

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI**

BEFORE SH. R. K. PANDA, ACCOUNTANT MEMBER

ITA No.601 to 602/Del/2019

Assessment Year: 2012-13 & 2013-14

Reju Daniel D-15/188-189, Sector-3, Rohini, New Delhi -110085 PAN No.AAHPD3535E	Vs	Income Tax Officer Ward – 39 (5) New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Shri V. P. Bansal, CA
Respondent by	Shri S. L. Anuragi, Sr. DR

Date of hearing:	03/07/2019
Date of Pronouncement:	26/07/2019

ORDER

PER R.K. PANDA, AM:

The above two appeals filed by the assessee are directed against the separate orders dated 27.12.2018 of the CIT(A)-13, New Delhi relating to A. Y. 2012-13 and 2013-14 respectively. Since identical grounds have been taken by the assessee in both these appeals, therefore, these were heard together and are being disposed of by this common order.

ITA No.601/Del/2019 (A. Y. 2012-13)

2. Facts of the case, in brief, are that the assessee is an individual and engaged in the business of renting of Audio Visual Equipments under the name and style of proprietorship concern M/s. Dani Multimedia Services. He filed his return of income on 30.09.2012 declaring total income of Rs.4,57,180/-. The Assessing Officer during the course of assessment proceedings observed from the depreciation chart filed that the assessee has claimed depreciation on assets namely LED wall @ 60%, projector and Accessories @ 60%, Sound and Access @ 60% and Voter Pad @60%. As per the rates of depreciation defined under the Income Tax Rule, 60% rate of depreciation is categorized for plant and machinery of the nature of “computers including computer software” and certain categories of “Commercial Vehicles” and “Books”. However, the above assets on which the assessee has claimed depreciation @60% do not fall in any of the above category. He therefore, held that the assessee is not entitled to claim depreciation @ 60% on LED wall and accessories and confronted the same to the assessee. Rejecting the various explanations given by assessee and observing that LED wall is not a computer or an integral part of the computer, the assessing Officer held that assessee is entitled to deprecation on the rates applicable to plant and machinery. He, therefore, restricted the depreciation to 15% as against 60% claimed by the assessee on such LED wall and accordingly disallowed an amount of Rs.11,85,777/-. Similarly the Assessing Officer also disallowed an

amount of Rs.1,20,477/- out of various expenses for which the assessee is not in appeal before us. Therefore, we are not concerned with the same. The Assessing Officer accordingly determined the total income of the assessee at Rs.6,04,485/-.

3. In appeal the Ld. CIT(A) upheld the action of the Assessing Officer in allowing depreciation on LED wall @15% as against @60% claimed by the assessee.

4. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal by raising following grounds of appeal :-

1. *That the impugned order is against facts and bad in law.*

2. *That on the facts and circumstances of the case and legal position, the learned CIT(A) has erred in confirming the addition of Rs.11,85,777/- on account of depreciation on LED wall, projector and accessories etc. allowed by the AO @ 15% as against claimed @ 60% as applicable to computers.*

3. *The appellant craves leave to add, alter amend or vary the above grounds of appeal before or at the time of hearing.*

5. The Ld. Counsel for the assessee submitted that the LED wall, Projectors and Accessories etc are operated through software and function through laptop or any other computer and the LED wall cannot function independently. Referring to the

decision of the Delhi Bench of the Tribunal in the case of DCIT Vs. M/s. Crabtree India Ltd. in ITA No.1340/Del/2013 order dated 14.03.2014 he submitted that the Tribunal has held that video conferencing equipment are entitled for depreciation @60%.

6. Referring to the decision of Hon'ble Supreme Court in the case of CIT Vs. Karnataka Power Corporation reported in 247 ITR 268, he submitted that the Hon'ble Supreme Court has held that where it is found that a building has been so planned and situated as to serve assessee's said technical requirements, it will qualify to be treated as a plant for purpose of investment allowance. It has further been held that where the assessee is power generating station, building was so constructed as to be an integral part of its generating system, it has to be treated as plant.

