

**आयकर अपीलिय अधिकरण, "सी" न्यायपीठ, चेन्नई**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"C"(SMC) BENCH, CHENNAI**

**श्री चंद्र पूजारी, लेखा सदस्य केसमक्ष**  
BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER

आयकर अपील सं./ **I.T.A. No.3084/Mds/2014**  
(निर्धारण वर्ष / Assessment Year : 2005-2006)

M/s. Computer Access Pvt. Ltd,  
No.1, Dr. Ranga Raod,  
2<sup>nd</sup> Street, Alwarpet,  
Chennai 600 018.

The Assistant Commissioner of  
Income Tax,  
Company Circle I(3),  
Chennai

[PAN: AAACC 1374L]  
(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri. A.S. Sriraman, Advocate  
प्रत्यर्थी की ओर से / Respondent by : Shri. A.B. Koli, IRS, JCIT.

सुनवाई की तारीख/Date of hearing : 28.08.2015  
घोषणा की तारीख /Date of Pronouncement : 02.09.2015

**आदेश / ORDER**

This appeal by the assessee is directed against the order of the Commissioner of Income Tax (Appeals)-I, Chennai, dated 24.07.2014 for the assessment year 2005-2006.

2. The grievance of the assessee in this appeal is with regard to treating an expenditure of ₹3,89,670/- incurred on partitions and

structures for the leasehold building, as capital expenditure and granted depreciation at 15%, where the assessee claimed it as Revenue Expenditure.

3. The facts of the case are that the assessee incurred an expenditure of ₹3,89,670/- towards partitions and structures for the building and the assessee claimed the entire amount as revenue expenditure. However, the Assessing Officer observed that as per Explanation 1 to sec 32 of the Act, if an assessee incurs expenditure on leasehold premises for the construction of any structure or doing of any work in or in relation to or by way of renovation of improvement, is considered to be a capital expenditure and depreciation will be provided accordingly. Accordingly, he allowed deprecation at 15%. Aggrieved, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals).

4. The Commissioner of Income Tax (Appeals) considered the argument of assessee and observed that the assessee had put up wooden partitions, plywood fixation and other interior works by way of renovation and improvement in the leased premises. There was also no hard and fast rule that all the expenditure on leasehold premises will partake the character of revenue expenditure. The expenditure

incurred by the assessee was definitely for improving the leased premises, making it fit for carrying out its business. Further the improvements carried out by the assessee on the leased premises are not meant for dismantling in the same year or in the next year. He observed that the Assessing Officer was justified in disallowing the same as capital expenditure as per Explanation 1 to Sec.32 and allowing depreciation on the same. Accordingly, the Commissioner of Income Tax (Appeals) dismissed the ground of the assessee. Against this, the assessee is in appeal before us.

5. Both sides heard and perused the material on record. In this case there is no dispute with regard to assessee incurring the above expenditure on leasehold premises. The fact is that the expenditure was incurred for making wooden partitions and temporary structures in the leasehold building and the above additions does not have any civil work. Being so, the findings of the Tribunal in the case of *M/s. Sundaram Asset Management Co. Ltd in ITA Nos.1241 & 1154/Mds/2014 for the assessment years 2009-10 & 2010-2011, dated 22.08.2014* is squarely applicable to this case, wherein it was held as under:-

*"10. Heard both sides. Perused orders of lower authorities and the decision of this Tribunal relied on. The Assessing Officer while completing the*

*assessment disallowed these expenses claimed by the assessee towards renovation and repairs treating the same as capital expenditure. On appeal, the Commissioner of Income Tax (Appeals) following the decision of the co-ordinate Bench of this Tribunal in assessee's own case for the assessment year 2008-09 deleted the disallowance, against which the Revenue is in appeal before us. This Tribunal while dealing with similar issue in assessee's own case for the assessment year 2008-09 observed as under:-*

