

**IN THE INCOME TAX APPELLATE TRIBUNAL  
AMRITSAR BENCH; AMRITSAR.**

BEFORE SH. SANJAY ARORA, ACCOUNTANT MEMBER  
AND SH. N. K. CHOUDHRY, JUDICIAL MEMBER

**I.T.A. No. 217(Asr)/2017**  
Assessment Year: 2012-13  
[PAN: AAPFS 3760E]

M/s. Swaran Nursing Home  
57, Joshi Colony, Amritsar.  
**(Appellant)**

Vs. Deputy Commissioner of Income  
Tax Circle-V, Amritsar.  
**(Respondent)**

Appellant by : Sh. Satish Bansal (C.A.)  
Respondent by: Smt. Balwinder Kaur (D.R.)

Date of Hearing: 31.01.2018  
Date of Pronouncement: 16.02.2018

**ORDER**

Per Sanjay Arora, AM:

This is an Appeal by the Assessee agitating the Order by the Commissioner of Income Tax (Appeals)-2, Amritsar ('CIT(A)', for short) dated 28.02.2017, partly allowing the assessee's appeal contesting its assessment u/s. 143(3) of the Income Tax Act, 1961 ('the Act' hereinafter) dated 23.03.2015 for Assessment Year (AY) 2012-13.

2. The appeal raises a single issue, i.e., the validity of the disallowance in the sum of Rs. 2,45,200, effected by the Assessing Officer (AO) in assessment, since confirmed by the Id. CIT(A).

3. The assessee's, a partnership firm running a eye hospital by the name 'Daljit Singh Eye Hospital' claim for machinery repair was found during the assessment proceedings to include the following, which were, in view of the A.O., for purchase of goods which were independent machines, or parts of an independent machine - made to enhance the working capacity of the parent machine:

<b>1.</b>	<b>Hand Piece 2 X Rs. 60,000</b>	<b>1,20,000/-</b>
	Apple Ipad 64GB	44,666/-
	Smart Cover for Ipad	1,955/-
	Adapter and Screen Guard	2,310/-
	Taxes on Ipad	2,766/-
	<b>Total amount of Ipad</b>	<b>51,700/-</b>
<b>2.</b>	Hard Disk 146 GB	15,000/-
<b>3.</b>	AC Kit	22,000/-
<b>4.</b>	2 Hard Disks	36,500/-
	<b>Total amount</b>	<b>2,45,200/-</b>

The assessee furnishing no satisfactory answer as to why the same was not to be capitalized, the stated expenditure was disallowed for being not revenue in nature, a postulate of section 37(1). The same was confirmed in appeal; the assessee failing to improve its' case before him in any manner, even as he, accepting the assessee's argument in its respect, directed for allowance of depreciation on the impugned sum, forming, by the Revenue's own stand, a part of plant & machinery. Aggrieved, the assessee is in second appeal.

4. We have heard the parties, and perused the material on record.

The assessee before us did not contest the disallowance *qua* Ipad costing (including accessories) Rs. 51,700. Though we are conscious that the same could be for personal purposes, no such doubt has been expressed by the Revenue at any

stage, also allowing depreciation thereon. The disallowance in its respect is, accordingly, confirmed.

With regard to the hand pieces, the same, as before the Revenue authorities, is explained to be a part of the Phaco Emulsification Machine used for surgery of cataract. It - connected at the base of the said machine, is introduced inside the eye for surgery to wash out the cataract. It, thus, entering the body of the patient during surgery, is sterilized before reuse/periodically. Further, being an electronic part, the same gets damaged over time, requiring its repair/replacement. The assessee has purchased two such hand sets during year, at Rs. 60,000 apiece; in fact, also deducting tax at source thereon (at the rate of 10%). Similar claim is contended to obtain in all the years. How, we wonder, does this increase the working capacity of the Emulsification Machine, of which it is a part, or be construed as an independent machine? We find no merit in the Revenue's case in this regard, so that the disallowance *qua* the same is directed for deletion. Needless to add, depreciation with reference to same would stand withdrawn.

The next item is Hard Disk, three in number, at total cost of Rs. 51,500. The Hard Disk is used to store data of the patients, which is maintained from the registration stage onwards, i.e., up to the final diagnosis and operation. It is therefore clear that the firm, finding its existing storage capacity as deficient, has enhanced the same. It was argued before us that the same being not connected to a parent machine, cannot be regarded as an independent machine. We are unable to agree. Firstly, retrieval or accessibility of data stored on a hard disk, i.e., which is a storage device, would require it to be connected to a computer system. That apart, it serves an independent function of storage of business data, i.e., the record of the patients, or any other for that matter, for future reference, use, manipulation, etc., for business purposes. How is it, one may ask, different from (say) an oil storage tank, which may be permanently or temporarily connected with the main plant for

transfer of the stored material. We find no substance in the assessee's case and, accordingly, confirm the disallowance.

The last item of 'repair' expenditure is in respect of a AC Kit, stated to be a replacement of old one which, being installed in a Car (Verna SX), had got burnt out, requiring replacement. The registration number of the vehicle appears on the purchase bill itself. The Revenue has not doubted the genuineness of expenditure. We, therefore, find no basis in the Revenue's case. The disallowance, at net of depreciation, is directed for deletion.

We decide accordingly.

5. In the result, the assessee's appeal is partly allowed.

*Order pronounced in the open court on February 16, 2018*

Sd/-  
(N. K. Choudhry)  
Judicial Member

Sd/-  
(Sanjay Arora)  
Accountant Member

Date: 16.02.2018.

*/GP/Sr. Ps.*

Copy of the order forwarded to:

- (1) The Appellant: Swaran Nursing Home
- (2) The Respondent: Deputy. Commissioner of Income Tax, Circle-V Amritsar.
- (3) The CIT(A)-2, Amritsar.
- (4) The Pr. CIT,-II, Amritsar.
- (5) The Sr. DR, I.T.A.T.

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By Order