

IN THE INCOME TAX APPELLATE TRIBUNAL "C", BENCH KOLKATA

BEFORE SHRI S.S.GODARA, JM & DR. A.L.SAINI, AM

आयकरअपीलसं./ITA No.516/Kol/2019

(निर्धारणवर्ष / Assessment Year: 2015-16)

RMV IT Services (P) Ltd.	Vs.	ACIT(OSD), Ward-4(1), Kolkata
C/o, Subash Agarwal & Associates, Advocates Siddha Gibson, 1, Gibson Lane, Suite-213, 2nd Floor, Kolkata- 700069		
स्थायीलेखासं./जीआइआरसं./PAN/GIR No.: AAGCR 8130 B		
(Appellant)	..	(Respondent)

Appellant by : Shri Subash Agarwal, Advocate

Respondent by : Shri Supriyo Paul, JCIT

सुनवाईकीतारीख/ Date of Hearing : 27/02/2020

घोषणाकीतारीख/Date of Pronouncement : 17/06/2020

आदेश / ORDER

Per Dr. A.L. Saini, AM:

The captioned appeal filed by the assessee, pertaining to assessment year 2015-16, is directed against the order passed by the Commissioner of Income Tax (Appeal)-2, Kolkata, in appeal no. 10587/CIT(A)-2/2017-18, which in turn arises out of an assessment order passed by the Assessing Officer u/s 143(3) of the Income Tax Act, 1961 (in short the "Act") dated 20/12/2017.

2. The grounds of appeal raised by the assessee reads as follows:

1. For that on the facts and in the circumstances of the case, the ld. CIT(A) grossly erred in confirming the disallowance of depreciation of Rs. 14,33,621/- made by the Assessing Officer.

2. The appellant craves leave to add further grounds of appeal or alter the grounds at the time of hearing.

3. Brief facts qua the issue are that during the scrutiny proceeding, the assessing officer noticed that the assessee company has claimed depreciation of Rs.43,07,373/- in its return of income for the A.Y.2015-16. From the details, it was noted that all the assets were purchased during the F.Y.2014-15 relevant to A.Y.2015-16, During the course of assessment proceedings, the assessee has filed the copies of purchase bills of the assets in support of his claim. On verification of such purchase bills, it was noted by Assessing Officer that some of the bills are not proper, Bills were unsigned, unstamped, details/nomenclatures such as model no, making company of block of assets under computer category were not mentioned in the bills, some bills were casually hand written without any address and seems to be not genuine. Accordingly, AO issued a show cause notice dated 07-12-2017 to the assessee. The said show cause letter is reproduced below:-

In the financial year 2014-15, the assessee company has claimed depreciation of Rs.43,07,373/-. In support of your claim, you have submitted the copies of purchase bills of the assets. On verification of purchase bills, it was noted that some of the purchase bills are not proper. Some of the bills were unsigned, unstamped, no payments details were mentioned, no proper details/nomenclatures of the Items were mentioned such as model no, Make of the company, year of make, some bills were casually hand written. Details of such purchase bills are as below:

Computers (Full Year)		
SI No. as per your submission	Bill amount	Remarks
1A	8335	Unsigned & unstamped
1B	975700	Not Proper
3	459690	Not Proper
9	1838	Unsigned & unstamped
10	8033	Unsigned & unstamped
15	7365	Unsigned & unstamped
18	3938	Unsigned & unstamped
26	15200	No Name and address
40	48600	Without Name, Address and Signature
61	7000	Unsigned & unstamped
63	8500	Different Name
66	24500	No Name
77	20500	No Name
N/A	86400	Unsigned & unstamped
	16,75,599	
Computers (Half Year)		
110	33750	Unsigned & unstamped
124	595035	Unsigned & unstamped
125	5970	Unsigned & unstamped
128	162540	Unsigned & unstamped
138	2000	Repairing charges
142	1596	Unsigned & unstamped
150	13240	Unsigned & unstamped
151	3300	Not proper
152	31400	Not proper
153	8805	Unsigned & unstamped
154	3630	Not proper
155	1950	Unsigned & unstamped
159	3960	Unsigned & unstamped
164	5230	Unsigned & unstamped
165	8250	Maintenance charge
166	20000	No name
167	6000	Not proper
171	13750	Unsigned & unstamped
173	18000	Unsigned & unstamped
174	4045	Unsigned & unstamped
176	7425	Unsigned & unstamped
178	2260	Unsigned & unstamped
179	4500	Unsigned & unstamped
182	17875	Unsigned & unstamped
183	13500	Not proper
	9,88,011	
Electrical Equipments (Full Year)		
SI No. as per your submission	Bill amount	Remarks
1	274230	Not Proper
2	9327	Not Proper
3	208164	Not Proper
	4,91,721	
Office Equipments (Full Year)		
SI No. as per your submission	Bill amount	Remarks
1	249334	Not Proper
2	6552	Not Proper
	2,55,887	
Office Equipments (Half Year)		
3	65400	Not Proper
4	31350	Not Proper
	96,750	
Furniture's & Fixtures (Full Year)		
SI No. as per your submission	Bill amount	Remarks
1	118003	Not Proper
2	6619	Not Proper
	124622	

