

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD òCö BENCH

**Before: Shri Rajpal Yadav, Judicial Member
And Shri Amarjit Singh, Accountant Member**

**ITA No. 706 /Ahd/2015
Assessment Year 2004-05**

Patel Alloy Steel Co. Pvt. Ltd. Plot No. 297-300, Phase-II, GIDC Estate, Vatva, Ahmedabad- 382445 PAN: AABCP2984J (Appellant)	Vs	The ACIT, Circle-5, Ahmedabad (Respondent)
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**ITA No. 1389/Ahd/2015
Assessment Year 2004-05**

The ACIT, Circle-5, Ahmedabad (Appellant)	Vs	Patel Alloy Steel Co. Pvt. Ltd. Plot No. 297-300, Phase- II, GIDC Estate, Vatva, Ahmedabad- 382445 PAN: AABCP2984J (Respondent)
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**Revenue by: Shri Ranjan Kr. Singh, Sr. D.R.
Assessee by: Ms. Urvashi Shodhan, A.R.**

Date of hearing : 06-12-2018
Date of pronouncement : 23-01-2019

आदेश/ORDER

PER : AMARJIT SINGH, ACCOUNTANT MEMBER:-

These two appeals filed by assessee and revenue for A.Y. 2004-05, arise from order of the CIT(A)-9, Ahmedabad dated 03-02-2015, in proceedings under section 143(3) r.w.s. 254 of the Income Tax Act, 1961; in short of the Act.

ITA No. 1389/Ahd/2015 filed by revenue

2. The solitary ground of appeal of revenue is in respect of deleting the addition of Rs.78,44,703/- on account of disallowance of depreciation on moulding box and not considering that moulding box and pattern are not covered under those specific item. The rate of depreciation @ 25% was rightly applied by the assessing officer.

3. The fact in brief is that during the course of assessment the assessing officer noticed that assessee has claimed 100% depreciation amounting to Rs. 1,04,59,603/- on moulding box and pattern during the year under consideration. At the time of assessment, the assessee explained to the query raised by the assessing officer that life span of moulding box was only two to three months and in the past similar claim of depreciation of 100% was also allowed. The assessing officer has not agreed with the explanation of the assessee and restricted the claim of depreciation @ 25% on moulding box .

4. Aggrieved assessee has filed appeal before the Id. CIT(A). The Id. CIT(A) has allowed the appeal of the assessee. The relevant part of the decision of Id. CIT(A) is reproduced as under:-

“3.2 I have carefully considered the submissions and case laws relied upon by the appellant. The ld. CIT(A)-XI, Ahmedabad vide appeal No.CIT(A)-XI/237/2006-07 dtd.27Ap2-2007 for A.Y. 2004-05 in first round of appeal has allowed the ground of the appellant. The appellant during the course of appeal proceedings filed written submission vide letter dtd. 8-1-2007 during the year total addition to mouldings is Rs.92,98,537/- which may be allowed as current repairs and opening WDV claim Rs.40,53,618/- is for 100% written off as current repairs. Appellant further submitted that on opening WDV of mouldings and patterns of Rs.40,53,618/- further new purchases are made at Rs.92,98,537/- and total comes to Rs.1,33,52,155/-. Ld. CIT(A)-XI, Ahmedabad in the abvoe appeal order allowed the claim of the appellant Rs. 92,98,537/- as current repairs and opening WDV of Rs.40,53,618/- claimed as written off for depreciation allowed as revenue repairs. The appellant also submitted copy of the order of Madras High Court in the case of CIT, Trichy v/s. Aditya Ferro Alloys P.Ltd., Karaikal has also considered the issue of moulds purchased being revenue expenditure which are frequently replaceable and have short life. , In "CIT v. Mysore Spun Concrete Pipe Pvt: Ltd.", 194 ITR 159(Kar), under similar circumstances, it was held that the replacement of dyes and moulds was not in the nature of replacement of a capital machinery, but was in the nature of replacement of a part of the machinery, in the nature of maintenance of machinery used in the production process of the assessee. The expenditure incurred in the production process and on replacement of damaged moulds etc., was held to be revenue expenditure. "Mysore Spun Concrete Pipe Pvt. Ltd."(supra), was followed in "CIT v. Jagajit Industries Ltd.", 241 ITR 556(Del), to hold that the moulds in question did not enhance the capacity of the existing machines and were more replacements for the moulds damaged, during the process of manufacture of glass. Similarly, expenditure on replacement of moulds was held to be revenue expenditure in "CIT v. Malerkotla Steels & Alloys (P) Ltd.", 49 DTR 1(P&H).

