

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH: CHENNAI**

श्री जॉर्ज माथन, न्यायिक सदस्य एवं
श्री एस जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER AND
SHRI S.JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.1795,1796,1797/Chny/2018
निर्धारण वर्ष /Assessment Years: 2011-12, 2012-13 & 2013-14

M/s.Aditya Birla Money Ltd.,
55,Ali Towers,Gremas Road,
Chennai 600 006.

Vs. The Deputy Commissioner of
Income Tax,
Company Circle 1(1),
Chennai 600 034.

[PAN: AAACA 7472 K]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Mr.Ananddev Kumar,Advocate
: Ms.R.Anita J.C.I.T, D.R

सुनवाई की तारीख/Date of Hearing
घोषणा की तारीख /Date of
Pronouncement

: 02.12.2019
: 06.12.2019

आदेश / O R D E R

PER S.JAYARAMAN, ACCOUNTANT MEMBER:

The assessee has filed the above three appeals against the
common order of Commissioner of Income Tax (Appeals)-I, Chennai, in

ITA Nos 118/CIT(A)-1/2014-15, 172/CIT(A)-1/2015-16 & 174/CIT(A)-1/2016-17 dated 21.03.2018, for the assessment years 2011-12,2012-13 & 2013-14, respectively. Since identical issues are involved in all these appeals of assessee, they are heard together and being disposed together, for convenience sake.

2. M/s.Aditya Birla Money Ltd, the assessee is engaged in the business of stock broking and insurance. While making the assessments for assessment years 2011-12, 2012-13 & 2013-14, the Assessing Officer (AO), *inter alia* restricted the depreciation on office equipment to 10% instead of 15% as claimed by the assessee.

3. Aggrieved against that order, the assessee filed an appeal before the CIT(A). The assessee provided the details of items comprised under the heading 'office equipment'. On examination of them, the Id. CIT(A) confirmed the addition made by the AO on office equipment on the ground that the nature of items comprised under this head are more in the nature of electrical fittings and installations eligible for depreciation @ 10% and not plant and machinery on which depreciation of 15% is permissible. The Ld.CIT(A) dismissed the appeals of the assessee. Aggrieved against those orders of Ld.CIT(A), the Assessee filed these appeals before the Ld.CIT(A).

4. Before us, the Ld. A.R argued and presented the case on the lines of the grounds of the appeal. Ld.A.R submitted that the Co-ordinate Bench of this Tribunal in the assessee's own case in ITA No.1452/Mds./2015 for assessment year 2010-11 vide order dated 10.05.2016, on Revenue's appeal, upheld the directions issued by the Ld.CIT(A) to the AO to allow depreciation @ 15% on office equipment. The Ld. Authorized Representative of assessee submitted that the assessee made the following submissions before the Ld.CIT(A) :-

“The appellant being a stock broker having computer network covering locations across the country, the UPS batteries, Air-conditioning, Fire extinguisher, stabilizer, telephone system and different telephone equipments, exhaust fans are part of this network and can never be called under “Electrical Installations”. As the appellant has already filed the details of office equipments for all the Asst. Years covered in the above appeal, i.e. AY.2011-12, 2012-13 and 2013-14, your conclusion that in fact, a perusal of the breakup indicates that maximum cost has been only towards different types of batteries, the appellant has not explained as to how these items will qualify for functional tests to be treated as Plant & Machinery of the appellant and it seems that the same is in the nature of Electrical fittings and installations eligible for depreciation @ 10% and not Plant & Machinery on which depreciation @ 15% is permissible is a mistake apparent from record, as the question was never put to the appellant and her assumption that they are in the nature of Electrical fittings and installations is a mistake by oversight apparent from record as the batteries referred in the order are actually UPS batteries, forming part of computers I network and hence, eligible for depreciation @ 60%, though the assessee has claimed the same as part

of Plant & Machinery eligible for 15%. In any case, to avoid any ambiguity, the appellant did submit detailed list of office equipments for all the years together with reasoning for each item falling in the said block as to why it should fall in that block thereby satisfying the functionality tests required at your end to enable you to allow the claim of the appellant for depreciation @ 15% along with bill copies along with application u/s 154 of the Act.

Further, Air-conditioners and Exhaust fans are required for maintaining the temperature and humidity for effective working of computer network, which need to work uninterruptedly 24/365 and more particularly during market time and they are part of Computer network and hence, they cannot be categorized as Furniture & Fittings and Electrical Fittings. Similarly, telephone systems and telephone equipments can never be electrical fittings. Therefore, they are categorized as Plant & Machinery. Further, the definition of Plant is wide enough to cover these items like Air-Conditioners, exhaust fans, stabilizers, telephone systems, different phone equipments etc. Televisions are required for live market information and hence, can never be categorized as Electrical fittings as all the items forms part of Computer network and consequently, the appellant has claimed depreciation @ 15% applicable to Plant & Machinery”

and sought an order of rectification u/s.154 from the Ld.CIT(A). However, the Ld.CIT(A) has not disposed the petition till date. Therefore, the Id.A.R pleaded to allow all these appeals based on the binding precedence.”

