

**In the Income-Tax Appellate Tribunal,
Delhi Bench 'C', New Delhi**

**Before : Shri H.S. Sidhu, Judicial Member And
Shri L.P. Sahu, Accountant Member**

**ITA No. 3443/Del./2014
Assessment Year: 2010-11**

D.C.I.T., Circle 12(1), New Delhi. (Appellant)	vs.	H.G. Retail Solutions Pvt. Ltd., B-69, Shivalik, New Delhi. PAN- AABCH4207N (Respondent)
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Appellant by	Shri Arun Kumar Yadav, Sr. DR
Respondent by	None

Date of Hearing	14.09.2017
Date of Pronouncement	03.10.2017

ORDER

Per L.P. Sahu, A.M.:

This is an appeal filed by the Revenue against the order dated 06.03.2014 of the learned CIT(A)-XIII, Delhi for the assessment year 2010-11 on the following ground :

“1. On the fact and in the circumstances of the case the CIT(A) has erred in deleting the addition of Rs.1,17,38,603/- made by the Assessing Officer on account of 3/4th disallowance of the depreciation claimed on temporary erections.”

2. We have heard the submissions of the Id. DR. None is present on behalf of the assessee. The Id. DR relied on the order of the Assessing Officer and submitted that the Id. CIT(A) was not justified in deleting the addition made

by the AO on account of excess depreciation claimed by the assessee. The only dispute in this appeal pertains to deletion of addition made on account of excess depreciation on temporary erections made by assessee at various business premises. The AO restricted the depreciation to 25% as against 100% claimed by the assessee on temporary erections in the business premises for conducting the business. The assessee is engaged in retail business having retail stores of Reebok, Levi's and Benetton etc. It is born out on record that the premises were taken by the assessee on lease and the temporary erections were raised in these business premises as per requirement. Moreover, during the year under appeal, the AO has made the impugned addition by adopting the rate of deprecation at 25% on the basis that similar addition was made in the immediately preceding assessment year 2009-10. However, the addition on account of excess claim of depreciation made in A.Y. 2009-10 stood deleted by the then CIT(A) allowing the claim of depreciation on such temporary erections at the rate of 100% after relying on various decisions. The Department challenged the order of the Id. CIT(A) for A.Y. 2009-10 before the ITAT and the ITAT vide their order dated 26.04.2013 dismissed the appeal of the Revenue. There being no change in the facts and circumstances of the case under appeal, we find no justification to discard the conclusions reached by the Id. CIT(A) in the impugned order, thereby deleting

the impugned addition following the order of the ITAT and various other decisions, which stands reproduced in the impugned order. We, therefore, following the decision of co-ordinate Bench in the case of assessee for A.Y. 2009-10, confirm the impugned order on this count. Accordingly, the appeal of the Revenue deserves to be dismissed, being devoid of merits.

3. In the result, the appeal is dismissed.

Order pronounced in the open court on 03.10.2017.

Sd/-
(H.S. Sidhu)
Judicial member

Sd/-
(L.P. Sahu)
Accountant Member

Dated: 03.10.2017

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Copy of order forwarded to:

<i>(1) The appellant</i>	<i>(2) The respondent</i>
<i>(3) Commissioner</i>	<i>(4) CIT(A)</i>
<i>(5) Departmental Representative</i>	<i>(6) Guard File</i>

By order

*Assistant Registrar
Income Tax Appellate Tribunal
Delhi Benches, New Delhi*