

**IN THE INCOME TAX APPELLATE TRIBUNAL  
(DELHI BENCH: 'F': NEW DELHI)  
(Through Video Conference)  
BEFORE MS SUCHITRA KAMBLE, JUDICIAL MEMBER  
AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No:- 3125/Del/2018  
(Assessment Year: 2014-15)**

Addl. CIT, Special Range-9, New Delhi.	Vs.	United Hotels Ltd., New Delhi.
<b>PAN No: AAACU0031C</b>		
<b>APPELLANT</b>		<b>RESPONDENT</b>

**Revenue By** : Shri Jaspreet Singh Minhas, CIT (DR)  
**Assessee By** : Shri Jagdish Ajmani, CA

**Per Anadee Nath Misshra, AM**

**(A)** This appeal by Revenue is filed against the impugned order of Learned Commissioner of Income Tax (Appeals)-16, New Delhi, ["Ld. CIT(A)", for short], dated 30.01.2018 for Assessment Year 2014-15. Grounds taken in this appeal of Revenue are as under:

*"1. In the facts and circumstances of the case, the Ld. CIT(A) has erred in ignoring the fact that the working arrangements agreement clearly provides that a fixed percentage of profit is to be paid to M/s Sir SobhaSingh & Sons Pvt. Ltd. as compensation, which clearly makes an application of income.*

*2. In the facts and circumstances of the case, the Ld. CIT(A) has erred in not appreciating the fact that the assessee has paid commission to the shareholder Directors without any services rendered by them to the company and only to bypass the provision of sec. 36(1)(ii) so as to not to declare the dividend."*

(B) The Assessee filed return of income declaring income of Rs.6,93,84,010/-. Vide Assessment Order dated 31.12.2016 under Section 143(3) of Income Tax Act, 1961 ("I.T. Act", for short); income of the assessee was assessed at Rs. 8,85,63,176/- (rounded off to 8,85,63,180/-). The additions made by the Assessing Officer ("AO", for short) in the aforesaid Assessment Order included Rs. 1,26,00,000/- on account of disallowance of enhanced rent paid; and Rs. 65,79,166/- on account of disallowance of Commission paid to Directors.

(B.1) Aggrieved, the assessee filed appeal before the Ld. CIT(A), which was disposed off vide impugned appellate order dated 30.01.2018. The Ld. CIT(A) noted, in Paragraphs 6.1 and 7.1 of impugned appellate order dated 30.01.2018, that the facts, of the case were identical to the facts of the case for Assessment Year 2013-14. Following the appellate order of the Ld. CIT(A) for Assessment Year 2013-14, wherein both these issues were decided in favour of the same assessee, the Ld. CIT(A) deleted the aforesaid additions of Rs. 1,26,00,000/- and Rs. 65,79,166/-. The Ld. CIT(A) decided both the issues in favour of the assessee and allowed the assessee's appeal. The present appeal before us has been filed by Revenue against the aforesaid impugned appellate order dated 30.01.2018 of Ld. CIT(A). In the course of appellate

proceedings in Income Tax Appellate Tribunal, the following documents were filed from the assessee's side:

- *Written Submissions*
- *Copy of Appellate Order of ITAT for AY 201-14*
- *Copy of Rent Receipts*
- *Copy of Order of CIT(A) -21 for AY 2003-04*
- *Copy of Appellate order of ITAT for AY 2003-04*
- *Historical Statement of Dividend Payment*
- *Copy of Order of CIT(A)-16 for AY 2014-15*
- *Copy of AO's Order for AY 2014-15*
- *Copy of Working Arrangement Agreement*

