

IN THE INCOME TAX APPELLATE TRIBUNAL  
“SMC - A” BENCH : BANGALORE

BEFORE SHRI SUNIL KUMAR YADAV, JUDICIAL MEMBER

ITA No.1704/Bang/2016
Assessment year : 2012-13

M/s. Habitat Venture Constructions Pvt. Ltd., 2210, 4 <sup>th</sup> Cross, 1 <sup>st</sup> Main Road, Vijayangar, 2 <sup>nd</sup> Stage, Bengaluru – 560 040. <b>PAN: AABCH 5395R</b>	Vs.	The Deputy Commissioner of Income Tax, Circle 3(1)(1), Bangalore.
APPELLANT		RESPONDENT

Appellant by	:	None
Respondent by	:	Shri R.K. Jha, Jt. CIT(DR)

Date of hearing	:	27.12.2016
Date of Pronouncement	:	27.12.2016

**ORDER**

This appeal is preferred by the assessee against the order of  
CIT(Appeals) *inter alia* on the following grounds:-

“1. The Order of the learned Commissioner of Income-tax Appeals, passed under section 250 of the Act in so far as it is against the Appellant is opposed to law, equity, weight of evidence, probabilities and the facts and circumstances in the Appellant's case.

2. The Learned CIT(A) erred in taking a new view on the activity of sub-lease to be as business activity, which was neither enumerated from the order of the Learned AO nor this was part of the grounds of the appeal filed by the Appellant.

3. The Learned CIT(A) failed to consider and appreciate the facts that the appellant was engaged in real-estate business and incorrectly held that the appellant was in the business of Leasing, which led to inappropriate dis-allowance of expenses u/s 40(a)(ia) for non-deduction of Tax which is illegal and bad in law.

4. The learned CIT(A) erred in upholding the order of the AO in dis-allowing and adding back to the income of the assessee, a sum of Rs. 30,00,000, the expenses claimed towards sublease income by incorrect application of 40 (a) (ia) of the Income Tax Act under the computation provision of Income from other sources.

5. The Appellant craves leave to add, alter, delete or substitute any of the grounds urged above.

In the view of the above and other grounds that may be urged at the time of the hearing of the appeal, the Appellant prays that the appeal may be allowed in the interest of justice and equity.”

2. This appeal was listed for hearing on 27.12.2016, but none appeared on behalf of the assessee, despite service of notice of hearing. Since the assessee did not appear, we have no option, but to hear the appeal *ex parte*, *qua* the assessee. Accordingly, revenue was heard.

3. We have carefully examined the order of the CIT(Appeals) on the impugned grounds and we find that he has rightly adjudicated the issues in detail and I find no infirmity therein. Accordingly, I confirm the order of CIT(Appeals).

4. In the result, the appeal of assessee is dismissed.

Pronounced in the open court on this 27<sup>th</sup> day of December, 2016.

Sd/-

(SUNIL KUMAR YADAV )  
Judicial Member

Bangalore,  
Dated, the 27<sup>th</sup> December, 2016.

/D S/

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.
6. Guard file

By order

Assistant Registrar,  
ITAT, Bangalore.