



ITA No.3639/Mum/2017
Aditya Birla Insurance Brokers.Ltd.
Assessment Year-2012-13

आयकर अपीलीय अधिकरण "ए" न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"A" BENCH, MUMBAI

श्री शक्तिजीत दे, न्यायिक सदस्य एवं
श्री मनोज कुमार अग्रवाल, लेखक सदस्य के समक्ष।
BEFORE SHRI SAKTIJIT DEY, JM AND
SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ I.T.A. No.3639/Mum/2017
(निर्धारण वर्ष / Assessment Year:2012-13)

Aditya Birla Insurance Brokers Ltd. One Indiabulls Centre, Tower-1 18 th Floor, Jupiter Mill Compound 841, Senapati Bapat Marg Elphinstone Road, Mumbai-400 013.	बनाम/ Vs.	ACIT - 2(1)(1) Aaykar Bhavan, M.K. Road Mumbai-400 020.
स्थायी लेखासं./जीआइआरसं./PAN/GIR No. AABCB- 8091- L		
(पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)
पीलार्थीकी ओरसे/ Appellant by	:	None
प्रत्यर्थीकी ओरसे/ Respondent by	:	Shri S. Michael Jerald-Ld.Sr.DR
सुनवाई की तारीख/ Date of Hearing	:	14/10/2019
घोषणा की तारीख / Date of Pronouncement	:	14/10/2019

आदेश / ORDER

Per Manoj Kumar Aggarwal (Accountant Member):-

1. Aforesaid appeal by assessee for Assessment Year [AY] 2012-13 contest the order of Ld. Commissioner of Income-Tax (Appeals)-3, Mumbai,



ITA No.3639/Mum/2017
Aditya Birla Insurance Brokers.Ltd.
Assessment Year-2012-13

[in short referred to as 'CIT(A)'], *Appeal No. CIT(A)-3/IT/37/Tr-83/ACIT 2(1)(1)/2016-17* dated 28/02/2017 on following grounds of appeal:-

Depreciation on overstatement of goodwill

1. *On the facts and in the circumstances of the case and in law, the learned CTT(A) has erred in treating Rs.7,40,000 (Rs.6,00,000 towards irrecoverable brokerage commission plus Rs. 1,40,000 towards provision for gratuity) as overstatement of goodwill and consequently, disallowed the tax depreciation of Rs.1,85,000.*

2. *Without prejudice to the above, on the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in not considering the sum of Rs.7,40,000 allowable as revenue expenditure.*

Non-Compete fees

3. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in not allowing expenditure of Rs 32,94,388 towards Non-compete Fee as a revenue expenditure u/s 37.*

4. *Without prejudice to the above, on the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in not allowing alternate claim of the Appellant treating Non-compete Fee as an intangible assets and consequently, allowing depreciation on the same u/s 32 of the IT Act.*

5. *Without prejudice to the above, on the facts and circumstances of the case and in law, the Appellant submits that the amount of the non-compete fee should be allowed as deduction over a period of 36 months i.e. 3 years (over a tenure of non carrying of similar business).*

6. *On the facts and in the circumstances of the case and in law, the learned CIT(A) has erred in not accepting the additional grounds of appeal of the appellant without any cogent reason.*

2. None has appeared for the assessee and no valid adjournment application is on record. The perusal of order sheet entries reveal that the assessee has remained negligent to attend hearing on several occasions. Left with no option, we proceed to adjudicate the same after considering material on record and after hearing Ld. DR.

3.1 Facts on record reveal that assessee being resident corporate assessee, stated to be engaged in the business of General Insurance Broking and providing Advisory services, was assessed for year under consideration u/s. 143(3) on 06/02/2015 wherein the income of the



ITA No.3639/Mum/2017
Aditya Birla Insurance Brokers.Ltd.
Assessment Year-2012-13

assessee was determined at Rs.954.77 Lacs after certain additions as against returned income of Rs.952.92 Lacs e-filed by the assessee on 27/09/2012.

3.2 During assessment proceedings, it transpired that the assessee purchased insurance business from M/s. Enam Insurance Broking Limited under Slump Sale consideration agreement dated 25/04/2011 for a total consideration of Rs.2 Crores. The assessee submitted slump sale agreement and valuation report for the purpose of computation of goodwill on acquisition of the business. The assessee claimed depreciation on goodwill so valued. However, on perusal of agreement and as per valuation report, it transpired that the goodwill was over valued by Rs.10.86 Lacs. Although the assessee defended the accounting in terms of Accounting Standards-10 and 26 issued by, the Institute of Chartered Accountants of India [ICAI], however, not convinced, the valuation of goodwill was reduced by Rs.7.40 Lacs and excess depreciation claimed thereon @ 25% amounting to Rs.1.85 Lacs was disallowed and added back to the income of the assessee .

4.1 Aggrieved, the assessee contested the stand of Ld. AO before the Ld. CIT(A) vide impugned order dated 28/02/2017. However, Ld. CIT(A) vide para 6.5 of the impugned order came to the conclusion that valuation of assets recorded in the books of account must be as per Slump Sale Agreement and not as per valuation report and therefore, confirmed the stand of the Ld. AO .



ITA No.3639/Mum/2017
Aditya Birla Insurance Brokers.Ltd.
Assessment Year-2012-13

4.2. The assessee raised another Ground of appeal Nos. 2 and 3 before Ld. CIT(A) to submit that the amount of Rs.32.94 Lacs paid to M/s. Enam Insurance Brokers Pvt. Ltd. as non-compete fee was allowable as revenue expenditure, and therefore, the same should be allowed. In the alternative, it was pleaded that, depreciation on the same may be allowed to the assessee. This issue was not examined by Ld. Assessing Officer at assessment stage. However, the Ld. CIT(A) noted that there was no mention of this amount in the Slump Sale Agreement and the value of Rs.32.94 Lacs arrived at by the assessee was not explained either during assessment proceedings or during appellate proceedings. Therefore, the claim was rejected. Aggrieved, the assessee is in further appeal before us.

5. Upon due consideration, we find that the factual matrix before us remains the same as it was before first appellate authority and nothing new has been brought on record which would warrant us to take a different view in the matter. Therefore, by confirming the stand of the Ld. CIT(A) on both the issues, we dismiss the appeal.

6. The appeal stands dismissed.

Order pronounced in the open court on 14th October, 2019 .

Sd/-
(Saktijit Dey)

न्यायिक सदस्य / **Judicial Member**

Sd/-
(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 14/10/2019
Sr.PS:-Jaisy Varghese



ITA No.3639/Mum/2017
Aditya Birla Insurance Brokers.Ltd.
Assessment Year-2012-13

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

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

**उप/सहायकपंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**