

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'B', NEW DELHI**

**Before SH. H.S. SIDHU, Judicial Member
&
Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 3905/Del./2017
Asstt. Year: 2013-14**

ACIT Circle 5(2) New Delhi.	Vs	Central Park Infrastructure Development Pvt. Ltd. 3 rd Floor, Tower D, Global Business Park, M.G. Road, Gurgaon, Haryana.
(APPELLANT)		(RESPONDENT)
PAN No. AADCC4067B		

**Revenue by : Ms. Ashima Neb, Sr. DR
Assessee by : None**

Date of Hearing	09.12.2019
Date of Pronouncement	09.12.2019

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the Revenue against the order of the Id. CIT(Appeals)-2, New Delhi dated 31.03.2017 pertaining to assessment year 2013-14.

2. Following grounds have been raised by the Revenue:
- a) *"On the facts and in the circumstances of the case and in law, the Ld. CIT(A) is not justified in allowing the additional ground that expenditure as well as income*

during pre commencement period should be netted out and only the resultant expenditure should be capitalized instead of entire expenditure incurred during pre commencement period as the contention of the assessee, in this regard, was duly considered by the Assessing Officer during the assessment proceedings.

- b) On the facts and in the circumstances of the case and in law, the order of the Ld. CIT(A) allowing additional ground is vague and not specific as the order does not mention as to which amount of income should be netted out with which amount of expenses.*
- c) On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in allowing additional ground without giving due opportunity to the Assessing Officer.”*

3. Brief facts of the case are that assessee is a limited company engaged in the business of construction of hotel near New Delhi Airport on the land taken on lease from DIAL. During the year the Assessing Officer observed that the assessee debited Rs. 7,70,14,078/- under the head “other expenses”. It was submitted that the assessee has entered into an agreement with the DIAL for a period of 26 years and 4 months for leasing of the property for which the assessee would pay a license fee of Rs. 1,92,35,07,853/-. The payment of this amount is in staggering and increasing order from 3.46 crores in F.Y. 2010-11 to 13.20 crores in

F.Y. 2035-36. These increasing amounts have been worked out taking into consideration the projected business growth of the assessee which entitles them to pay increasingly higher lease rentals from year to year totaling to Rs. 192.35 crores. The Assessing Officer has disallowed the amount of rental payments on the grounds that the accounting of rent equalization reserve is faulty. Before the Ld. CIT(A), the assessee pleaded that the lease rentals received from Oriental Structural Engineering Ltd. may be allowed to be set off against the lease rentals paid to DIAL. The asset of the land on which the lease rental received from Oriental Structural Engineering Pvt. Ltd. and paid to the DIAL is the same. The Ld. CIT(A) has also allowed the excess expenditure to be capitalized as the project of construction of hotel has not commenced business operations. Thus, we find no infirmity in the order of the Ld. CIT(A) in allowing the netting off of leased rental received and paid.

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

Order Pronounced in the Open Court on 09/12/2019

Sd/-
(H.S. SIDHU)
Judicial Member
Dated: 09.12.2019
*Kavita Arora, Sr. PS

Sd/-
(Dr. B. R. R. Kumar)
Accountant Member

Copy forwarded to:

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

ASSISTANT REGISTRAR

Date of dictation	09.12.2019
Date on which the typed draft is placed before the dictating Member	09.12.2019
Date on which the typed draft is placed before the Other Member	09.12.2019
Date on which the approved draft comes to the Sr. PS/PS	09.12.2019
Date on which the fair order is placed before the Dictating Member for pronouncement	09.12.2019
Date on which the fair order comes back to the Sr. PS/PS	09.12.2019
Date on which the final order is uploaded on the website of ITAT	09.12.2019
Date on which the file goes to the Bench Clerk	09.12.2019
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	