

IN THE INCOME TAX APPELLATE TRIBUNAL
SURAT BENCH : SURAT

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI O.P. MEENA, ACCOUNTANT MEMBER

ITA.No.1704/Ahd/2017
Assessment Year 2013-2014

The Income Tax Officer, Ward-2(1)(3), Room No.220, Aayakar Bhavan, Majura Gate, Surat. PIN – 395 001.	vs.	M/s. Surat Textile Mills Ltd., Regd. Off : Tulsi Krupa Arcade, Nr. Aai Mata Chowk, Dhumbhai, Surat. PAN AABCP4028R
(Appellant)		(Respondent)

For Revenue :	Shri Srinivas T. Bridan, CIT-D.R.
For Assessee :	Shri Nitin Gheewala, C.A.

Date of Hearing :	26.07.2019
Date of Pronouncement :	26.07.2019

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Revenue has been directed against the Order of the Ld. CIT(A)-2, Surat, Dated 06.04.2017, for the A.Y. 2013-2014, challenging the Order of the Ld. CIT(A) in deleting the disallowance of deduction of Rs.11,56,47,000/- made under section 115JB of the I.T. Act, 1961.

2. The Ld. CIT(A) noted that this issue is same which considered in preceding A.Y. 2012-2013 where the A.O. made an addition by not allowing the deduction of unabsorbed depreciation while computing the book profit under section 115JB of the I.T. Act in the assessment order. The assessee filed an appeal before the ITAT against the Order of the Ld. CIT(A). The ITAT vide its Order Dated 23.05.2016 in ITA.No.3215/Ahd/2015 for the A.Y. 2012-2013 in the case of the assessee has allowed the appeal of assessee regarding the disallowance of deduction under section 115JB in respect of unabsorbed depreciation. The Ld. CIT(A) found that issue is same in this assessment year as well. Hence, the A.O. was directed to grant deduction of unabsorbed depreciation amounting to Rs.11,56,47,000/- from the book profit under clause (iii) of Explanation to Section 115JB(2) of the I.T. Act. The appeal of assessee was allowed.

3. The Ld. D.R. contended that the Revenue Department is in process of filing SLP before the Hon'ble Supreme Court in A.Y. 2012-2013. He has, therefore,

submitted that the Hon'ble High Court has also decided this issue against the assessee.

4. Considering the above facts, we do not find any merit in the departmental appeal. Since the issue have been decided in favour of the assessee in preceding assessment year, therefore, there is no reason to take a contrary view in assessment year under appeal. No error have been pointed out in the Order of Ld. CIT(A) in following the Order of the Tribunal. Departmental appeal fails and is dismissed.

5. In the result, appeal of Department dismissed.

Order pronounced in the open Court.

Sd/-
(O.P.MEENA)
ACCOUNTANT MEMBER
Surat, Dated 26th July, 2019

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

VBP/-
Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT, Surat Bench, Surat
6.	Guard File.

//By Order//

Asst. Registrar, ITAT, Surat Bench, Surat.