

IN THE INCOME-TAX APPELLATE TRIBUNAL “A” BENCH MUMBAI

BEFORE SHRI G.S. PANNU, ACCOUNTANT MEMBER

AND SHRI PAWAN SINGH, JUDICIAL MEMBER

ITA No.2840/Mum/2013 (Assessment Year 2005-06)

ACIT Central Circle-13, Room No. 1103, 11 th Floor, Old CGO Building, (Annex), M.K. Road, Mumbai-20.	Vs.	M/s A B Corporation Ltd. Janak, 13 th North South Road, JVPD Scheme, Juhu, Mumbai-400049. PAN: AAACA5553D
--	-----	---

Appellant

Respondent

Appellant by : Shri R.P. Meena (CIT-DR)
Respondent by : Shri Bhupendra Karkhanis (AR)
Date of Hearing : 02.05.2018
Date of Pronouncement : 31.05.2018

ORDER

PER PAWAN SINGH, JUDICIAL MEMBER;

1. The appeal by Revenue under section 253 of the Income-tax Act (the Act) is directed against the order of Id. Commissioner of Income-tax (Appeals)-37 [Id. CIT(A)], Mumbai dated 15.01.2013 for Assessment Year 2005-06.

The Revenue has raised the following grounds of appeal:

- (i) “On the facts and circumstances of the case and in law, the learned CIT(A) erred in deleting the disallowance of expenditure of Rs. 30 crores being payment made for acquiring brand which was of capital nature and not allowable as per provisions of the I T Act, 1961. ”
2. Brief facts of the case are that the assessee filed his return of income for relevant Assessment Year on 31.10.2005 declaring total income of Rs. 28,97,942/- and book profit under section 115JB of Rs. 41,30,80,820/- which was accepted in assessment order dated 26.12.2007 passed under section 143(3) of the Act. The assessment was reopened under section 147

on 18.03.2009. The assessment was completed under section 143(3) r.w.s. 147 on 30.12.2009. The Assessing Officer while passing the re-assessment order disallowed Rs. 30 Crore by treating the same as capital expenditure. On appeal before the Id. CIT(A), the same was allowed as revenue expenditure, on the basis of decision of Tribunal for A.Y. 1995-96 vide order dated 05.06.2006 in ITA No. 4452/Mum/2000. Thus, further aggrieved by the order of Id. CIT(A), the Revenue has filed the present appeal before us.

3. At the outset of hearing, the Id. Authorized Representative (AR) of the assessee submits that the ground of appeal raised by Revenue is covered in favour of assessee in case for A.Y. 1995-96 in ITA No. 4452/Mum/2000 dated 05.06.2006. On the other hand, the Id. Departmental Representative (DR) for the Revenue submits that the department has already filed appeal against the said order before the Hon'ble Bombay High Court. Therefore, the Id. DR for the Revenue supported the order of Assessing Officer.
4. We have considered the rival submission of the parties and have gone through the orders of authorities below and the order passed by Co-ordinate Bench of Tribunal for A.Y. 2005-06. We have noted that the identical grounds of appeal was raised in appeal for A.Y. 1995-96 and the Tribunal vide order dated 05.06.2006 allowed the similar ground of appeal in favour of assessee. The Id. CIT(A) allowed the relief to the assessee on the basis of order of Tribunal. Thus, respectfully following the decision of

Tribunal, copy of which is placed on record. Therefore, we do not find any merit in the grounds of appeal raised by Revenue. Thus, considering the decision of Tribunal, we find that ground of appeal raised by Revenue is covered in favour of assessee and the same is dismissed.

5. In the result, appeal filed by Revenue is dismissed.

Order pronounced in the open court on 31.05.2018.

Sd/-
G.S. PANNU
ACCOUNTANT MEMBER

Sd/-
PAWAN SINGH
JUDICIAL MEMBER

Mumbai, Date: 31.05.2018

SK

Copy of the Order forwarded to :

- | | |
|-------------------------------|----------------------|
| 1. Assessee | 2. Respondent |
| 3. The concerned CIT(A) | 4. The concerned CIT |
| 5. DR "A" Bench, ITAT, Mumbai | |
| 6. Guard File | |

BY ORDER,
Dy./Asst. Registrar
ITAT, Mumbai