



ITA No.6084/Mum/2018  
M/s. Sterling Holiday Resorts Ltd.  
Assessment Year :2010-11

**आयकर अपीलीय अधिकरण “जी” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“G” BENCH, MUMBAI**

**माननीय श्री मनोज कुमार अग्रवाल ,लेखा सदस्य**  
**एवं माननीय श्री रवीश सूद, न्यायिक सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
**AND HON’BLE SHRI RAVISH SOOD, JM**

आयकरअपील सं./ I.T.A. No.6084/Mum/2018  
(निर्धारण वर्ष / Assessment Year: 2010-11)

<b>ACIT-2(3)(2)</b> Aaykar Bhavan, Room No.552, 5 <sup>th</sup> Floor, M.K. Road Mumbai -400 020.	<b>बनाम/</b> Vs.	<b>M/s. Sterling Holiday Resorts Ltd.</b> Thomas Cook Building Dr. D.N. Road, Fort Mumbai- 400 001.
<b>Permanent Account No.: AABCT- 7079-G(New) / AADCS-4841-D(Old)</b>		
(अपीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	Mr. Viswanathan-Ld. AR
<b>Revenue by</b>	:	Mr. N. Padmanabhan-Ld. DR

सुनवाई की तारीख/ <b>Date of Hearing</b>	:	08/01/2020
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	08/01/2020

**आदेश / O R D E R**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by revenue for Assessment Year [in short referred to as ‘AY’] 2010-11 contest the order of Ld. Commissioner of Income-Tax (Appeals)-6, Mumbai, [in short referred to as ‘CIT(A)’], *Appeal No. CIT(A)-6/IT-121/2017-18* dated 10/08/2018 on following sole ground of appeal: -

*Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) has failed to note that he relied upon the decision of Hon'ble Bombay High Court in the*



ITA No.6084/Mum/2018  
M/s. Sterling Holiday Resorts Ltd.  
Assessment Year :2010-11

*case of CIT V/s Hindustan Unilever Ltd. (394 ITR 73) has not reached finality as the department has filed SLP before the Hon'ble Supreme Court against the said order.*

2. The learned Authorized Representative for assessee (AR), at the outset, drawing attention to the ground of appeal, submitted that *Special Leave Petition (SLP)* against the decision of Hon'ble Bombay High Court in the case of **CIT V/s Hindustan Unilever Ltd. (394 ITR 73)** has already been dismissed by Hon'ble Apex Court in SLP No. 22381/2017 dated 29/10/2018. The copy of the same has been placed on record. The Ld. DR could not controvert the same.
3. In the above background, fact on record would establish that the assessee being resident corporate assessee was assessed for year under consideration u/s 143(3) r.w.s. 147 on 18/12/2017 wherein the assessee was denied carry-forward of unabsorbed depreciation of Rs.572.16 Lacs for AY 2000-01 & Rs.1014.10 Lacs for AY 2001-02 since the extant provisions prevailing at that time, did not provide for carry forward of the same beyond 8 years. Accordingly, the same, in the opinion of Ld. AO, could not be carried forward beyond AY 2009-10.
4. Upon further appeal, Ld. CIT(A), reversed the stand of Ld.AO, keeping in view the binding judicial precedent of Hon'ble Bombay High Court in **CIT V/s Hindustan Unilever Ltd. (394 ITR 73)**. Still aggrieved, the revenue is in further appeal before us.
5. Upon careful consideration, we find that Ld. CIT(A) has merely followed binding judicial precedent in the shape of cited decision of Hon'ble Bombay High Court. The SLP against the said decision has already been dismissed by Hon'ble Apex Court vide SLP No. 22381 of 2017 dated 29/10/2018 which is reported at [2018] 99 taxmann.com 135



ITA No.6084/Mum/2018  
M/s. Sterling Holiday Resorts Ltd.  
Assessment Year :2010-11

(SC) / [2018] 259 Taxman 218 (SC). Therefore, the ground of revenue would not survive.

6. In the result, the appeal stands dismissed.

*Order pronounced in the open court on 08<sup>th</sup> January, 2020.*

**Sd/-**

**(Ravish Sood)**

न्यायिक सदस्य / **Judicial Member**

**Sd/-**

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 08/01/2020

*Sr.PS, Jaisy Varghese*

**आदेशकीप्रतिलिपिअग्रेषित/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/सहायक पंजीकार (Dy./Asstt.Registrar)**  
**आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**