

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH :H: DELHI)
BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT &
DR. B.R.R. KUMAR, ACCOUNTANT MEMBER**

**ITA No. 5912/Del/2019
Assessment Year: 2014-15**

DCIT, Circle-27(1), New Delhi (PAN:AAACU0461E)	Vs.	U & I Business Services Pvt. Ltd., F-41, NDSE Part-I, New Delhi-1100 49
(Appellant)		(Respondent)

Present for:

Department by : Ms. Sapna Bhatia, CIT - DR
Assessee by : Shri NL Anand, Adv.

Date of Hearing : 12.10.2023
Date of Pronouncement : 25.10.2023

O R D E R

PER SAKTIJIT DEY, VICE PRESIDENT:

This is an appeal by the Revenue against order dated 10.04.2019 of learned Commissioner of Income-Tax (Appeals)-19, New Delhi for the assessment year 2014-15. The effective grounds raised by the Revenue are as under:

1. Whether on facts and in the circumstances of the case the Ld. CIT(A) has erred in law in deleting the disallowance of Rs.1,17,26,787 made u/s. 24(a) of the Income-Tax Act, 1961 by the AO.”
2. Whether on facts and in the circumstances of the case the Ld. CIT(A) has erred in law in deleting the disallowance of Rs.48,00,000/- made on account of rental expenses, by the AO.”

2. Briefly, the facts are, assessee is a resident corporate entity stated to be engaged in the business of leasing of property. For the assessment year under dispute, assessee filed its return of income on 30.10.2014 declaring income of Rs.3,95,29,220. While verifying the return of income filed by the assessee during assessment proceedings, the Assessing Officer noticed that the rental income received of Rs.4,58,97,039 from letting out a property to Reliance Retail Ltd. has been offered to tax under the head “income from house property”.

3. Being of the view that such income has to be treated as business income, the Assessing Officer issued a show cause notice to the assessee and also directed the assessee to furnish its Memorandum of Association. After perusing the Memorandum of Association, the Assessing Officer observed that as per the objects, the rental income received by the assessee has to be treated as business income. Accordingly, he assessed the income under the head “business and profession”.

4. Being aggrieved with the aforesaid addition, the assessee preferred an appeal before learned First Appellate Authority. Being convinced

with the submissions of the assessee, learned Commissioner (Appeals) accepted assessee's claim that the rental income earned has to be assessed as income from house property.

5. We have considered rival submissions and perused the material on record.

6. As could be seen from the facts and material on record, assessee had two different properties, one located at Sector-32, Gurgaon and the other at Sector-29, Gurgaon. The property at Sector-32, Gurgaon has been let out to Greynium Information Technologies Pvt. Ltd. as a business centre with various types of additional services such as staff assistance, reception services, photocopy, FAX, counter services, car parking services etc. for which the lease rent has been offered as income from business. However, the property located at Sector-29, Gurgaon has been let out to M/s. Reliance Retail Ltd. without any additional/associated services. Hence, the rental income received has been offered as income from house property. It is also observed that the rental income received from Reliance Retail Ltd. has been assessed and offered to tax as income from house property from past assessment

years. The aforesaid factual position remains uncontroverted before us. Thus, in view of the aforesaid, we are inclined to uphold the decision of learned First Appellate Authority in treating the rental income as income from house property and allow deduction under Section 24(a) of the Act.

7. The second issue relates to deletion of disallowance of Rs.48,00,000.

8. Briefly, the facts relating to this issue are, in course of assessment proceedings, the Assessing Officer noticed that the assessee has paid rent of Rs.60,00,000 to two persons, namely, Shri Harbans Kohli and Smt. Chanchal Rani Kohli. Being of the view that the concerned premises were not used for the purpose of assessee's business, the Assessing Officer disallowed the rental expenses of Rs.60,00,000. Assessee contested the aforesaid disallowance before learned First Appellate Authority.

9. Having factually verified the issue, learned Commissioner (Appeals) observed that out of three properties taken on rent, one of the properties situated at F-41, NDSE Part-I is being used as registered office and business premises of the assessee as per the documents

available from Ministry of Corporate Affairs' website, as well as copies of bills from various vendors address, to the said address. Thus, he held that, since, the property is being used for business, rent paid of Rs.48,00,000 relating to that property has to be allowed as business expenses. Accordingly, he deleted the addition to the extent of Rs.48,00,000.

10. Having considered rival submissions, we find that learned First Appellate Authority has recorded a factual finding that one of the properties taken on rent, is actually used for the business of the assessee. The Revenue has not been able to controvert the aforesaid factual finding and that being the case, we decline to interfere with the decision of learned First Appellate Authority. Grounds are dismissed.

11. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 25.10.2023.

Sd/-

**(DR. BRR KUMAR)
ACCOUNTANT MEMBER**

Sd/-

**(SAKTIJIT DEY)
VICE-PRESIDENT**

**Dated:25th October, 2023
Mohan Lal**

Copy forwarded to:

1. Applicant
2. Respondent
3. CIT
4. CIT(A)
5. DR

