

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'C' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं श्री संजय अरोड़ा, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI SANJAY ARORA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.1182/Mds/2017

निर्धारण वर्ष / Assessment Year : 2012-13

The Assistant Commissioner of
Income Tax,
Corporate Circle – 3(2),
Chennai - 600 034.

v. M/s Ucal Fuel Systems Ltd.,
'Raheja Towers' Delta Wing,
Unit 705, 7th floor, 177-Anna Salai,
Chennai - 600 002.

(अपीलार्थी/Appellant)

PAN: AAACU 0541 K

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri N. Madhavan, JCIT

प्रत्यर्थी की ओर से/Respondent by : Shri R. Sivaraman, Advocate

सुनवाई की तारीख/Date of Hearing : 09.10.2017

घोषणा की तारीख/Date of Pronouncement : 17.10.2017

आदेश /O R D E R

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

This appeal of the Revenue is directed against the order of the Commissioner of Income Tax (Appeals) -13, Chennai, dated 27.02.2017 and pertains to assessment year 2012-13.

2. There was a delay of 11 days in filing this appeal by the Revenue. The Revenue has filed a petition for condonation of delay. We have heard the Ld. Departmental Representative and

the Ld.counsel for the assessee. We find that there was sufficient cause for not filing the appeal before the stipulated time. Therefore, we condone the delay and admit the appeal.

3. The only issue arises for consideration is with regard to disallowance of depreciation claimed by the assessee to the extent of ₹44,45,172/-.

4. Shri N. Madhavan, the Ld. Departmental Representative, submitted that the assessee-company is engaged in the business of manufacturing of carburetors, fuel pumps for two wheelers and four wheelers. During the year under consideration, the assessee claimed additional depreciation on the machinery and other equipments purchased to the extent of ₹2,22,25,861/- in the financial year 2010-11 relevant to assessment year 2011-12. Even though the machinery was purchased in the financial year 2010-11 it was put to use only in the financial year 2011-12. According to the Ld. D.R., for the purpose of claiming additional depreciation, the machinery should have been put to use in the same year in which the machinery was purchased. According to the Ld. D.R., the acquisition of machinery and installation of the same shall be made in the same year. Since the assessee has not used the machinery

in the year in which it was purchased, according to the Ld. D.R., the Assessing Officer has rightly disallowed the additional depreciation claimed by the assessee.

5. On the contrary, Shri R. Sivaraman, the Ld.counsel for the assessee, submitted that the machinery was admittedly purchased during the financial year 2010-11. There are twin conditions to be satisfied for grant of additional depreciation. The first condition is the undertaking shall acquire a new plant and machinery. The machinery shall be used for the purpose of business. The provisions of Section 32 (1)(iia) of the Income-tax Act, 1961 (in short 'the Act') is for the benefit of the assessee. The object of grant of additional depreciation is to encourage industrialization in the country either by setting up of new industrial unit or expanding the existing unit by purchasing new plant and machinery. According to the Ld. counsel, the beneficial legislation granting additional depreciation should be given liberal interpretation. The word "shall" used in clause (iia) to Section 32(1) of the Act clearly shows that the assessee is entitled for additional depreciation at the rate of 20%. According to the Ld. counsel, nowhere in Section 32(1)(iia) of the Act it is said that the machinery purchased shall be used in the

same year in which it was purchased. Therefore, according to the Ld. counsel, the CIT(Appeals) has rightly allowed the claim of the assessee.

6. We have considered the rival submissions on either side and perused the relevant material available on record. We have also carefully gone through the provisions of Section 32(1)(iia) of the Act which reads as follows:-

“32(1)(iia) in the case of any new machinery or plant (other than ships and aircraft), which has been acquired and installed after the 31st day of March, 2005, by an assessee engaged in the business of manufacture or production of any article or thing, a further sum equal to twenty per cent. of the actual cost of such machinery or plant shall be allowed as deduction under clause (ii) :

Provided that where an assessee, sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after the 1st day of April, 2015 in any backward area notified by the Central Government in this behalf, in the State of Andhra Pradesh or in the State of Bihar or in the State of Telangana or in the State of West Bengal, and acquires and installs any new machinery or plant (other than ships and aircraft) for the purposes of the said undertaking or enterprise during the period beginning on the 1st day of April, 2015 and ending before the 1st day of April, 2020 in the said backward area, then, the provisions of clause (iia) shall have effect, as if for the words “twenty per cent.”, the words “thirty-five per cent.” had been substituted :

Provided further no deduction shall be allowed in respect of-(A) any machinery or plant which, before its installation by the assessee, was used either within or outside India by

any other person ; or(B) any machinery or plant installed in any office premises or any residential accommodation, including accommodation in the nature of a guest-house ; or(C) any office appliances or road transport vehicles ; or(D) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year ;”

7. As per Section 32(1)(iia), when the assessee purchased / acquired a new machinery or plant and installed the same after 31st March, 2005, the assessee is entitled for a further sum equal to 20% of the actual cost of machinery or plant as depreciation. This Section does not say that the machinery purchased or acquired shall be used for the purpose of business of the assessee in the same year in which it was purchased. For example, when the assessee purchased a machinery on 31st March of the relevant financial year and installed the same on 1st April of next financial year and used the same for business, can we say that the assessee is not entitled for additional depreciation since the machinery purchased in the earlier assessment year, i.e. on the last day of the financial year was not put to use in the financial year in which it was purchased? This Tribunal is of the considered opinion that Section 32(1)(iia) of the Act being a beneficial legislation, and it does not

say that machinery purchased shall be used in the same year in which it was purchased, the new machinery acquired and installed and used in the business of the assessee is eligible for additional depreciation in the year in which the machinery was put to use. Therefore, the CIT(Appeals) has rightly allowed the claim of the assessee. Hence, this Tribunal does not have any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

8. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced on 17th October, 2017 at Chennai.

sd/-

(संजय अरोड़ा)

(Sanjay Arora)

लेखा सदस्य/Accountant Member
चेन्नई/Chennai,

दिनांक/Dated, the 17th October, 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)-13, Chennai
4. Principal CIT-3, Chennai-34
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.