7. Referring to the decision of Hon'ble Delhi High Court in the case of CIT Vs. BSES Rajdhani Powers Ltd. vide ITA No.1266/Del/2010 order dated 31.08.2010, he submitted that the Hon'ble High Court has allowed depreciation @ 60% on computer accessories and peripherals such as printers and scanners, server etc holding these to form an integral part of the computer system. In fact, the computer accessories and peripherals cannot be used without the computer. Consequently, as these are the part of the computer system, these are entitled to depreciation at the higher rate of 60%. He accordingly submitted

that the assessee is entitled to depreciation @ 60% on the LED wall, projector and peripherals accessories.

8. The Ld. DR on the other hand heavily relied on the order of the CIT(A).

9. I have considered the rival arguments made by both the sides and perused the orders of the Assessing Officer and the CIT(A). I have also considered the various decisions cited before me. I find the Assessing Officer in the instant case restricted the depreciation on LED wall, projector and accessories etc. @15% as against 60% claimed by the assessee on the ground that these are not integral part of computer to qualify for higher rate of depreciation. According to him these items on which depreciation @60% has been claimed are independent electronic machines which may be used with or without the help of computer but these are neither computer nor computer accessories or peripherals which form an integral part of the computer. I find the Ld. CIT(A) upheld the action of the Assessing Officer in not allowing deprecation @ 60% on such LED wall, projectors and accessories etc. I do not find any infirmity in the order of the CIT(A) on this issue. The rate of depreciation has been prescribed under the new appendix-1 of Income Tax Rules 1962 where different rates are prescribed for different plant, machinery and other equipment. There are certain instruments/ equipments wherein lesser rate of depreciation has been prescribed which are also operated by computers/ laptops. There are a number of

items which attract 40% depreciation although those items cannot be operated without help of computer such as life saving medical equipments, energy saving devise etc. There are also certain plant and machinery on which 30% depreciation has been prescribed which also cannot operate without the help of computers. Therefore, the arguments of the Ld. Counsel for the assessee that since the LED walls, projectors, accessories etc cannot function without the help of computer/ laptop and therefore is entitled for depreciation @ 60% is not correct. Since no separate rate of deprecation has been prescribed for LED wall, projectors / accessories etc, therefore, these will come under the head other plant and machinery and accordingly entitled for deprecation @ 15% only which has been adopted by the Assessing Officer and upheld by the CIT(A). I, therefore, do not find any infirmity in the order of the CIT(A) on this issue. The various decisions relied on by the Ld. Counsel for the assessee are distinguishable and not applicable to the facts of the present case. In view of the above discussion the order of the CIT(A) is upheld and the grounds raised by the assessee are dismissed.

ITA No.602/Del/2019 (A. Y. 2013-14)

10. The grounds raised by the assessee are as under :-

1. *That the impugned order is against facts and bad in law.*
2. *That on the facts and circumstances of the case and legal position, the learned CIT(A) has erred in confirming the addition of Rs.11,41,177/- on account of depreciation on LED wall,*

projector and accessories etc. allowed by the AO @ 15% as against claimed @ 60% as applicable to computers.

3. The appellant craves leave to add, alter amend or vary the above grounds of appeal before or at the time of hearing.

11. After hearing both the sides I find the grounds raised by the assessee are identical to the grounds raised by the assessee in ITA No.601/Del/2019. I have already decided the issue and the grounds raised by the assessee have been dismissed. Following similar reasonings, the grounds raised by the assessee are dismissed.

12. In the result, both these appeals filed by the assessee are dismissed.

Order pronounced in the open court on 26.07.2019.

Sd/-
(R.K PANDA)
ACCOUNTANT MEMBER

Neha

Date:- 26.07.2019

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	09.07.2019
Date on which the typed draft is placed before the dictating Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	26.07.2019
Date on which the file goes to the Bench Clerk	
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	