Following the orders of above authorities, I allow the claim of the appellant Rs.92,98,537/- as current repairs and opening WDV of Rs.40,53,618/- claimed as written off for depreciation allowed as revenue repairs. These grounds of appeals are allowed.”

5. We have heard the rival contentions and perused the material on record carefully. In this case the ITAT vide its order dated 28/07/2011 had restored the issue of claim of the assessee of 100% depreciation on moulding box and pattern to the file of the assessing officer for considering that the moulding boxes used for the purpose of casting had a vey short life of two to three months. However, as explained supra the assessing officer has restricted the claim of the assessee for depreciation @ 25% on the moulding box and pattern. The ld. CIT(A) has allowed the claim of the assessee after following the decision of Honøble Madras High Court in the case of CIT Trichy Vs. Aditya Ferro Alloys Pvt. Ltd. and the decision of CIT vs. Maysore Spun Concrete Pipe Pvt. Ltd. 194 ITR 159 (Kar) under the similar circumstances wherein it is held that the replacement of dyes and moulds

was not in the nature of replacement of a capital machinery but was in the nature of replacement of a part of machinery in the nature of maintenance of machinery used in the production process. The Id. CIT(A) has also referred the case of CIT vs. Jagjit Industries Ltd. 241 ITR (Del) and decision of CIT vs. Malamotla Steels and Alloys (P) Ltd. 49 DTR 1 (P & H) wherein the expenditure on replacement of moulds was held to be revenue expenditure. In the light of the aforesaid facts and the findings of the Id.CIT(A) , we do not find any infirmity in the decision of the Id. CIT(A), therefore, the appeal of the revenue is dismissed.

ITA No. 706/Ahd/2015 filed by assessee

6. All the three grounds of appeal are inter-connected to the common issue of disallowance made by the assessing officer of Rs. 13,36,080/- in respect of expenditure incurred on transportation for internal material movement.

7. The brief fact of this issue is that during the course of assessment proceedings, the assessing officer has asked the assessee to explain the increase in transportation charges to Rs. 13,36,080/- as against nil amount of such expenses in the preceding year. The assessee explained that the aforesaid amount was spent for transportation of internal movement of material and an amount of Rs. 18,44,828/- was debited to the material handling charges. It was also explained that in the previous year an amount of Rs. 21,02,264/- has been debited in the P&L account which was also included transportation charges in respect of internal movements of goods. While during the year under consideration the assessee company has separated material handling charges under two heads material handling Rs.

18,44,828/- and the other one transportation charges (internal) Rs. 13,36,080/- totaling to the amount of Rs. 31,80,908/-. However the assessing officer has not accepted the explanation of the assessee stating that no evidence of deduction of TDS has been filed by the assessee, therefore, he has disallowed the aforesaid claim of transportation charges and added the amount of Rs. 13,36,080/- to the total income of the assessee.

8. Aggrieved assessee has filed appeal before the Id. CIT(A). The Id. CIT(A) has sustained the addition reiterating the same reason as mentioned by the assessing officer in his assessment order.

9. We have heard the rival contentions and perused the material on record carefully. It is noticed that during the year under consideration the assessee has bifurcated the transportation charges while in the earlier years the same was shown in one head namely material handling charges. It is also noticed that assessee has furnished the ledger account from the aforesaid audited books of account for the year under consideration. We have also gone through the audited balance sheet and profit and loss account of the assessee filed during the course of assessment proceedings and appellate proceedings and it is noticed that as per schedule 15 to the profit and loss account the assessee has shown transportation charges (internal) to the amount of Rs. 13,36,080 and it has also shown separately material handling charges to the amount of Rs. 18,44,828/-. It is also noticed that in the preceding year assessee has shown material handling charges to the amount of Rs. 21,02,264/- and no separate transportation charges (internal) was shown. However, during the year under consideration the assessee has

bifurcated the two charges separately as reiterated above. We find that the lower authorities have not contradicted the aforesaid material fact reported by the assessee considering the same we are not inclined with the decision of ld. CIT(A), therefore, the appeal of the assessee on this issue is allowed.

10. In the result, the appeal of the revenue is dismissed and appeal of the assessee is allowed.

Order pronounced in the open court on 23-01-2019

Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER
Ahmedabad : Dated 23/01/2019

Sd/-
(AMARJIT SINGH)
ACCOUNTANT MEMBER

आदेश क०० तलम अ० षत / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT, Ahmedabad
6. Guard file.

By order/आदेश से,

उप/सहायक पंजीकार
आयकर अपीलअ अधकरण,
अहमदाबाद