

आयकर अपीलीय अधिकरण "बी" न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH, PUNE

श्री डी. करुणाकरा राव, लेखा सदस्य, एवं श्री विकास अवस्थी, न्यायिक सदस्य के समक्ष ।
BEFORE SHRI D. KARUNAKARA RAO, AM AND SHRI VIKAS AWASTHY, JM

आयकर अपील सं. / ITA No.498/PUN/2017

निर्धारण वर्ष / Assessment Year : 2012-13

Klaus Multiparking System Pvt. Ltd.,
5/3, Prashant Apartments, B/h Karve Road,
Telephone Exchange, Erandwane,
Pune - 411004

PAN : AACCK3868R

.....अपीलार्थी / Appellant

बनाम / V/s.

The Income Tax Officer,
Ward - 14(1), Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Kishor Phadke
Revenue by : Shri Pankaj Garg

सुनवाई की तारीख / Date of Hearing : 18-03-2019

घोषणा की तारीख / Date of Pronouncement : 03-06-2019

आदेश / ORDER

PER VIKAS AWASTHY, JM :

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-7, Pune dated 21-11-2016 for the assessment year 2012-13.

2. Shri Kishor Phadke appearing on behalf of the assessee submitted that the solitary issue in the appeal is against the findings of

Commissioner of Income Tax (Appeals) in upholding the incentive received by the assessee under Industrial Promotion Subsidy Scheme, 2007 introduced by State of Maharashtra as revenue receipts. The ld. AR submitted that the Commissioner of Income Tax (Appeals) is an ex-parte proceedings, without appreciating the facts and law has upheld the findings of Assessing Officer in holding the subsidy received by assessee as revenue receipt.

2.1 The ld. AR submitted that the assessee has been receiving subsidy from the State Government under the Package Scheme of Incentives, 2007 in the past. The assessee has been claiming subsidy as capital receipt. In scrutiny assessment proceedings, the Assessing Officer held the subsidy as revenue receipt and the Commissioner of Income Tax (Appeals) has upheld the findings of Assessing Officer. The assessee carried the matter in appeal before the Tribunal in ITA Nos. 308 & 309/PUN/2017 for the assessment years 2010-11 and 2011-12, respectively. The Tribunal vide order dated 27-04-2018 held the aforesaid subsidy as capital receipt in the hands of the assessee. The issue in the present appeal is identical to the one already adjudicated by the Tribunal in assessee's own case for assessment years 2010-11 and 2011-12. The subsidy scheme and the facts in the assessment year under appeal are identical.

3. On the other hand Shri Pankaj Garg representing the Department vehemently defended the impugned order. However, the ld. DR fairly admitted that the issue raised in the present appeal is identical to the one adjudicated by the Tribunal in assessee's own case for assessment years 2010-11 and 2011-12 (supra).

4. Both sides heard. Orders of the authorities below perused. The only issue raised by the assessee in appeal is against the findings of Commissioner of Income Tax (Appeals) in confirming the assessment order holding the incentive received by assessee under Industrial Promotion Subsidy Scheme, 2007 amounting to Rs.26,49,450/- as revenue receipt chargeable to tax. We find that in the immediately preceding assessment years i.e. assessment years 2010-11 and 2011-12 similar additions were made by the Assessing Officer holding the subsidy received by the assessee under Industrial Promotion Subsidy Scheme. The Tribunal in appeals by the assessee in ITA Nos. 308 & 309/PUN/2017 (supra) after considering the facts of the case, and on the decision of Tribunal in the case of Innoventive Industries Ltd. Vs. DCIT in ITA No. 601/PN/2013 for assessment year 2009-10 decided on 24-03-2017 held that the subsidy received by the assessee under the Package Incentive Scheme, 2007 is capital receipt in the hands of assessee. The operative part of the order of Tribunal in assessee's own case for the earlier assessment years is reproduced here-in-below :

“17. The issue arising before us is identical to the issue before the Tribunal in Innoventive Industries Ltd. Vs. DCIT (supra) and the assessee had received incentive / subsidy from the State Government for setting up the project in the classified area. Hence, we hold that subsidy received by the assessee under PSI, 2007 is capital receipt in the hands of assessee. Accordingly, we delete the addition of ₹ 26,37,000/-. The grounds of appeal raised by the assessee are thus, allowed.”

5. The ld. DR has fairly admitted that the facts in assessment year under appeal are identical to the facts in assessment years 2010-11 and 2011-12. No contrary decision has been brought to our notice by the Department. Therefore, we find no reason to take a different view. Respectfully following the order of Co-ordinate Bench of Tribunal, we hold that the subsidy received by the assessee under Industrial Promotion

Subsidy Scheme, 2007 is capital receipt, not liable to be taxed in the hands of assessee. Accordingly, the findings of Commissioner of Income Tax (Appeals) are reversed and the appeal of assessee is allowed.

6. In the result, the appeal of assessee is allowed.

Order pronounced on Monday, the 03rd day of June, 2019.

Sd/-	Sd/-
(डी. करुणाकरा राव/D. Karunakara Rao)	(विकास अवस्थी / Vikas Awasthy)
लेखा सदस्य / ACCOUNTANT MEMBER	न्यायिक सदस्य / JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 03rd June, 2019.

RK

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त (अपील) / The CIT(A)-7, Pune
4. The Pr. Commissioner of Income Tax-6, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच,
पुणे / DR, ITAT, "B" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति // True Copy//

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary,
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune