

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC" : DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER

ITA.No.4531 & 4532/Del./2018
Assessment Years 2004-2005 & 2005-2006

M/s. Trans Air, 118, Ansal Bhawan, Kasturba Gandhi Marg, New Delhi – 110 001. PAN AAFT2744C	vs.	The ACIT, Central Circle-07, New Delhi.
(Appellant)		(Respondent)

For Assessee :	Shri Ashwaani Kumar, C.A.
For Revenue :	Shri S.L. Anuragi, Sr. D.R.

Date of Hearing :	27.02.2019
Date of Pronouncement :	05.03.2019

ORDER

Both the appeals by the same assessee are directed against the common order of Ld. CIT(A)-24, New Delhi, dated 17th May 2018, for the assessment years 2004-2005 and 2005-2006.

2. Briefly the facts of the case are that the assessee purchased Mercedes Benz car bearing registration number DL-3CQ 1010. The Enforcement Directorate noticed that this car had been sent for servicing by Shri Jagat Singh,

[S/o. Shri Natwar Singh, Ex-Minister of External Affairs] to M/s. T & T Motors Ltd. The Enforcement Directorate directly conducted an Investigation and reached to the finding that this car was not used by the assessee, but, the same was under the control and absolute domain of Shri Jagat Singh. The assessing officer, accordingly, disallowed depreciation and other expenses relating to the car i.e., Insurance, Petrol Expenses and Interest paid on loan for car etc. The Ld. CIT(A) dismissed the Appeals of the assessee.

3. In the present appeals, the assessee challenged the disallowance of Insurance, Petrol Expenses, Interest paid on loan and Depreciation in respect of the same car.

4. The Learned Counsel for the Assessee submitted that on the similar issue in preceding assessment year 2003-2004, the ITAT, H-Bench in the case of same assessee in ITA.No.646/Del./2013 vide order dated 11th December, 2013 has restored the matter back to the file of assessing officer for deciding the issue afresh. He has submitted that the assessing officer in pursuance of the order of the

Tribunal, passed the assessment order under section 254/143(3) dated 27th March 2015 and returned income have been accepted. Thus, no disallowance on account of the similar nature have been made by the assessing officer. He has, therefore, submitted that the issue is covered in favour of the assessee. Copy of the above orders are provided to the Ld. D.R. who did not dispute the same.

5. Considering the facts of the case in the light of the Order of the Tribunal and assessment order passed by the assessing officer, it is clear that in assessment year 2003-2004, similar Matter was considered by the Tribunal and the matter in issue was restored to the assessing officer. The assessing officer in the set aside proceedings, accepted the claim of the assessee, therefore, there is no justification to make the disallowance out of expenses and depreciation in relation to the same Mercedes Benz car. The orders of the authorities below are accordingly set aside and all additions are accordingly deleted.

6. In the result, both the appeals of the assessee are allowed.

Order pronounced in the open Court.

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated March, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi