

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

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND SHRI LALIET KUMAR, JUDICIAL MEMBER

ITA No.925/Bang/2017
Assessment year : 2012-13

The Assistant Commissioner of Income Tax, Circle 7(1)(2), Bangalore.	Vs.	M/s. Vidya Herbs Pvt. Ltd., No.30, 33 rd Main, 16 th Cross, 6 th Phase, J.P. Nagar, Bangalore – 560 078. PAN: AABCV 9009Q
APPELLANT		RESPONDENT

Appellant by	:	Shri M.K. Biju, Jt. CIT(DR)(ITAT), Bengaluru
Respondent by	:	None

Date of hearing	:	30.10.2017
Date of Pronouncement	:	31.10.2017

ORDER

Per Inturi Rama Rao, Accountant Member

This appeal is filed by the revenue against the order dated 30.01.2017 of the CIT(Appeals)-7, Bengaluru for the assessment year 2012-13 on the following grounds:-

“1. The order of the learned CIT(A) is opposed to law and facts of the case.

2. Whether on the facts and circumstances of the case, the CIT(A) was justified in law in accepting the additional evidences furnished by the assessee, without forwarding the same to the concerned Assessing Officer for verification of genuineness as required under Rule 46A(3) of the I. T. Rules”?

3. For these and other grounds that may be urged at the time of hearing, it is prayed that the order of the CIT(A) in so far as it relates to the above grounds may be reversed and that of the Assessing Officer may be restored.

4. The appellant craves leave to add, alter, amend and/or delete any of the grounds mentioned above.”

2. During the course of hearing of the appeal, none appeared on behalf of the respondent-assessee, despite due service of notice (AD card placed on record). We therefore proceed to dispose of the case after perusing the material on record and after hearing the Id. DR.

3. Briefly the facts of the case are that the assessee is a company engaged in the business of manufacture and export of herbal extract. During the relevant financial year relevant to assessment year under consideration, the respondent-assessee made addition to fixed assets for boiler, heat exchange extractors, gas line reactors, spray driers, thin film evaporators. The assessee claimed depreciation @ 80% of the high efficiency boilers. The aggregate addition of high efficiency boilers was Rs.85,80,750 out of which Rs.28,28,100 was added in the first half of the

year and the balance of Rs.57,52,650 was added in the second half of the year. According to the respondent-assessee, these boilers are energy saving devices and therefore eligible at higher rate of depreciation i.e., @ 80%. However, the AO allowed depreciation only at 15%.

4. On appeal before the CIT(Appeals), the CIT(Appeals) allowed the claim of the assessee based on the certificate issued by the Department of Factories, Boilers, Industrial Safety & Health, Govt. of Karnataka.

5. The revenue has come in appeal before us pleading that the CIT(Appeals) has allowed the claim of the respondent-assessee taking into consideration the additional evidence in the form of certificate issued by the Department of Factories, Boilers, Industrial Safety & Health, Govt. of Karnataka, without giving an opportunity to the AO, thus violating the provisions of Rule 46A of the I.T. Rules. Thus, the Id. DR submitted that the mater may be restored back to the file of the CIT(Appeals) to comply with the provision of Rule 46A of the I.T. Rules.

6. After hearing the rival submissions and perusing the material on record, we find that the CIT(Appeals) granted the relief to the respondent-assessee in total disregard of the provisions of Rule 46A of the Income-tax Rules. Therefore, in the fitness of things, we remand this issue back to the file of the CIT(Appeals) to decide the matter afresh, after affording due opportunity of rebutting the additional evidence filed before him to the

Assessing Officer. Thus, the appeal filed by the revenue is allowed for statistical purposes.

Pronounced in the open court on this 31st day of October, 2017.

Sd/-

(LALIET KUMAR)
Judicial Member

Sd/-

(INTURI RAMA RAO)
Accountant Member

Bangalore,
Dated, the 31st October, 2017.

/ Desai Smurthy /

Copy to:

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

By order

Senior Private Secretary
ITAT, Bangalore.