

**IN THE INCOME TAX APPELLATE TRIBUNAL
CAMP BENCH AT JALANDHAR**

**Before Sh. N. K. Saini, Hon'ble Vice President
and
Sh. Ravish Sood, Judicial Member**

ITA No.244/Asr./2017 : Asstt. Year : 2013-14

Deputy Commissioner of Income Tax, Central Circle-II, Jalandhar	Vs	M/s MBD Printographics Pvt. Ltd., MBD House, Railway Road, Jalandhar
(APPELLANT)		(RESPONDENT)
PAN No. AAACM9208R		

**Assessee by : Sh. Sudhir Sehgal, Adv.
Revenue by : Smt. Parwinder Kaur, CIT DR**

Date of Hearing : 17.01.2019	Date of Pronouncement : 17.01.2019
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ORDER

Per N. K. Saini, Vice President:

This is an appeal by the department against the order dated 17.02.2017 of Id. CIT(A)-I, Jalandhar.

2. Following grounds have been raised in this appeal:

“(i) Whether on the facts and circumstances of the case the Ld. CIT(A) has not erred in deleting addition on account of interest free loan given to sister concerns when assessee has not justified “business expediency” and failed to provide necessary details regarding business purpose behind investing money in sister concerns.

“(ii) Whether on the facts and circumstances CIT(A) was right in allowing depreciation without filing revised return by the assessee which has rightly been disallowed by the AO.

(iii) The Appellant craves leave to add or amend the grounds of appeal on or before is heard and disposed off.”

3. As regards to the first issue raised vide ground no. (i), the Id. Counsel for the assessee at the very outset stated that this issue is squarely covered by the judgment of the Hon'ble Jurisdictional High Court in assessee's own case for the assessment year 2010-11 in ITA No. 94/2017, order dated 08.08.2017 (copy of the said order was furnished which is placed on record).

4. In her rival submissions, the Id. CIT DR although supported the order of the AO but could not controvert the aforesaid contention of the Id. Counsel for the assessee.

5. After considering the submissions of both the parties and the material available on the record. It is noticed that an identical issue having similar facts was a subject matter of the departmental appeal for the assessment year 2010-11 before the Hon'ble Jurisdictional High Court against the order of the ITAT Amritsar Bench in ITA No. 534/Asr./2014, order dated 13.06.2016 in assessee's own case. Their Lordships while dismissing the appeal of the department observed in para 4 of the order dated 08.08.2017 as under:

“4. Learned counsel for the parties were ad-idem that question Nos.(i) and (ii) relating to deletion of addition of? 1,22,51,965/- on account of disallowance of interest expenditure stands concluded by the decision dated 17.4.2017 passed by this Court in ITA No.163 of 2017 [The Pr. Commissioner of Income Tax (Central), Ludhiana v. Shri Satish Bala Malhotra, Legal Heir of

Shri Ashok Kumar Malhotra, Prop. M/s Modern Publishers, MBD House, Railway Road, Jalandhar] whereby the questions have been decided against the revenue. Accordingly, question Nos. (i) and (ii) are decided against the revenue.”

6. In view of the above, we do not see any merit in this ground of the department since the issue has now been settled by the Hon’ble Jurisdictional High Court in favour of the assessee.

7. Vide ground no. (ii), the grievance of the department relates to the depreciation in respect of copier unit and paper unit.

8. The facts related to this issue in brief are that the AO disallowed the claim of depreciation of the assessee by observing that the assessee had made the claim for deduction of depreciation without filing the revised return.

9. Being aggrieved the assessee carried the matter to the Id. CIT(A) and submitted that it had omitted the claim of certain documents of the copier unit and paper unit but the said claim was admissible because no new claim was made by the assessee who had filed the details in its tax audit report under form 3CB of the depreciation which was allowable on its assets as per the Income Tax Act. The reliance was placed on the judgment of the Hon’ble Punjab & Haryana High Court in the case of CIT Vs Ramco International reported at (2011) 332 ITR 306.

10. The Id. CIT(A) after considering the submissions of the assessee allowed the claim of depreciation by observing in para 15 of the impugned order which read as under:

“15. In the instant case, it is clear that the assessee had filed in its tax audit report under form 3CD, the depreciation that was allowable on its assets as per the I.T. Act. However in the computation of income the assessee did not claim depreciation for the copier unit and the paper unit. Therefore the fact that the depreciation was due and was claimed by the assessee is clear from the tax audit report. Merely because it was not mentioned in the computation cannot take away from the statutory deduction of depreciation allowable to the assessee. The Assessing Officer ought to have allowed the same during assessment proceedings, as has been held by the Hon. Punjab & Haryana High Court in the above quoted decision. The Assessing Officer is therefore directed to allow the depreciation claim of the assessee after appropriate verification including of new assets purchased by uje assessee during the year.”

11. Now the department is in appeal. The Id. CIT DR supported the order of the AO and the Id. Counsel for the assessee submitted that it was not a new claim and that the relevant material was available on the record in tax audit report. Therefore, the Id. CIT(A) was fully justified in allowing the claim after following the judgment of the Hon'ble Jurisdictional High Court in the case of CIT Vs Ramco International (supra).

12. We have considered the submissions of both the parties and carefully gone through the material available on the record. In the present case, it is an admitted fact that the assessee inadvertently could not claim the depreciation in computation of income.

However, that claim was made in the tax audit report attached with the income tax return which was available on the record. Therefore, the ld. CIT(A) rightly directed the AO to allow the depreciation claimed by the assessee by following the judgment of the Hon'ble Jurisdictional High Court in the case of CIT Vs Ramco International (supra). We, therefore, do not see any valid ground to interfere with the findings of the ld. CIT(A).

13. In the result, the appeal of the department is dismissed.

(Order Pronounced in the Court on 17/01/2019)

Sd/-
(Ravish Sood)
JUDICIAL MEMBER

Sd/-
(N. K. Saini)
VICE PRESIDENT

Dated: 17/01/2019

Subodh

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR