

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH 'SMC', KOLKATA  
[Before Shri P.M. Jagtap, AM]**

**I.T.A. No. 1733/Kol/2017**

Assessment Year: 2001-02

***M/s. Shree Raghunath Steel Industries Pvt. Ltd. ....Appellant***  
***Sagar Estate,***  
***2, Clive Ghat Street,***  
***6<sup>th</sup> Floor,***  
***Kolkata - 700 001***  
***[PAN: AAICS 1426 M]***

***I.T.O. Ward 3(2) Kolkata,.....Respondent***  
***P-7, Chowringhee Square,***  
***Kolkata - 700 069***

**Appearances by:**

*Shri S.P. Choudhury, Advocate appearing on behalf of the Assessee.*

*Shri Gautam Patra, Addl. CIT appearing on behalf of the Revenue.*

Date of concluding the hearing : February 13, 2018

Date of pronouncing the order : February 16, 2018

**ORDER**

**PER P.M. JAGTAP, AM**

This appeal filed by the assessee is directed against the order of Ld. CIT (Appeals) - 17, Kolkata dated 30.12.2016 and the solitary issue arising out of the same relates to the disallowance of Rs. 2,32,032/- made by the A.O. and confirmed by the Ld. CIT(A) out of depreciation.

2. At the outset, it is noted that there is a delay of 75 days on the part of the assessee in filing this appeal before the Tribunal. In this regard, the assessee has filed an application seeking condonation of the said delay and keeping in view the submission made therein, I am satisfied that there was a sufficient cause for the delay on the part of the assessee in filing this appeal before the Tribunal. Even the learned

DR has not raised any objection in this regard. The said delay is accordingly condoned.

3. The assessee in the present case is a company which is engaged in the business of manufacturing of steel products. The return of income for the year under consideration was filed by it on 31.10.2001 declaring a loss of Rs. 48,720/-. As noted by the Assessing Officer during the course of assessment proceedings, the assessee company had received capital investment subsidy of Rs. 10,50,000/- and Rs. 4,50,000/- during the previous years relevant to A.Y. 1999-2000 and 2000-2001 respectively. He also found that the said amounts were not adjusted by the assessee company against the value of the corresponding assets as required by the provision contained in Explanation 10 to Section 43(1). He observed that this issue was involved in the assessee's case for earlier years in the assessments made under section 147. He accordingly adjusted the capital investment subsidy of Rs. 15,00,000/- to reduce the written down value of the corresponding assets and restricted the claim of the assessee for depreciation for the year under consideration which resulted in a disallowance of Rs. 2,32,031/-. On appeal, the Ld. CIT(A) confirmed the said disallowance. Aggrieved by the order of the Ld. CIT(A), the assessee has preferred this appeal before the Tribunal.

4. I have heard the arguments of the both the sides and also perused the relevant material available on record. Although the learned counsel for the assessee has contended that the issue of adjustment of capital investment subsidy against the value of the corresponding assets is squarely covered in favour of the assessee by

the decision of Hon'ble Supreme Court in the case P.J. Chemicals Ltd. 210 ITR 830, I find that this issue is not involved for consideration on merit in the year under consideration as the amount of the said subsidy was not received by the assessee in the year under consideration, but it was received in the previous year relevant to A.Y. 1999-2000 and 2000-2001. Although the Assessing Officer has reduced the opening written down value of the corresponding assets on the ground that the issue of adjustment of capital investment subsidy against the value of assets was considered in the earlier years in the assessment under section 147, there is nothing available on record to show the finality of this issue in the said years. In my opinion, this issue involved in the year under consideration is consequential in nature in as much as if the amount of capital investment subsidy was adjusted against the value of the corresponding assets in the earlier years and the same have attained finality, the written down value of the said assets for the year under consideration will get reduced to that extent and the assessee would be entitled for depreciation only on such reduced written down value. On the other hand, if no such adjustment is finally made in the assessment years 1999-2000, 2000-01, the opening written down value cannot be reduced and the claim of the assessee for depreciation cannot be restricted. I, therefore, set aside the impugned order of the Ld. CIT(A) on this issue and restore the matter to the file of the A.O. with the direction to decide the same afresh after taking into consideration the final outcome of the reassessment proceedings for A.Y. 1999-2000 and 2000-2001.

**5. In the result, the appeal of the assessee is treated as allowed for statistical purposes.**

Order Pronounced in the Open Court on 16<sup>th</sup> February, 2018.

Sd/-  
(P.M. Jagtap)  
ACCOUNTANT MEMBER

**Dated: 16/02/2018**  
Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Shree Raghunath Steel Industries Pvt. Ltd., Sagar Estate, 2, Clive Ghat Street, 6<sup>th</sup> Floor, Kolkata – 700 001.
2. ITO Ward 3(2), P-7, Chowringhee Square, Kolkata – 69.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Sr. P.S. / H.O.O.  
ITAT, Kolkata