

आयकर अपीलिय अधिकरण
दिल्ली पीठ "एस एम सी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं.2718/दिल्ली/2025 (नि.व. 2017-18)
ITA No.2718/DEL/2025 (A.Y. 2017-18)

M/s Glued Entertainment Pvt. Ltd.
R-201-202, Dua Complex, Vikas Marg,
24 Veer Savarkar Block, Delhi – 110092.

PAN: AAFCG-2207-B

..... अपीलार्थी/Appellant

बनाम Vs.

Income Tax Officer,
Ward-74(3), Aayakar Bhawan, District Centre,
Laxmi Nagar, Delhi 110092

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/Appellant by : Shri Somvir Singh, Chartered Accountant
प्रतिवादीद्वारा/Respondent by : Shri Manoj Kumar, Sr. DR

सुनवाई की तिथि/ Date of hearing : 15/07/2025

घोषणा की तिथि/ Date of pronouncement: 13/10/2025

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order dated 21.03.2025 passed by the Additional/Joint Commissioner of Income Tax (Appeals), Prayagraj, [in short 'the CIT(A)'] for assessment year 2017-18.

2. Shri Somvir Singh, appearing on behalf of the assessee submits that the assessee is a private limited company engaged in the business of gaming and entertainment. It had taken space in Logix City Centre Mall, Noida from M/s Logix Buildtech Pvt. Ltd. on lease vide agreement dated 03.08.2015. Besides the monthly lease rent, the assessee was also liable to pay Common Area Maintenance (CAM) charges for upkeep and maintenance of common areas such

as parking, lifts, toilets, landscaping, and other shared facilities. During the relevant Financial Year, the assessee deducted TDS @ 10% u/s 194-I of the Act on rent and @ 2% u/s 194C on CAM charges, deposited the same to the Government exchequer, and filed quarterly TDS returns. The Assessing Officer (AO), held that CAM charges are integral to the lease and constitute part of rent, hence, liable to TDS @10% u/s.194-I of the Act. He accordingly treated the assessee as assessee in default and computed interest of Rs.95,660/- u/s 201(1A). Aggrieved, the assessee filed appeal before the CIT(A) but remained unsuccessful. Hence, the present appeal.

3. The Id. Authorized Representative of the assessee contended that the CAM charges were separately invoiced and were not in respect of any exclusive use of premises, but for availing common services of maintenance and housekeeping. Hence, these payments fall within the ambit of work as defined in u/s.194C of the Act and not within rent u/s.194-I of the Act. The Id. AR pointed that in subsequent assessment years i.e. AY 2018-19 and AY 2019-20 similar addition was made by the AO. The CIT(A) following the decision of Tribunal in the case of *Connaught Plaza Restaurant (P) Ltd. in ITA Nos. 993 & 1984/Del/2020, order dated 31.12.2021* allowed the appeal of assessee. He further submitted that in any case the CAM charges paid to deductee were subject to tax, as the deductee has offered the same to tax in its Return of Income.

4. Per contra, Shri Manoj Kumar representing the department supported the impugned order and prayed for dismissing appeal of the assessee. The Id. DR submitted that the lease deed itself envisaged both rent and CAM obligations as part of a single arrangement; therefore, payments were covered by the wide definition of rent u/s. 194-I of the Act.

5. I have heard the submissions made by rival sides and have examined the orders of authorities below. The short issue for adjudication is whether the CAM charges paid by the assessee to the lessor are liable for deduction of tax at source u/s 194C of the Act @ 2% or u/s 194-I of the Act @ 10%. Identical issue has been examined by various benches of the Tribunal. In the case of Connaught Plaza Restaurants (P) Ltd. v. DCIT (supra) the Tribunal held that CAM charges are contractual payments for maintenance services and not payments for “use of land or building”. Respectfully following the consistent view of the Tribunal, I hold that CAM charges cannot be treated as rent within the meaning of u/s 194(I) of the Act. The assessee has rightly deducted TDS u/s 194C of the Act @ 2%. Accordingly, the impugned order by the CIT(A) is *set aside* and appeal of the assessee is allowed.

Order pronounced in the open court on Monday the 13th day of October, 2025.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 13/10/2025

NV/-

प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar) ITAT, DELHI