

आय अधकरण, "सी" ँयायपीठ, चेन्नई

APPELLATE TRIBUNAL - BENCH, CHENNAI

पी धुवु आर.एल रेडी, ँयायक सदय एवं पी एस जयरामन, लेखा सदय के सम

Before Shri Duvvuru RL Reddy, Judicial Member &

Shri S. Jayaraman, Accountant Member

आयकर अपील सं./I.T.A.No.1365/Mds/2017

अधाण वष/Assessment Year:2013-14

M/s. Bannariamman Automobiles  
Pvt. Ltd., 252, Mettupalayam Road,  
Coimbatore 641 043.

Vs. The Income Tax Officer,  
Corporate Ward 1,  
Coimbatore.

[PAN:AADCS0171Q]

(अपीलाथ /Appellant)

(अयथ/Respondent)

अपीलाथ क ओर से / Appellant by

: Shri G. Baskar, Advocate &  
Ms. Sushma Harini, Advocate

अयथ क ओर से/Respondent by

: Shri N. Madhavan, Addl. CIT

सुनवाई क ताराख/ Date of hearing

: 23.10.2017

घोषणा क ताराख /Date of Pronouncement

: 31.10.2017

### आदेश /ORDER

#### PER DUVVURU RL REDDY, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order of the Id. Commissioner of Income Tax (Appeals) 1, Coimbatore dated 31.03.2017 for the assessment year 2013-14. The only effective ground raised in the appeal of the assessee is that the Id. CIT(A) has erred in confirming the disallowance of expenditure incurred on renovation of

mobile showroom by treating it as capital in nature.

2. Brief facts of the case are that the assessee is engaged in automobile dealership and filed its return of income on 29.09.2013 admitting NIL income under normal computation after adjusting brought forward losses and book profits of .15,78,580/- under section 115JB of the Income Tax Act, 1961 [Act+in short]. The return filed by the assessee was processed under section 143(1) of the Act. Subsequently, the case of the assessee was selected for scrutiny and notice under section 143(2) of the Act was issued on 03.09.2014. Further, notice under section 142(1) of the Act was also issued. In response thereto, the AR of the assessee filed back-up data of the books of accounts maintained under TALLY package along with vouchers called for and also filed the details of share application received, reconciliation statements, etc. On verification of the books, the Assessing Officer noticed that the assessee has claimed a sum of .19,74,359/- as expenses towards repairs and maintenance to buildings and therefore, the assessee was asked to filed details. In response, it was stated that the assessee had taken on lease a building for the purpose of showrooms and workshop and the expenses incurred for carrying on alteration work on this building was booked under this

furnished by the assessee, the Assessing

Officer observed that the expenses are towards renovation of the building to confirm to the showroom standards required by their principal Renault+ and the work done comprised of relaying of flooring tiles, panelling work, false ceilings/partitions, interior decoration, glass cladding, electrical rewiring, etc. After considering various submissions of the assessee, the Assessing Officer treated the expenditure incurred by the assessee towards renovation as capital in nature and by allowing depreciation @ 5%, the balance amount of .18,75,642/- was brought to tax.

3. On appeal, the Id. CIT(A) confirmed the disallowance made by the Assessing Officer.

4. On being aggrieved, the assessee is in appeal before the Tribunal. The Id. Counsel for the assessee has vehemently contended that the assessee has not created any new asset and no enduring benefits accrued to the assessee. It was also submitted that the buildings were a rented one and the expenses only gave a facelift to the building. Therefore, the Assessing Officer was not justified in treating the expenditure as capital in nature and prayed the above expenditure incurred by the assessee should be treated as revenue in nature and allowed deduction.

e Id. DR strongly supported the orders of authorities below.

6. We have heard both sides, perused the materials available on record and gone through the orders of authorities below. We have also perused the copy of the details of expenditure incurred by the assessee. In this case, it is an admitted fact that the assessee has incurred the above expenditure in a leased building. The actual lease period is not emanating from the orders of authorities below. The assessee has not filed copy of the lease deed with its terms and conditions. On perusal of the details of expenditure, we are of the considered opinion that authorities below have not examined in detail the nature of the expenses in proper perspective, because, the expenditure incurred towards purchase of light and other electrical items, prima facie, appear to be in the nature of revenue expenditure. Moreover, expenditure incurred for erecting temporary structures such as false ceiling could not be categorised as capital expenditure in view of the decision of the Hon<sup>ble</sup> Madras High Court in the case of Thiru Arroran Sugars Ltd. v. DCIT 350 ITR 324. Under the above facts and circumstances, we direct the Assessing Officer to segregate the expenditures which are revenue in nature and allow deduction, after verification of lease deed to see as to

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When the building on lease for longer period or  
not and decide the issue afresh in accordance with law after allowing an  
opportunity of hearing to the assessee.

7. In the result, the appeal filed by the assessee is allowed for  
statistical purposes.

Order pronounced on the 31<sup>st</sup> October, 2017 at Chennai.

Sd/-  
(S. JAYARAMAN)  
ACCOUNTANT MEMBER

Sd/-  
(DUVVURU RL REDDY)  
JUDICIAL MEMBER

Chennai, Dated, the 31.10.2017

Vm/-

आदेश क० प्रतिलिपि अपेक्षित/Copy to: 1. अपीलार्थी/Appellant, 2. प्रत्यर्थी/  
Respondent, 3. आयकर आयुक्त (अपील)/CIT(A), 4. आयकर आयुक्त/CIT,  
5. स्वभागीय प्रतिलिपि/DR & 6. गार्डफ़ाईल/GF.