. There is admittedly no other material to justify the impugned addition. That being the case, we are of the considered view that the learned CIT(A) has rightly deleted

the impugned alleged under reported rental income addition in the given facts which is hereby affirmed.

6. Next comes the second substantive issue of disallowance of internet charges payment of Rs.4,53,597/- made by the Assessing Officer and deleted in the lower appellate proceedings.

7. Learned departmental representative's case is that the assessee could not plead and prove the relevant nexus between its business and the said internet charges. We make it clear that there is hardly any quarrel between the parties that the assessee had indeed installed the corresponding internet facility at its business premises. That being the case, we hereby find merit in the learned CIT(A)'s detailed discussion deleting the impugned internet charges payment disallowance since the same had been found to be incurred wholly and exclusively for the purpose of business.

8. Lastly comes the third issue of prior period expenses on account of legal and professional charges of Rs.7,42,668/- wherein the Revenue alleges that the same ought to have been claimed and allowed in the lower appellate order. We are of the considered view that given the fact that the assessee has all

along has been assessed at the maximum marginal rate, it is a revenue neutral expenditure instance; and, more particularly, when the same has crystallized in the relevant financial year only. We accordingly reject the Revenue's instant third instant substantive ground as well.

9. This Revenue's appeal is dismissed.

Order Pronounced in the Open Court on 02/12/2025.

Sd/-

(Manish Agarwal)
Accountant Member
Dated: 02/12/2025

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Satbeer Singh Godara)
Judicial Member

ASSISTANT REGISTRAR