

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "G" MUMBAI**

**BEFORE SHRI PAWAN SINGH (JUDICIAL MEMBER) AND  
SHRI N.K. PRADHAN (ACCOUNTANT MEMBER)**

**ITA No. 676/MUM/2018  
Assessment Year: 2014-15**

N.M. Wadia Building, 123,  
M.G. Road, Fort, Mumbai-  
400001.

Vs. Income Tax Officer,  
Ward 16(3)(5), Room  
No. 447, Aayakar  
Bhavan, M.K. Road,  
Mumbai-400020.

**PAN No. AAAPW1081H  
Appellant**

**Respondent**

Assessee by : Mr. Parth Desai, AR  
Revenue by : Mr. S.K. Mishra, Sr. DR

Date of Hearing : 19/03/2019  
Date of pronouncement : 27/03/2019

**ORDER**

**PER N.K. PRADHAN, AM**

This is an appeal filed by the assessee. The relevant assessment year is 2014-15. The appeal is directed against the order of the Commissioner of Income Tax (Appeals)-7, Mumbai [in short 'CIT(A)'] and arises out of the assessment completed u/s 143(3) r.w.s. 147 of the Income Tax Act 1961, (the 'Act').

2. The grounds of appeal filed by the assessee read as under:
  1. The Ld. CIT(A) was not justified in confirming the Assessing Officer's action of disallowance of depreciation on tenancy rights of Rs.2,72,076/-.
  2. The Ld. CIT(A) failed to appreciate that tenancy rights were a form of license.

3. Briefly stated, the facts are that the assessee filed its return of income for the assessment year (AY) 2014-15 on 28.11.2014 declaring total income at Rs.35,94,95,700/-. In response to a query raised by the AO during the course of assessment proceedings to explain the claim of depreciation on tenancy rights of Rs.2,72,076/- on intangible assets, the assessee filed a reply dated 09.12.2016 which has been extracted by the AO at para 4.1 (page 2-3) of the assessment order dated 26.12.2016. However, the AO was not convinced with the said explanation of the assessee and following the decision in *M.M. Nissim & Co. v. ACIT* (2007) 18 SOT 274 (Mum) and *Techno Shares & Stock Ltd.* 225 CTR 337 (Bom), disallowed the above claim of depreciation of Rs.2,72,076/-.

4. Aggrieved by the order of the AO, the assessee filed an appeal before the Ld. CIT(A). We find that the Ld. CIT(A), by following the order of the ITAT, Mumbai dated 29.10.2009 in assessee's own case for AY 2003-04 and 2004-05 (ITA No. 355 & 356/Mum/2008) confirmed the order of the AO.

5. Before us, the Ld. counsel of the assessee fairly agrees that the similar issue has been decided against the assessee by the order of the Tribunal in assessee's own case for AY 2011-12 (ITA No. 3400/Mum/2016) and AY 2013-14 (ITA No. 7072/Mum/2017).

6. The Ld. DR submits that similar issue has been decided against the assessee by the Tribunal in assessee's own case for AYs 2003-04, 2004-05, 2011-12 and 2012-13.

7. We have heard the rival submissions and perused the relevant materials on record. We find that the claim of depreciation on tenancy

rights has been decided against the assessee by the Tribunal in assessee's own case in AY 2011-12 (ITA No. 3400/Mum/2016) and AY 2013-14 (ITA No. 7072/Mum/2017).

Facts being identical, we follow the said order of the Co-ordinate Bench and uphold the order of the Ld. CIT(A).

8. In the result, the appeal is dismissed.

**Order pronounced in the open Court on 27/03/2019.**

Sd/-  
(PAWAN SINGH)  
JUDICIAL MEMBER

Sd/-  
(N.K. PRADHAN)  
ACCOUNTANT MEMBER

Mumbai;

Dated: 27/03/2019

*Rahul Sharma, Sr. P.S.*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. The CIT(A)-
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER,

(Sr. Private Secretary)  
**ITAT, Mumbai**