

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES : "B", BANGALORE**

**BEFORE SHRI N.V.VASUDEVAN, VICE PRESIDENT
AND
SHRI A.K.GARODIA, ACCOUNTANT MEMBER**

**ITA No.2012(Bang)/2019
(Assessment Year : 2014-15)**

M/s Sati Exports India Pvt.Ltd.,
Flat No.760/14, Raaj Towers,
3rd Floor, 23rd Cross, KR Road,
Bangalore-560 070
PANNo.AAICS6978A

Appellant

Vs

The Deputy Commissioner of Income tax,
Circle-6(1)(1),
Bangalore

Respondent

**Appellant by : Shri S.Ramasubramanian, CA
Revenue by : Shri S. Tamil Selvam, JCIT**

Date of hearing : 14-01-2020

Date of pronouncement :

ORDER

PER SHRI N.V.VASUDEVAN, VICE PRESIDENT :

This is an appeal filed by assessee against order dated 20-06-2019 passed by Ld. CIT(A), Bangalore relating to assessment year 2014-15.

2. The assessee is a company. During the relevant previous year the assessee paid fees to the Registrar of Company (ROC) of an amount of Rs.5,03,000/- towards increase in share capital. In the assessment completed u/s 143(3) of the Income Tax Act, 1961 (Act), on 27-10-2016, the AO did not disallow the claim of assessee for deduction on account of

fees paid to ROC for increase in share capital. It is not in dispute that in the light of the decision of the Hon'ble Supreme Court in the case of *Punjab State Industrial Development Corporation Ltd.. Vs CIT*, 225 ITR 792(SC) fees paid to ROC towards increase in share capital has to be treated as capital expenditure and cannot be allowed as deduction.

3. The AO realizing that the ROC filing fees had not been disallowed in the assessment concluded u/s.143(3) of the Act, initiated proceedings u/s 154 of Act and by an order dated 26-10-2018 disallowed the ROC filing fees and accordingly added the sum disallowed to the income assessed u/s 143(3) of the IT Act, 1961.

4. On appeal by the assessee the Id.CIT(A) confirmed the order of Assessing Officer.

5. Before us, the Id.Counsel for the assessee did not dispute the legal position that the expenditure in question was capital in nature, but only submitted that the issue was debatable and therefore, proceedings u/s 154 of the Act was not appropriate.

6. We have considered submissions of the Id.Counsel for the assessee and are of the view that the submissions made are devoid of any merit. The decision of the Hon'ble Supreme Court in the case of *Punjab State Industrial Development Corporation Ltd.*, (supra) clearly settles the law on the question whether fees paid to ROC on expansion of share capital is capital or revenue and has laid down that the expenditure is capital expenditure. While concluding the assessment, the AO overlooked the aspect of disallowance of fees paid to ROC which was evident from the record. Therefore the AO initiated proceedings u/s.154 of the Act. We do not find any infirmity in the action of the AO. It is no doubt true that the proceedings u/s154 of the IT Act, cannot be initiated on debatable issue, but it is equally true that if the ultimate answer to the question which is subject matter of the proceedings u/s 154 of the Act, can only be one, then the proceedings u/s 154 of the Act can be initiated and

cannot be cancelled on the ground that the issue that was subject matter of proceeding u/s 154 of the Act were debatable involving long drawn process of reasoning. With the decision of the Hon'ble Supreme Court in the case of Punjab Industrial Development Corporation Ltd., (supra), which decision was available when the AO passed the order of Assessment, it cannot be said that there can be different views on the question whether fees paid to ROC on expansion of capital base is capital expenditure or revenue expenditure. We are therefore, of the view that there is no merit in this appeal and accordingly, the same is dismissed.

7. In the result, the appeal by the Assessee is dismissed.

Order pronounced on 17th day of January, 2020.

Sd/-

(A.K.GARODIA)
ACCOUNTANT MEMBER

Dated: 17.01.2020

***am**

Copy of the Order forwarded to:

- 1.Appellant;
- 2.Respondent;
- 3.CIT;
- 4.CIT(A);
5. DR
6. ITO (TDS)
- 7.Guard File

Sd/-

(N.V.VASUDEVAN)
VICE PRESIDENT

By Order

Asst.Registrar,
ITAT, Bangalore.

