

**IN THE INCOME TAX APPELLATE TRIBUNAL
VISAKHAPATNAM BENCH, VISAKHAPATNAM**

**BEFORE SHRI V. DURGA RAO, HON'BLE JUDICIAL MEMBER &
SHRI D.S. SUNDER SINGH, HON'BLE ACCOUNTANT MEMBER**

**ITA No. 225/VIZ/2019
(Asst. Year : 2012-13)**

M/s. Hira Electro Smelters vs. DCIT, Circle-3(1),
Ltd., Plot No. 364 to 367, Visakhapatnam.
APIIC Growth Centre,
Bobbili.

PAN No. AADCR 5279 C (Appellant) (Respondent)

Assessee by : Shri Saurabh Agarwal – CA.
Department By : Shri D.V. Subba Rao– Sr.DR

Date of hearing : 05/08/2019.
Date of pronouncement : 14/08/2019.

ORDER

PER V. DURGA RAO, JUDICIAL MEMBER

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals)-1, Visakhapatnam, dated 30/01/2019 for the Assessment Year 2012-13.

2. The only ground pressed by the assessee for adjudication is as under:-

"C. The Assessing Officer has erred by adding depreciation restricted to 10% on temporary buildings to the tune of Rs.14,36,170/-."

3. Facts of the case, in brief, are that the assessee-company engaged in the business of manufacturing ferro alloys, filed its

return of income declaring income of Rs. 71,16,250/-. The return filed by the assessee was selected for scrutiny under CASS and after following due procedure, assessment was completed u/sec.143(3) of the Income Tax Act, 1961 (hereinafter referred to as "Act") dated 20/03/2015. In the assessment order, the Assessing Officer has noted that from the depreciation schedule, the assessee claimed depreciation at 100% on temporary buildings to the tune of Rs. 16,25,132/-. On examination of the details, the Assessing Officer found that the assessee has constructed a boundary wall, which cannot be said to be a temporary structure. The Assessing Officer asked the assessee to explain as to why depreciation on the boundary wall, which is temporary structure, should not be restricted to 10% as against 100%. The assessee has submitted before the Assessing Officer that the boundary wall constructed by the company is a temporary erection and the boundary wall is not an asset of enduring nature. The Assessing Officer considered the explanation of the assessee and noted that the boundary wall constructed by the assessee is not a temporary structure and is enduring in nature. Therefore, the Assessing Officer has restricted the depreciation to 10% as against 100% claimed by the assessee.

4. On appeal, before the Id. CIT(A), the assessee has not produced any evidence to show that the construction of boundary wall is a temporary in nature, therefore, Id. CIT(A) confirmed the order of the Assessing Officer.

5. On appeal before us, the assessee except stating that the construction of boundary wall is a temporary in nature, no evidence is produced. We find that the Assessing Officer gave a categorical finding that the boundary wall constructed by the assessee is not a temporary in nature and enduring benefit to the assessee, for which, the assessee has not brought any material to controvert the finding given by the Assessing Officer. On appeal, Id. CIT(A) confirmed the order of the Assessing Officer. After considering the facts of the case, we find no reason to interfere with the order passed by the Id. CIT(A). Thus, this appeal filed by the assessee is dismissed.

6. In the result, appeal filed by the assessee is dismissed.

Order Pronounced in open Court on this 14th day of August, 2019.

Sd/-
(D.S. SUNDER SINGH)
Accountant Member

sd/-
(V. DURGA RAO)
Judicial Member

Dated: 14th August, 2019.

vr/-

Copy to:

1. *The Assessee – M/s. Hira Electro Smelters Ltd., Plot No. 364 to 367, APIIC Growth Centre, Bobbili.*
2. *The Revenue – DCIT, Circle-3(1), Visakhapatnam.*
3. *The Pr.CIT-1, Visakhapa*
4. *tnam.*
5. *The CIT(A)-1, Visakhapatnam.*
6. *The D.R., Visakhapatnam.*
7. *Guard file.*

By order

(VUKKEM RAMBABU)
Sr. Private Secretary,
ITAT, Visakhapatnam.