*"iv. The fourth ground of appeal of the assessee relates to repairs of lease-hold premises. The assessee has placed on record at Page No. 42 of the Paper Book, the nature of work carried out by the assessee in the leased office premises. The assessee has claimed the expenditure on civil work which includes demolition, painting, flooring and partition etc., amounting to Rs.2,06,61,216/- as revenue expenditure. The authorities below have held the same to be capital expenditure. The assessee has taken office building on lease for the period of three years with a no option to extend with the consent of both parties. An Explanation1 to Section 32(1) clearly spells out that where the business or provision of the assessee is carried on in a building not owned by him, in respect of which the assessee holds a lease or other rights of occupancy, any capital expenditure is incurred by the assessee for the purpose of the business or profession on the construction of any structure or doing of any work in or in relation to and byway of renovation or extension or improvement to the building, then the provisions of this clause shall apply as if the said structure or work is building owned by the assessee. However, the aforesaid provisions are applicable where new asset has come into existence. The assessee in support of his contentions*

*has relied on the order of the co-ordinate bench of the Tribunal in the case of M/s. Sundaram BNP Paribas Asset Management Company Ltd., Vs. ACIT (supra), the Tribunal in the aforesaid order has held as under:*

*5. We have considered the rival submissions. A perusal of the breakup of the expenses which have been disallowed clearly shows that the expenditures are on the interior decorations and creation of the office atmosphere. The expenditure has not resulted in any building coming into existence nor has the existing building been modified or the structure altered. As the existing building has not been altered and there is no change to its structure as a result of the expenditure incurred by the assessee, it cannot be said that the expenditure incurred by the assessee is in the capital field. Further a perusal of the expenditure clearly shows that it is in the revenue field. In the circumstances we are of the view that the expenditure on the repairs and maintenance in the form of electrical fittings, electrification cabinet, work station, partition, cupboard, stand etc. are liable to be treated as a revenue expenditure. In the circumstances, the orders of the learned CIT(A) and the Assessing Officer are reversed on this issue and the Assessing Officer is directed to grant the assessee the claim of revenue expenditure in regard to the said expenditure. Consequently, the depreciation as allowed by the Assessing Officer on the said expenditure which has been capitalized would stand reversed.*

*Whether the expenditure incurred on renovation of a building is capital or revenue, is a question of fact. The same has to be decided on the facts of*

*each case. We find that the facts of the case of the assessee are similar to the one adjudicated by the Tribunal mentioned above. The civil work relates to the interior decoration and creation of the office atmosphere. Respectfully following the decision of the co-ordinate bench of the Tribunal, this ground of appeal of the assessee is allowed and the expenditure incurred by the assessee in modifying the interiors of a building into office are held to be revenue in nature.”*

11. *The co-ordinate Bench considered a similar issue where the assessee claimed expenditure on civil work which includes demolition, painting, flooring and partition etc. as revenue expenditure. The Tribunal after considering Explanation 1 to section 32(1) and also the decision of the co-ordinate Bench of this Tribunal in the case of M/s. Sundaram BNP Paribas Asset Management Company Ltd. Vs. ACIT in ITA No.518/Mds/2010 dated 7<sup>th</sup> January, 2011, held that expenditure incurred by the assessee is revenue in nature. Respectfully following the said decision, we hold that the expenditure incurred by the assessee for demolition, painting, flooring, partition, modular and electrical works on the leasehold premises is revenue expenditure. Thus, we uphold the orders of the Commissioner of Income Tax (Appeals) on this issue and reject the grounds of appeal raised by the Revenue”.*

A similar decision was taken by the Jurisdictional High Court in the case of *Thiru Arooran Sugar Ltd. vs. DCIT, 350 ITR 0324 (Mad)* wherein it was held that “the Expenditure incurred in respect of maintenance of leased premises is deductible as revenue expenditure”. Similar view was also taken by the jurisdictional High Court in the case of *CIT vs. Ayesha Hospitals (P) Ltd 292 ITR 266*, wherein it was held

that " Expenditure incurred by assessee on painting relaying of damaged floors, partitions etc. in leasehold premises is allowable as revenue expenditure".

6. Being so, taking a consistent view on the above matter, I am inclined to allow the appeal of the assessee.

7. In the result, the appeal of the assessee in ITA No.3084/Mds/2014 is allowed.

Order pronounced on Wednesday, the 2nd day of September, 2015, at Chennai.

Sd/-

(चंद्र पूजारी )

(CHANDRA POOJARI)

लेखा सदस्य/ ACCOUNTANT MEMBER

चेन्नई/Chennai.

दिनांक/Dated:02.09.2015.

**KV**

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant 2.प्रत्यर्थी/ Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF.