

**INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH "G": NEW DELHI)**

**BEFORE SHRI N.K. SAINI, ACCOUNTANT MEMBER
and
SHRI KULDIP SINGH, JUDICIAL MEMBER**

ITA No.2618/Del/2016
(ASSESSMENT YEAR: 2012-13)

M/s. Zila Sahkari Bank Ltd. C/o Kashyap & Co., CAs 214, Citi Centre, Begum Bridhe Road, Meerut -250001	vs.	ACIT Circle -2 Meerut
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(PAN AAATZ0343F)

(APPELLANT)

(RESPONDENT)

ASSESSEE BY :	Sh. P. S. Kashyap, CA
RESPONDENT BY:	Sh. Sanjeet Singh, CIT DR
Date of Hearing	16/04/2018
Date of pronouncement	23/04/2018

ORDER

PER KULDIP SINGH, JUDICIAL MEMBER

Appellant, M/s. Zila Sahkari Bank Ltd., (hereinafter referred to as 'the assessee'), by filing the present appeal sought to set aside the impugned order dated 13.04.2016 passed by the commissioner of Income-tax (Appeals), Meerut qua the assessment year 2012-13 on the grounds inter alia that :-

"That on facts & in law disallowance of depreciation of Rs. 1,50,23,640/- is totally wrong, unjustified & illegal on the following grounds:

i) Assessee has rightly claimed deprecation as per section 32 of the Act.

ii) Ld. AO has wrongly assumed letter date as put to use date of computer/software installation as issued by the company M/s Megasoft Information Systems Pvt. Ltd and accordingly Ld. AO allowed depreciation 30% in place of 60% as claimed by the assessee.

iii) Ld AO. has wrongly disallowed the depreciation without considering material on record, in appeal order CIT(A) confirmed the action of Ld AO.

Your honour is requested to kindly allow the depreciation 60% on computer/software as put to use was made before 30.09.2011.

2. Briefly stated the facts necessary for adjudication of the controversy at hand are: assessee claimed depreciation of Rs.3,47,99,593/- i.e. @ 60% (on computer software to the tune of Rs. 13578037/- & on computer hardware to the tune of Rs. 52341807/-). However, Assessing Officer taking the view that computer hardware and software purchased by the assessee were put to use after 31.03.2012 and as such allowed the depreciation to the tune of Rs. 1,50,23,640/- @ 30% only.

3. Assessee carried the matter before the Ld. CIT (A) by filing an appeal who had confirmed the addition made by Assessing Officer by partly allowing the appeal. Feeling aggrieved, the assessee has come up in appeal before the Tribunal by way of filing the present appeal.

4. We have heard the Ld. Authorized Representative of the parties to the appeal, gone through the documents relied upon and orders

passed by the revenue authorities below in the light of the facts and circumstances of the case.

5. There is no dispute as to the date of purchase of computers and allied equipments for computerization of the branches. It is also not in dispute that Assessing Officer as well as Ld. CIT (A) have relied upon one letter issued by Megasoft Information Systems Ltd., dated 31.03.2012 to reach at the conclusion that the computer as well as allied equipments for computerization were put to use only after 31.03.2012.

6. In the back drop of aforesaid facts and circumstances of the case, documents relied upon by the parties to the appeal, order passed by the lower revenue authorities below and arguments addressed by Ld. AR of the parties, the sole question arises for determination in this case is

" As to whether the computers and allied equipments for computerization of branches were actually put to use in the branches only after 13.03.2012 for computing the depreciation as has been held by Assessing Officer as well as Ld. CIT (A) "

7. The letter dated 31.03.2012 issued by M/s. Megasoft Information Systems Private Ltd, scanned by the Assessing Officer at page 22 in the assessment, is reproduced for ready perusal as under :-

"We wish to inform you that all branches of your bank are connected to Data Center and all branches has been merged. In all branches daily transactions are being done by CBS application software. Daily backup is also being taken at the Data Center.

The Data Centre Erection is Complete. All the Data Center Components (Infrastructure, Servers, Operating Systems & other Equipments) has been installed & are working fine."

8. When we examine the aforesaid letter in totality it is a certificate of completion only wherein it is categorically written that in all the branches all transactions are being done by CBS application software and all the entire data centre components have been installed and are working fine. This letter has nowhere stated that the computer and allied equipments have actually been put to use after 30.03.2012.
9. The answer to this question is required to be traced out from the other documents and facts and circumstances brought on record by the assessee. In one invoice dated 05.09.2011 making payment of various charges to M/s. Megasoftware Information System Private Limited, available at page No. 114 of the paper book at Sr. No. 10 implementation charges to the tune of Rs. 70,000/- are shown. There are other similar invoices available at page 115 to 131 of the paper book dated 05.09.2011 showing implementation charges of Rs.70,000/- each having been paid for different branches to complete the computerization project. This bill is not in dispute.
10. Claiming implementation charges of the entire computerization project by M/s. Megasoftware Information Private Limited from the assessee, a public sector bank is only possible when the entire computerization process is complete. These facts are easily verifiable

from all the books of accounts and other documents prepared by the assessee bank and its branches in its day to day functioning, which are ought to be carried out through computer system only after complete computerization of the bank.

11. Moreover computer and allied equipment are invariably installed immediately before start of the bank / branches and it is humanly not believable that same has kept without use for 6 months. So in these circumstances assuming date of implementation of the computerization project as 30.03.2012 by the Assessing Officer as well as CIT(A) on the basis of letter which is otherwise completion certificate as to the successful working of the computerization process is not substantiated with the other documents on record.

12. Moreover when it is not in dispute that computer hardware and software were purchased vide invoices dated 29.09.2011 available at pages 100 to 139 of the paper book and as per letter of the vendor dated 20.09.2011 available at page 140 of the paper book all the branches of the assessee's bank have been computerized and started fully working even prior to 30.09.2011. So, we are of the considered view that the assessee has rightly claimed depreciation @ 60% only after putting computer and allied equipments to use for a period of more than 182 days during the year under assessment. So, the

questions framed is answered in the negative and in favour of the assessee.

13. In view of what has been discussed above, we are of the considered view that Assessing Officer / CIT (A) have erred in restricting depreciation to 30% as against 60% claimed by the assessee. Assessee is entitled for depreciation @ 60% on computer and allied equipment, hence, disallowance of Rs.1502364/- is ordered to be deleted subject to verification by the Assessing Officer from the books of account and other documents prepared by banks in their day to day business of assessee bank/ branches that computer and allied equipments were put to use for a period of more than 182 days during the year under assessment. Consequently, present appeal filed by the assessee stands allowed.

Sd/-

(N. K. SAINI)
ACCOUNTANT MEMBER

Sd/-

(KULDIP SINGH)
JUDICIAL MEMBER

Dated: 23/04/2018

Neha

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

1.	Draft dictated on	17.04.2018	PS
2.	Draft placed before author	17.04.2018	PS
3.	Draft proposed & placed before the second member	23.04.2018	JM/AM
4.	Draft discussed/approved by Second Member.	23.04.2018	JM/AM
5.	Approved Draft comes to the Sr.PS/PS	23.04.2018	PS/PS
6.	Kept for pronouncement on	23.04.2018	PS
7.	File sent to the Bench Clerk	24.04.2018	PS
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		