

IN THE INCOME TAX APPELLATE TRIBUNAL  
"E" Bench, Mumbai  
Before Shri B.R. Baskaran (AM)& Shri Pawan Singh (JM)

I.T.A. No. 568/Mum/2015 (Assessment Year 2010-11)

M/s. Empress Tin Factory Pvt. Ltd. 2, Prabhat Nagar S.V. Road, Jogeshwari West, Mumbai-400102.  PAN : AAACE0969P (Appellant)	Vs.	ITO 8(1)(3) Mumbai  (Respondent)
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Assessee by	Ms. Dinkle Hariya
Department by	Shri V. Justin
Date of Hearing	7.06.2018
Date of Pronouncement	7.06.2018

ORDER

Per B.R. Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 20-10-2014 passed by Ld CIT(A)-16, Mumbai and it relates to the assessment year 2010-11. The assessee is aggrieved by the decision of Ld CIT(A) in confirming the disallowance of expenses claimed by the assessee on the reasoning that the assessee has stopped the business activities.

2. We heard the parties and perused the record. We notice that the AO has disallowed the business expenses on the ground that the assessee has not carried out any business activities. The Ld A.R submitted that the AO had made identical disallowance in AY 2008-09 also and the Tribunal, vide its order dated 15-02-2017 passed in ITA No.322/Mum/2012, has allowed the expenses claimed by the assessee. With regard to depreciation claimed, the Ld A.R submitted that Tribunal has directed the AO to allow depreciation on proportionate basis.

3. At the time of hearing, the Ld A.R was asked to show as to whether the business of the assessee was revived subsequently or not. The Ld A.R submitted that the assessee has revived its business activities and in support of the same she filed copy of return of income filed for AY 2012-13.

4. The Ld D.R supported the order passed by Ld CIT(A).

5. We notice that the Tribunal has considered an identical issue relating to disallowance of expenses in the assessee's own case in AY 2008-09, referred supra, and the Tribunal has directed the AO to allow the expenses on the ground that the AO has not shown that the assessee has stopped the business permanently. The return of income filed for AY 2012-13 would show that the assessee has revived its business activities, meaning thereby, there was temporary lull in the business activities. Accordingly, following the order passed by the Tribunal in AY 2008-09, we set aside the order passed by Ld CIT(A) on this issue and direct the AO to allow the expenses that are being contested before us. With regard to the claim of depreciation, we direct the AO to follow the directions given in AY 2008-09 and allow the same accordingly.

6. In the result, the appeal of the assessee is treated as allowed.

Order has been pronounced in the Court on 7.6.2018.

Sd/-  
(PAWAN SINGH)  
JUDICIAL MEMBER

Sd/-  
(B.R.BASKARAN)  
ACCOUNTANT MEMBER

Mumbai; Dated : 7/6/2018

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard File.

//True Copy//

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BY ORDER,

Senior Private Secretary  
ITAT, Mumbai