

IN THE INCOME TAX APPELLATE TRIBUNAL

AHMEDABAD “C” BENCH

**(BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT
MEMBER & SHRI MAHAVIR PRASAD, JUDICIAL MEMBER)**

**ITA. No: 52/AHD/2017
(Assessment Year: 2009-10)**

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| The Deputy Commissioner of Income tax, Circle- 2(1)(1), Ahmedabad | V/S | M/s. Gujarat Lease Finance Ltd. 1st Floor, Hasubhai Chambers, Opp. Town Hall, Ashram Road, Ahmedabad |
| (Appellant) | | (Respondent) |

PAN: AAACG 8354N

**Appellant by : Shri M.S.A. Khan, CIT/DR
Respondent by: Shri Biren Shah & G.M. Thakor**

(आदेश)/ORDER

Date of hearing : 02 -04-2019

Date of Pronouncement : 26-04-2019

PER MAHAVIR PRASAD, JUDICIAL MEMBER

1. This appeal filed by the Revenue is directed against the order of the Ld. CIT(A)-2, Ahmedabad dated 03.10.2016 pertaining to A.Y. 2009-10 and following grounds have been taken:

- 1. The Ld.CIT(A) has erred in law and on facts in deleting the disallowance made by the AO on account of carried forward ' unabsorbed depreciation of Rs.38,76,64,533/- of Asst.Year 2000-01 and Rs.18,11,02,693/- of Asst. Year 2001-02 aggregating to Rs.56,87,67,226/- in Asst. Year 2009-10 without properly appreciating the facts of the case and the material brought on record.*
- 2. On the facts and in the circumstances of the case, the Ld. CIT(A) ought to have upheld the order of the Assessing Officer.*
- 3. It is, therefore, prayed that the order of the Ld. CIT(A) may be set aside and that of the Assessing Officer may be restored to the above extent.*
- 4. The appellants crave leave to amend or alter any ground or add a new ground, which may be necessary.*

2. The facts of the case are that it was noticed that the assessee had wrongly claimed carry forward of losses of earlier years. Verification of computation of income for the assessment year 2008-09 revealed that the assessee had wrongly carried forward unabsorbed depreciation of Rs. 387664533/- for the assessment year 2000-01 to the present assessment year 2009-10. Similarly, the assessee had wrongly carried forward unabsorbed depreciation of Rs. 181102693/- for the assessment year 2001-02 to the present year 2009-10 and assessee can carry forward unabsorbed depreciation up to 8 years from the assessment year of unabsorbed depreciation and made addition of Rs. 568767226/- in assessment year 2009-10.
3. Thereafter, assessee preferred first statutory appeal before the ld. CIT(A) who partly allowed the appeal of the assessee.
4. We have gone through the relevant record and impugned order. At the outset, ld. A.R. cited a judgment of Hon'ble Gujarat High Court in the case of General Motors India (P.) Ltd. vs. DCIT [2012] 25 taxmann.com 364 wherein it is held that unabsorbed depreciation could be carried forward and set off even after a period of eight years without any limit whatsoever in accordance

with Section 32(2) as amended by Finance Act, 2001 and granted relief to the assessee. Therefore, respectfully following the above said judgment, we dismiss this ground of appeal of the revenue.

5. In the result, appeal filed by the Revenue is dismissed.

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| Order pronounced in Open Court on | 26 - 04- 2019 |
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Sd/-

(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER **True Copy**
Ahmedabad: Dated 26/04/2019

Sd/-

(MAHAVIR PRASAD)
JUDICIAL MEMBER

Rajesh

Copy of the Order forwarded to:-

1. The Appellant.
2. The Respondent.
3. The CIT (Appeals) –
4. The CIT concerned.
5. The DR., ITAT, Ahmedabad.
6. Guard File.

By ORDER

Deputy/Asstt.Registrar
ITAT,Ahmedabad