5. Per contra, the Id. DR supported the orders of Id. CIT(A) on the ground that the assessee has not explained how these office equipments will qualify the functional test to be treated as plant and machinery.

6. We heard the rival submissions and gone through the relevant material. The relevant portions of order of Co-ordinate Bench of the Tribunal vide order dated 10.05.2016 (supra) is extracted as under:-

“26. The second ground raised in this appeal is with regard to allowability of depreciation on office equipments.

27. In the assessment order, the Assessing Officer has noticed from the depreciation statement that the assessee has claimed depreciation on Office equipments at 15% instead of applicable rate of 10%. Moreover, the assessee has also claimed depreciation on the deletions made to this block in the second half of the year. The Assessing Officer has further observed that the proviso to section 32(1)(ii) of the Act is applicable only to the assets acquired by the assessee during the previous year and the assessee is entitled to depreciation on the WDV within the meaning of section 43(6)(c) of the Act. Therefore, the Assessing Officer has restricted the depreciation and the excess depreciation claimed by the assessee was added to the total income of the assessee.

28. The assessee carried the matter in appeal before the Id. CIT(A) and after considering the submissions of the assessee, the Id. CIT(A) directed the Assessing Officer to allow depreciation at 15% on office equipments.

29. On being aggrieved, the Revenue is in appeal before the Tribunal.

30. We have heard both sides, perused the materials on record and gone through the orders of authorities below. Against the restriction of depreciation on office equipments from 15% to 10% by the Assessing

Officer, the assessee has submitted the following submissions before the Id. CIT(A).

“As per Appendix-I to Rule 5 of Income Tax Rules, 1962, Block III(i), the depreciation rate is 15% for office equipments. Depreciation rate of 10% is applicable for Furniture and Fittings falling in Block II to the above Appendix-I. Office equipments obviously and apparently falling under Block III are entitled to 15% depreciation rate. The contention of the assessing officer that the assessee is entitled to depreciation @ 10% is incorrect, arbitrary and illegal and therefore, liable to be dismissed as baseless and frivolous. Hence, the assessee prays for directions to the assessing officer to allow the depreciation @ 15% on Office Equipments and render justice and other contentions of the assessing officer in this connection are dealt with as follows. In the case of assets acquired by the assessee during the previous year, proviso to section 32 of the Income Tax Act, 1961 permits 50% of the applicable rate of depreciation. Hence, the assessee has claimed 50% of applicable rate of depreciation as per the above proviso and complied with the provisions of section 43(6)(c) of the Income Tax Act, 1961 applicable to Block of assets and there is no violation of any of the above provisions of Income Tax Act, 1961 quoted by the assessing officer.”

After considering the above submissions of the assessee, the Id. CIT(A) was of the opinion that the claim of the assessee seems to be in order. He also observed that as per Appendix-I to Rule 5 of Income Tax Rules, 1962, Block III(i), the depreciation rate is 15% for office equipments. Depreciation rate of 10% is applicable for Furniture and Fittings falling in Block II to the above Appendix-I. Office equipments obviously and apparently falling under Block III are entitled to 15% depreciation rate. Accordingly, he directed the Assessing Officer to allow the depreciation @ 15% on Office Equipments. In view of the above findings of the Id. CIT(A), we find no reason to interfere with the order passed by the Id. CIT(A) on this issue. Thus, the ground raised by the Revenue is dismissed.”

Since the Co-ordinate Bench of this Tribunal in the assessee's own case for assessment year 2010-11 (supra) has decided the issue on allowability of depreciation on office equipments in favour of the assessee, respectfully following the above order of the Tribunal, the ground raised in all these appeals of the assessee for the assessment years 2011-12,2012-13 & 2013-14 are allowed.

7. In the result, the appeals of the assessee for the assessment years 2011-12,2012-13 & 2013-14 are allowed.

Order pronounced on the 06th December, 2019 in Chennai.

Sd/-

(जॉर्ज माथन)

(GEORGE MATHAN)

न्यायिक सदस्य/**JUDICIAL MEMBER**

Sd/-

(एस जयरामन)

(S. JAYARAMAN)

लेखा सदस्य/**ACCOUNTANT MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 06th December, 2019.

K S Sundaram

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF