

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C”BENCH: BANGALORE**

**BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT AND
SHRI B.R. BASKARAN, ACCOUNTANT MEMBER**

ITA No.1689/Bang/2018
Assessment Year: 2014-15

Prestige Amusements Private Ltd. The Falcon House No.1, Main Guard Cross Road Bangalore-560 001 PAN NO :AABCP6614R	Vs.	Asst. Commissioner of Income Tax Circle-5(1)(2) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Shri B.R. Sudheendra, A.R.
Respondent by	:	Smt. R. Premi, D.R.

Date of Hearing	:	08.10.2020
Date of Pronouncement	:	09.10.2020

ORDER

PER B.R. BASKARAN, ACCOUNTANT MEMBER:

The assessee has filed this appeal challenging the order dated 1.3.2018 passed by Ld. CIT(A), Bengaluru and it relates to assessment year 2014-15.

2. The assessee is aggrieved by the decision of Ld. CIT(A) in confirming the addition of Rs.1,43,13,879/- relating to Mall shopping festival expenses and Rs.27,09,868/- relating to parking amount due to land lord.

3. The facts relating to the case are stated in brief. The assessee is engaged in the business of managing commercial properties. It

filed its return of income for AY 2014-15 declaring a total income of Rs.3,57,97,830/-. During the course of scrutiny proceedings, the A.O. called for details of large expenses claimed in Profit & Loss account and the turnover related to the same. In the statement of Large expenses, the assessee, disclosed following two items, even though they did not find place in the Profit and Loss account.

<i>“Marketing fund income against expenditure set-off</i>	<i>1,43,13,897</i>
<i>Parking amount Transferred to payable</i>	<i>27,09,868”</i>

4. The A.O. noticed that the assessee has not debited profit & loss account with the amount of Rs.1,43,13,879/- relating to Mall shopping festival expenses. When questioned about it, the assessee explained that it has earned gross collections of Rs.1,63,16,060/- on account of conducting Mall shopping festival and incurred expenditure of Rs.1,43,13,897/- on conducting the said festival. Accordingly, there was net income of Rs.20,02,163/- and the same was shown in the P&L account under the head “income from facilities & maintenance”.

5. With regard to the parking amount, it was submitted that parking income and expenditure do not belong to assessee and the net income has to be given to the owners of the Mall. It was submitted that the parking expenses was debited to the Mall Owner’s account. It was submitted that both the above items were included in the “Statement of large expenses” submitted to the AO, since they relate to the mall.

6. Since the Mall shopping festival expenses of Rs.1,43,13,879/- was not debited to P&L account, the A.O. added the same to the total income of the assessee. With regard to Parking expenses, the A.O. expressed the view that the assessee has included expenses of

Rs.27,09,868/- in the details of large expenses furnished to him. Since this expenditure is not relatable to the assessee, the A.O. added the same to the total income of the assessee.

7. The Ld. CIT(A) confirmed both the additions and hence the assessee has filed this appeal before us.

8. The Ld. A.R. submitted that the assessee has received gross collections of Rs.1,63,16,060/- on account of conducting Mall shopping festival and incurred expenditure of Rs.1,43,13,897/- in that regard. Accordingly, there was net income of Rs.20,02,163/-. He submitted that the assessee has included this amount under the head "Income from facilities & maintenance" and the same is reported as "Revenue from Operations". The Ld. A.R. invited our attention to Schedule 16 of the Annual report, which gives details of Revenue from Operations. Under the said head, the Income from Facilities & Maintenance was disclosed at Rs.22,41,89,479/-. The Ld A.R submitted that the assessee has furnished the details of "income from facilities and maintenance" and the said details would show income from shopping festival expenses at Rs.20,02,163/-. Accordingly he submitted that the net income disclosed in the above list, i.e., Rs.20,02,163/- represents net amount of Gross collections of Rs.1,63,16,060/- less expenditure of Rs.1,43,13,879/-. Accordingly he submitted that the above said expenditure has been reduced from related income, instead of showing separately in the debit side of Profit and Loss account. Accordingly he submitted that the tax authorities are not right in presuming that the assessee has not claimed the above said expenditure and accordingly they are not justified in making this addition.

9. With regard to the parking expenses payable to the landlord, the Ld. A.R. submitted that the relevant expenditure has been debited to the Mall owner/Landlord account titled as "Parking & MP Payable to LO Eva" account and it was not claimed by the assessee as expenditure at all. He submitted that the said amount, however, was included in the Statement of large expenses" furnished to the A.O. Accordingly, the Ld. A.R. submitted that there is no necessity to make separate disallowance of an item, which was not claimed by the assessee at all.

10. The Ld. D.R. on the contrary, placed her reliance on the order passed by Ld. CIT(A).

11. We heard the parties and perused the record. The first addition relates to Mall shopping festival expenses of Rs.1,43,13,879/-. The assessee has submitted that the gross income earned out of that fund is Rs.1,63,16,060/- and the expenditure incurred was Rs.1,43,13,879/- resulting in net income of Rs.20,02,163/-. The above said amount was included under the ledger account "income from facilities & maintenance" amounting to Rs.22,41,89,479/-, which is reported under the head "Revenue from operations" in the profit & loss account. The assessee furnished the details of income from facilities & maintenance as under:

<i>Particulars</i>	<i>Debit</i>	<i>Credit</i>	<i>Main Head</i>	<i>Sub Note</i>
3mmd Interest Payable - Tenants		47,440	P&L	Revenue from Operations
Centre Management Fee - Vijaya Mall		1,32,01,178	P&L	Revenue from Operations
Deductions		7,16,925	P&L	Revenue from Operations
Deficit Mall Management Recovery		2,80,96,389	P&L	Revenue from Operations
Deprn - AC - Common - Fl		17,53,647	P&L	Revenue from Operations
Deprn - AC - Demised - Cl		45,59,302	P&L	Revenue from Operations
Deprn - DG - Common - El		17,56,197	P&L	Revenue from Operations
Dino Machine Hire Charges Received		3,18,000	P&L	Revenue from Operations
Electricity - AC - Common - F		13,08,873	P&L	Revenue from Operations
Electricity - AC - Demised - C		3,15,13,596	P&L	Revenue from Operations
Electricity - Common Area - D		1,03,56,991	P&L	Revenue from Operations
Electricity - Common - Area - D - Eva		4,69,267	P&L	Revenue from Operations
Electricity - Demised - A		5,46,23,251	P&L	Revenue from Operations
Electricity - Demised - Eva		1,05,57,418	P&L	Revenue from Operations
Escalator Maint. Recd - Fm		88,200	P&L	Revenue from Operations
Exps Recovery - ST	8,371		P&L	Revenue from Operations
HK Services - Recovery		4,38,887	P&L	Revenue from Operations
Management Charges - UBC		67,80,794	P&L	Revenue from Operations
Management Fee - HVAC		2,28,920	P&L	Revenue from Operations
Materials (Plu&Ele) Recovery - FM		14,180	P&L	Revenue from Operations
Mngt. Charges 10% I-Forum		56,78,464	P&L	Revenue from Operations
Other Charges Common to Complex - Eva		81,21,526	P&L	Revenue from Operations
Other Charges Common to Complex .lik		3,65,33,571	P&L	Revenue from Operations
OzonisationRecd - PVR		5,82,432	P&L	Revenue from Operations
Rent - Recd 7.5% - Eva		3,72,115	P&L	Revenue from Operations
ReXRecd Eva - 5%		78,749	P&L	Revenue from Operations
Shopping Festival Expenses P&L Cr		20,02,163	P&L	Revenue from Operations
Water Charges Recd - G		32,84,074	P&L	Revenue from Operations
Water Charges Received - Eva		7,15,301	P&L	Revenue from Operations
Total	8,371	22,41,97,850		

Net Revenue 22,41,89,479

Revenue as per Financials 22,41,89,479

12. It can be noticed from the above list that the assessee has disclosed the amount of Rs.20,02,163/- as Income from shopping festival expenses. Since the assessee has included net income, there was no necessity for the assessee to disclose the expenditure separately again in the profit & loss account.

13. It was submitted that the assessee has disclosed the “mall shopping festival” expenses also in the Statement of large expenses called for by the assessee, even though it was netted off against the

income. We have notice earlier that there was no necessity to show expenses separately in the profit & loss account, when the expense are netted off against the relevant income. Accordingly, it is noticed that the assessee has accounted for the expenditure of Rs.1,43,13,879/- in the books of accounts and also in the profit & loss account in the form of netting off the same against the relevant income. Hence, the tax authorities are not justified in assessing the same again in the hands of the assessee. Accordingly, we set aside the order passed by Ld. CIT(A) and direct the A.O. to delete this addition.

14. The next issue relates to addition of Rs.27,09,868/- relating to parking expenses. The assessee submitted that the parking income & expenses do not belong to it. Since the A.O. has called for details of large expenses relating to the Mall operations, the assessee included the same in the statement of expenses furnished to the assessee. The Ld. A.R. invited our attention to the ledger account copies and demonstrated that the parking expenses of Rs.27,09,868/- has been debited to the Mall owner/land lord account. Accordingly he submitted that above said amount was not claimed as expenditure in the P&L account.

15. The Ledger account of Mall owner/land lord account titled as "Parking & MP Payable to LO Eva" is showing a credit balance of Rs.72,59,328/- as detailed below:-

Parking & MP payable to LO Eva

Ledger Account

1 Apr 2013 to 31 Mar 2014

<i>Date</i>	<i>Partiuculars</i>	<i>Vch Type</i>	<i>Vch No.</i>	<i>Debit</i>	<i>Credit</i>
1.4.2013	By Opening Balance				66,30,211.00
31.3.2014	By Parking- Income-Eva INCOME TRANSFERRED FOR THE YEAR To Parking ExpsTrs to LO EXPS FOR THE YEAR TRANSFERRED TO LO	Journal	4945		33,38,985.00
		Journal	4998	27,09,868.00	
				27,09,868.00	99,69,196.00
	To Closing Balance			72,59,328.00	
				99,69,196.00	99,69,196.00

It can be noticed that the parking expenses of Rs.27,09,868/- is debited to this account, meaning thereby, the assessee did not claim the above said amount as its expenditure. The above said liability of Rs.72,59,328/- is shown as current liabilities under the head "Others" under schedule 7 (current liabilities). The breakup of other liabilities is given below:

"Parking & MP payable to LO Eva	72,59,328
Rent recd others – Eva (payable to LO)	25,96,161
Total	98,55,489"

16. Hence, it is amply clear that the assessee has not claimed the above said amount of Rs.27,09,868/- as expenditure in the books of accounts. Accordingly, the tax authorities are not justified in making disallowance of an item which is not claimed by the

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assessee. Accordingly, we set aside the order passed by Ld. CIT(A) and direct the A.O. to delete this disallowance also.

17. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 9th Oct, 2020.

Sd/-
(N.V. Vasudevan)
Vice President

Sd/-
(B.R. Baskaran)
Accountant Member

Bangalore,
Dated 9th Oct, 2020.
VG/SPS

Copy to:

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

By order

Asst. Registrar, ITAT, Bangalore.