From the above observations, an amount of Rs. 14,33,621/- on account of depreciation is proposed to be disallowed, details of which are as follows:

Block of assets	Duration	Improper Bills	Depreciation Rate	Amount
Computers	Full year	16,75,599	60%	10,05,359
Computers	Half year	9,88,011	30%	2,96,403
Electrical Eqpt	Full Year	4,91,721	15%	73,758
Office Eqpt	Full Year	2,55,887	15%	38,383
Office Eqpt	Half Year	96,750	7.5%	7,256
Furniture & Fixtures	Full Year	1,24,622	10%	12,462
Total				14,33,621/-

As such, the above said purchase bills as submitted by the assessee are treated as not genuine and accordingly, depreciation amounting to Rs. 14,33,621/- as claimed on the above assets was disallowed by Assessing Officer.

4. Aggrieved by the order of Assessing Officer, the assessee carried the matter in appeal before the Id. CIT(A) who has confirmed the order passed by the Assessing Officer observing the followings:

“I have considered the grounds of appeal, statement of facts as well as the order of the assessing officer framed in the light of the materials available on record before the assessing officer during the assessment proceedings. The AO has mentioned that copies of bills were submitted but it was noted that some of the purchases bills are no proper. Some of the bills were unsigned. Unstamped, no payment details were mentioned, no proper details / nomenclatures of the items were mentioned such as model no , make of company year of make and some bills were casually hand written. The AO has also given details of such bills in the assessment order at page 2 and 3. I agree with the view as taken by the AO in the matter. Keeping in view of the facts as mentioned above, in the absence of any cogent material evidence, I do not find any infirmity in the order of the assessing officer and the same is hereby upheld. In view of above, this ground of appeal is dismissed.”

5. Aggrieved by the order of the Id. CIT(A) the assessee is in appeal before us.

6. The Id. Counsel for the assessee has relied on the submission made before the authorities below and on the other hand the Id. DR has primarily reiterated the stand taken by the Assessing Officer which we have already noted in our earlier para and the same is not being repeated for the sake of brevity.

7. We have heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id CIT(A) and other materials available on record. We note that at the outset itself, the Id. Counsel for the assessee has fairly agreed with the Bench that out of Rs. 14,33,621/-, Rs. 1,00,000/- may be disallowed on account of miscellaneous deficiency or differences. The Id. D.R. for the revenue has also agreed with the bench that in order to cover the miscellaneous deficiencies a minimum of Rs. 1,00,000/- may be disallowed. Therefore out of Rs. 14,33,621/- we disallow Rs. 1,00,000/- and balance of Rs. 13,23,621/-, is directed to be deleted.

8. Before parting, it is noted that the order is being pronounced after 90 days of hearing. However, taking note of the extraordinary situation in the light of the Covid-19 pandemic and lockdown, the period of lockdown days need to be excluded. For coming to such a conclusion, we rely upon the decision of the Co-ordinate Bench of the Mumbai Tribunal in the case of DCIJT vs JCB Limited in ITA No 6264/Mum/2018 and ITA No. 6103/Mum/2018 for A.Y. 2013-14 order dated 14.05.2020.

9. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the Court on 17.06.2020

Sd/-
(S.S.GODARA)
न्यायिकसदस्य / JUDICIAL MEMBER

Sd/-
(A.L.SAINI)
लेखासदस्य / ACCOUNTANT MEMBER

कोलकाता /Kolkata;
दिनांक/ Date: 17/06/2020
(SB, Sr.PS)

Copy of the order forwarded to:

1. RMV IT Services (P) Ltd.
2. ACIT, (OSD), Ward-4(1), Kolkata
3. C.I.T(A)-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.
4. C.I.T.- Kolkata.

True copy

By Order

Assistant Registrar
ITAT, Kolkata Benches