(C) At the time of hearing before us, the Learned Senior Departmental Representative ("Ld. Sr. DR", for short) for Revenue and the Ld. AR of the assessee were in agreement that both the issues in dispute in the present appeal are squarely covered in favour of the assessee by order of Coordinate Bench of Income Tax Appellate Tribunal ("ITAT", for short) in assessee's own case, vide order dated 28.07.2021 in the case of the assessee, for Assessment Year 2013-14, in ITA No.-2155/Del/2017; wherein in identical facts and circumstances both the issues in dispute were decided in favour of the assessee. Our attention was also drawn by Ld. AR of the assessee to the written submissions, and in particular, to the following portion of the written submissions filed from the assessee's side:

*"1. The assessee is engaged in the business of running a hotel in the name and style of The Ambassador Hotel in New Delhi. Return of income for the year was filled at Rs. 6,93,84,010. Ld. AO has made following two additions to the returned income and total income was determined at Rs 8,85,63,180.*

<i>S. NO.</i>	<i>Particulars</i>	<i>Amount</i>
<i>1.</i>	<i>Disallowance of enhanced rent paid to owner of the hotel premises</i>	<i>1,26,00,000</i>

2.	<i>Disallowance of Commission paid to Directors</i>	<i>65,79,166</i>
	<i>Total Additions</i>	<i>1,91,79,166</i>

*1.1 Ld. CIT(A) has deleted both these additions against which department has preferred an appeal. Both these issues were also involved in the AY 2013- 14 wherein also the CIT(A) has deleted the addition and the Hon'ble ITAT has rejected the second appeal of the department vide order No. ITA No. 2155/Del/2017dated 28.07.2021. Copy of Order Attached at page 12-23.*

*1.2 Thus, both the issues have already been decided in favor of the assessee by the Hon'ble ITAT vide order no. ITA No. 2155/Del/2017dated 28.07.2021for AY 2013-14. This being a covered matter so the assessee craves for relief.*

(D) We have heard both sides and carefully perused the materials available on records. We find that the Ld. CIT(A) has observed that facts in this year, in respect of both the disputed issues, are identical to facts of Assessment Year 2013-14. Moreover, the Ld. CIT(A) has followed his own order in the case of the same assessee for Assessment Year 2013-14 in which both the issues in dispute were decided in favour of the assessee and the corresponding additions were deleted. For Assessment Year 2013-14, the issues in dispute have also been decided already by Co-ordinate Bench of ITAT, Delhi vide aforesaid order dated 28.07.2021 in ITA No.- 2155/Del/2017. For Assessment Year 2014-15, to which the present appeal before us pertains, both sides were in agreement at the time of hearing, that both issues in dispute are covered in favour of the assessee by aforesaid order dated 28.07.2021 of Co-ordinate Bench of ITAT. Neither side has brought any materials for our consideration to persuade us to take a view different from the view already taken by Co-ordinate Bench of ITAT, Delhi in assessee's own case by aforesaid order dated 28.07.2021 of Co-ordinate Bench of ITAT, Delhi, wherein both issues have been decided in favour of the assessee in

identical facts. Neither side has brought to our attention any distinguishing facts and circumstances for Assessment Year 2014-15 (to which the present appeal pertains) from facts and circumstances of the aforesaid order dated 28.07.2021 of Coordinate Bench of ITAT, Delhi. Moreover, both sides are in agreement that both the issues in dispute in the present appeal before us are in favour of the assessee and squarely covered by aforesaid order dated 28.07.2021 of Co-ordinate Bench of ITAT, Delhi. In view of the foregoing; and respectfully following the aforesaid order dated 28.07.2021 of Coordinate Bench of ITAT, Delhi; we decline to interfere with the impugned appellate order dated 30.01.2018 of Ld. CIT(A); and dismiss both the grounds of appeal. Consequently, appeal of Revenue is dismissed.

Our order was orally pronounced in Open Court on 01-09-2021, after conclusion of the hearing, in the presence of representatives of both parties. Now this order in writing is signed today on 02/09/2021.

Sd/-

**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

Sd/-

**(ANADEE NATH MISSHRA)**  
**ACCOUNTANT MEMBER**

Dated: 02/09/2021  
Pooja/-

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI

ate of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
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	