

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCH 'A', HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER
AND SHRI S. RIFAUH RAHMAN, ACCOUNTANT MEMBER**

ITA Nos. 1321 & 1322/Hyd/2018
Assessment Years: 2012-13 & 2013-14

Parmatma Cottons Pvt. vs. Income-tax Officer,
Ltd., Adilabad. Ward – 1, Adilabad.

PAN – AAGCP 1074 N

Appellant

Respondent

Assessee by: Shri S. Rama Rao
Revenue by: Shri Kiran Katta

Date of hearing: 28/03/2019
Date of pronouncement: 05/04/2019

ORDER

PER S. RIFAUH RAHMAN, AM:

Both these appeals filed by the assessee are directed against the orders of CIT(A) – 5, Hyderabad, for AY2 2012-13 and 2013-14. As identical issues are involved in both these appeals, the same are clubbed and heard together and therefore a common order is passed for the sake of convenience.

2. Brief facts of the case are, the assessee company, engaged in the business of ginning, pressing & trading in cotton and its allied products, filed its return of income for the AY 2012-13 on 19/09/2012 admitting an income of Rs. 14,15,270/-. Assessment was completed u/s 143(3) on 01/08/2014 accepting the admitted income of the assessee at Rs. 14,15,270/-. Subsequently, it was noticed that assessee claimed additional depreciation on factory electric equipment and infra installed after September, 2011 of Rs. 43,22,245/- @

10% of Rs. 4,32,224/-. According to AO, the same is not allowable as it does not come under new Plant and Machinery, which is allowable for additional depreciation. Therefore, notice u/s 148 was issued on 27/02/2017 with proper approval and served on the assessee on 01/03/2017. In response to the said notice, the assessee submitted that the return already filed on 19/09/2012 be treated as return filed in response to the notice u/s 148. Further, notice u/s 142(1) was issued and served on the assessee. In response to the said notice, the assessee filed its reply as under:

"Our claim of additional depreciation of Rs. 4,32,224/- on items of plant and machinery being cost of transformer, other electrical equipments and development charges paid to APNPDCL etc) shown under nomenclature of factory electric equipments and infra, installed after September 2011 of value Rs. 43,22,245/- at the rate of 10% is valid and as per law, and hence allowable as expenditure claim/ deduction in computation of income from business/profession and total income for the A.Y. 2012-13 relating to the F.Y. ending 3103-2012 as per the provision of income tax act, 1961."

Not agreed with the above reply, the AO disallowed the additional depreciation claimed by the assessee.

3. Aggrieved with the above order of AO, the assessee preferred an appeal before the CIT(A) and the CIT(A) confirmed the addition made by AO.

4. Aggrieved with the order of CIT(A), the assessee is in appeal before us raising the following grounds of appeal, which are common in both the appeals:

"1) The order of the Learned CIT(A) is erroneous both on facts and in law.

2) The Learned CIT (A) erred in holding that initiation of proceedings u/s 147 are valid.

3) *The Learned CIT (A) erred in holding*

(a) That the assets on which additional depreciation is claimed by the assessee are categorised as furniture and fittings.

(b) That additional depreciation is not allowable to the assessee.

4) The Learned CIT (A) ought to have verified the nature of the assets and held that the new machinery acquired by the assessee is a part of plant and machinery and are eligible for additional depreciation.

5) Any other ground that may be urged at the time of hearing.”

5. Before us, the Id. AR of the assessee not pressed ground No. 2 and pressed only ground Nos. 3 & 4. Ground Nos. 1 & 5 are general in nature.

6. Before us, Id. AR submitted that the assessee has made the addition to the plant and machinery, which are transformers other electrical fitting and made development by laying electrical lines, which is part of machinery itself. He prayed that additional depreciation be allowed.

7. Ld. DR, on the other hand, submitted that these expenses are in the nature of electrical fittings incurred by the assessee, which is to be grouped under furniture and fittings as per the new guidelines. Therefore, he contended that the assessee is not eligible for additional depreciation.

8. Considered the rival submissions and perused the material on record. Ld. AR made a submission that additions made by the assessee during the year are machineries and other electrical fittings relevant for plant and machinery. Therefore, assessee should be allowed for additional depreciation. He also submitted that it is forming part of plant

and machinery. On careful study of the submissions made by the assessee, we notice that there are additions made by the assessee during the year which is comprising of payment to APNPDCL towards laying of electric lines, purchase of electrical transformer, panels, Genset and other electrical items during the current AY. Since the assessee claims that it is part of plant and machinery, we are not sure whether it is part of plant and machinery. Therefore, for the sake of clarity and justice, we remit the issue back to the file of AO to verify the claim of the assessee, if necessary, by making physical visit to the unit, to ascertain whether the machinery installed by the assessee are standalone and these expenses were part of plant and machinery. In case, it is found that the claim of the assessee is proper, additional depreciation claimed by the assessee may be allowed. Accordingly, grounds raised by the assessee on this issue are treated as allowed for statistical purposes.

9. Since the grounds and facts are similar in AY 2013-14 to that of AY 2012-13, i.e. assessee is claiming the balance 10% out of 20% allowed u/s 32(2) of the Act. The various judicial pronouncements allow the assessee to claim the balance 10% not claimed due to new plant & machinery are purchased in the second half of the AY. Since, we have remitted matter in AY 2012-13 for verification of the plant & machinery, which is relating to the addition made to plant & machinery in the AY 2012-13, the issue in this appeal also is remitted to AO and in case it is found that assessee is eligible for claiming additional depreciation in Ay 2012-13, AO should allow the additional depreciation in this AY also.

10. In the result, both the appeals of the assessee are allowed for statistical purposes.

Pronounced in the open court on 5th April, 2019.

Sd/-
(P. MADHAVI DEVI)
JUDICIAL MEMBER

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Hyderabad, dated 5th April, 2019.

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Copy forwarded to:

1. *Paramatma Cottons Pvt. Ltd., Sy.No. 30/3, 30/1 & 31/1/3, NH Road, Rampur Village, Adilabad – 504 001*
2. *ITO, Ward – 1, Adilabad.*
3. *CIT(A) - 5, Hyderabad*
4. *Pr. CIT – 5, Hyderabad*
5. *The DR, ITAT, Hyderabad*
6. *Guard File*