

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री डि.एस. सुन्दर सिंह, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.1712 & 1713/Mds/2002

निर्धारण वर्ष / Assessment Years : 1997-98 & 1998-99

M/s Duruva Finance Pvt. Ltd.,
C/o Anita Sumanth, D. Anand, N.
Muthukumar & Vikram
Ramakrishnan, Advocates,
No.51, Nungambakkam High Rd.,
Chennai - 600 034.

v. The Deputy Commissioner of
Income Tax,
Company Circle I(2),
Chennai.

PAN : 37-D

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri G. Baskar, Advocate

प्रत्यर्थी की ओर से/Respondent by : Shri B. Sahadevan, JCIT

सुनवाई की तारीख/Date of Hearing : 03.01.2017

घोषणा की तारीख/Date of Pronouncement : 31.01.2017

आदेश / O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

Both the appeals of the assessee are directed against the common order of the Commissioner of Income Tax (Appeals) – III, Chennai, dated 09.08.2002 and pertain to assessment years 1997-98 and 1998-99. In fact, both the appeals of the assessee were

disposed of earlier by this Tribunal by an order dated 31.03.2005. On the appeals filed by the assessee before the High Court, the High Court has remitted back the appeals to the file of this Tribunal with a direction to consider the matter afresh by providing an opportunity to the assessee to substantiate the case and also in the light of judgment of Delhi High Court and Madras High Court referred in the High Court judgment and thereafter decide the same in accordance with law. An option was given to the Tribunal to remand back the matter to the file of the Assessing Officer if it is necessary to do so. Therefore, the appeals were fixed for final disposal as per the direction of the High Court.

2. Shri G. Baskar, the Ld.counsel for the assessee, submitted that the lease equalization charge is nothing but method of recalibrating the depreciation claimed by the assessee during the accounting period as per the method of accounting employed by the assessee. Lease equalization charge, according to the Ld. counsel, debited to Profit & Loss account cannot be disallowed while computing the taxable income of the assessee. The High Court, after referring to the judgment of Apex Court in Southern Technologies Ltd. v. JCIT (2010) 320 ITR 577, found that the

Madras High Court in TVS Finance and Services Ltd. v. JCIT (2009) 318 ITR 435 and Delhi High Court in CIT v. Virtual Soft Systems Ltd. (2012) 341 ITR 393 found that these are all allowable expenditure under Section 37 of the Income-tax Act, 1961 (in short 'the Act'). According to the Ld. counsel, since the judgments were not considered either by the Assessing Officer or by the CIT(Appeals), he has no objection in remitting the matter to the file of the Assessing Officer for reconsideration as directed by the High Court.

3. We have heard Shri B. Sahadevan, the Ld. Departmental Representative, also. The Ld. D.R. has very fairly submitted that the lease equalization charge whether debited to the Profit & Loss account or not? needs to be verified, therefore, the matter may be remitted back for reconsideration.

4. We have considered the submissions on either side and perused the relevant material available on record. Whether the lease equalization charge is allowable as revenue expenditure under Section 37 of the Act, as submitted by the assessee, or not needs to be examined. The assessee claims that as per accounting system employed by it, lease equalization charge is nothing but

recalibrating the depreciation claimed by the assessee during the accounting period. Therefore, this Tribunal is of the considered opinion that the factual matter needs to be verified regarding the method of accounting employed by the assessee. Accordingly, the orders of the lower authorities are set aside and the entire issue is remitted back to the file of the Assessing Officer. The Assessing Officer shall re-examine the matter afresh in the light of the direction of the High Court and thereafter decide the same in accordance with law, after giving a reasonable opportunity to the assessee.

5. In the result, both the appeals of the assessee are allowed for statistical purposes.

Order pronounced on 31st January, 2017 at Chennai.

sd/-

(डि.एस. सुन्दर सिंह)

(D.S. Sunder Singh)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,

दिनांक/Dated, the 31st January, 2017.

Kri.

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/Copy to:

- | | |
|---|--------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent |
| 3. आयकर आयुक्त (अपील)/CIT(A)-III, Chennai | |
| 4. आयकर आयुक्त/CIT, Chennai-1, Chennai | |
| 5. विभागीय प्रतिनिधि/DR | 6. गार्ड फाईल/GF. |