

**IN THE INCOME TAX APPELLATE TRIBUNAL "D", BENCH KOLKATA**

**BEFORE SHRI S.S. VISWANETHRA RAVI, JM & DR. A.L.SAINI, AM**

**आयकरअपीलसं./ITA No.1984/Kol/2018**

**(निर्धारणवर्ष / Assessment Year: 2011-12)**

ACIT, Circle-7(1), Kolkata	Vs.	M/s Dunlop India Ltd.  Flat no. 1, 5 <sup>th</sup> Floor, 9, Syed Amir Ali Avenue, Kolkata-700017.
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AABCD 0198 E		
(Assessee)	..	(Revenue)

Assessee by : Shri Radhey Shyam, CIT DR

Respondent by : None

सुनवाईकीतारीख/ Date of Hearing : 28/03/2019

घोषणाकीतारीख/Date of Pronouncement : 29/03/2019

**आदेश / ORDER**

**Per Dr. A. L. Saini, AM:**

The captioned appeal filed by the revenue, pertaining to assessment year 2011-12 is directed against the order passed by the Commissioner of Income Tax (Appeal)-3, Kolkata, which in turn arises out of an assessment order passed by the Assessing Officer u/s 143(3) of the Income Tax Act, 1961 (in short the Act) dated 31.03.2014.

2. The grounds of appeal raised by the revenue are as follows:

a. Whether on the facts and circumstances of the case, the ld. CIT(A) has erred in law as well as in facts in allowing set off and carry forward of unabsorbed depreciation of Rs. 7,76,12,179/- for the A.Y. 1994-95 to 2010-11, which was disallowed by the A.O.

b. The appellant craves leave to add, alter, amend or modify any or all grounds of appeal at or before the time of hearing of the appeal.

3. At the time of hearing none appeared on behalf of assessee in spite of issuance of notice for hearing more than one occasion and Ld. Departmental Representative(DR), was present for the appellant Revenue. In the absence of any appearance by the assessee, the appeal is being disposed of *ex parte qua* the assessee, after hearing Ld. DR for the Revenue on merits in terms of Rule 24 of the Income Tax Appellate, Tribunal, Rules, 1963.

4. After hearing the ld. DR for the revenue and having gone through the appellate order passed by the Commissioner of Income Tax (Appeals) we are of the view that there is no any infirmity in the order passed by the ld. CIT(A). The ld. CIT(A) has directed the AO to examine and determine the amount of absorbed depreciation available to the assessee for carry forward as on 01.04.2002 and treat the same in accordance with section 32(2) of the Amended Finance Act, 2001. Therefore, the AO was directed by the ld. CIT(A) to determine the absorbed depreciation eligible for set off in the impugned year and thereafter the carry forward to subsequent year as per direction given by the ld. CIT(A). We quote here the concluding remark of the ld. CIT(A) for ready reference which is given below:

*“In view of the above direction of the Jurisdictional Tribunal the Assessing Officer is directed to determine the amount of unabsorbed depreciation available to the assessee for carry forward as on 01.04.2001 and treat the same in accordance with section 32(2) of the amended Finance Act, 2001. The Assessing Officer is accordingly directed to determine the unabsorbed depreciation eligible for set off in the impugned year and thereafter carry forward to subsequent years as per directions above.”*

We note that the ld. CIT(A) has passed a reasoned order after considering the provision of section 32(2) and judicial precedent available on the subject, therefore we are of the view that the conclusion arrived at by the ld. CIT(A) are

correct and admit no interference by us. We approve and confirm the order of the Id. CIT(A) and dismiss the grounds of appeal raised by the Revenue.

5. In the result, the appeal of the revenue is dismissed.

**Order pronounced in the Court on 29.03.2019**

**Sd/-**  
**(S.S.VISWANETHRA RAVI)**  
**न्यायिकसदस्य / JUDICIAL MEMBER**

**Sd/-**  
**(A.L.SAINI)**  
**लेखासदस्य / ACCOUNTANT MEMBER**

कोलकाता /Kolkata;

दिनांक/ Date: 29/03/2019

(SB, Sr.PS)

Copy of the order forwarded to:

1. ACIT, Circle-7(1), Kolkata
2. M/s Dunlop India Ltd.
3. C.I.T(A)-
4. C.I.T.- Kolkata.
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

True copy

By Order

Assistant Registrar  
ITAT, Kolkata Benches