

आयकर अपीलीय अधिकरण "SMC" न्यायपीठ मुंबई में।

IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, MUMBAI

श्री महावीर सिंह, उपाध्यक्ष एवं के समक्ष ।
BEFORE SRI MAHAVIR SINGH, VICE PRESIDENT

आयकर अपील सं./ ITA No. 1410/Mum/2019
(निर्धारण वर्ष / Assessment Year 2014-15)

Valji Dungershi Gala 140-A, Mahakali Mansion, Bazar Gate Street, Fort, Mumbai (अपीलार्थी / Appellant)	बनाम/ Vs.	The Income-tax Officer, Ward 17(3)-5, Mumbai (प्रत्यर्थी/ Respondent)
स्थायी लेखा सं./PAN No. AABPG6467E		

अपीलार्थी की ओर से/ Appellant by	:	Shri Mehul Shah, AR
प्रत्यर्थी की ओर से/ Respondent by	:	Shri Bhora Ram, Sr. DR

सुनवाई की तारीख / Date of hearing:	05.03.2020
घोषणा की तारीख / Date of pronouncement:	01.06..2020

आदेश / ORDER

महावीर सिंह, उपाध्यक्ष /

PER MAHAVIR SINGH, VP:

This appeal of assessee is arising out of the order of the Commissioner of Income Tax (Appeals)]-28, Mumbai, [in short CIT(A)], in ITA No. CIT(A)-28/ITBA-10897/ITO-17(3)(5)/2016-17 dated 04.02.2019. The assessment was framed by the Income Tax Officer, Ward 17(3)(5), Mumbai (in short ITO/ AO) for the A.Y. 2013-14 vide order dated 28.12.2016 section 143(3) r.w.s 147 of the Income-tax Act, 1961 (hereinafter 'the Act').

2. The only issue in this appeal of assessee is against the order of CIT(A) upholding the action of the Assessing Officer in

treating the computer printer as ordinary machines carrying depreciation rate at 15% as against claimed by assessee as computers claiming depreciation at 60% as eligible depreciation on computers in terms of Appendix-1 to the Income Tax Rules, 1962. For this, assessee raised following ground No.1: -

"On the facts, and in circumstances of the case, and in law, learned Commissioner of Income-tax (Appeal) erred in upholding action of the Assessing Officer in treating computer printers not as "computers" for the purpose of claiming depreciation but as part of the ordinary machines carrying depreciation rate of 15% and disallowing depreciation of RS. 2,189,033 as against claimed @ 60% as eligible depreciation on computers in terms of Appendix I to the Income-tax Rules 1962."

3. Brief facts are that the assessee is engaged in the business of DTP, color laser, Digital printing on glass paper and outdoor printing. The Assessing Officer in the course of assessment proceedings noted that the assessee has claimed depreciation at the rate of 60% on printers and he required the assessee to explain as to why the claim not be restricted at 15% by treating the printers as ordinary machines. The assessee explained that the computer printers are in the category of computers eligible for depreciation at the rate of 60% in term of Appendix-1 to the Income Tax Rules 1962. But the Assessing Officer restricted the claim of depreciation on computer printers at the rate of 15% and disallowed the



balance depreciation of ₹21,81,033/-. Aggrieved, assessee preferred the appeal before CIT(A). The CIT(A) also confirmed the action of the Assessing Officer relying on the earlier year's decision of CIT(A) relating to Ay 2012-13 and 2013-14. Aggrieved, assessee came in appeal before Tribunal.

4. At the outset, the learned Counsel for the assessee filed copy of Tribunal's order in assessee's own case for Assessment Year 2012-13 & 2013-14 in ITA No. 4552 & 4553/Mum/2018 order dated 03.09.2009, wherein Tribunal following the decision of Hon'ble Madras High court allowed the claim of assessee by observing in Para 4 as under: -

"4. Upon careful consideration, I find that the issue is covered in favour of the assessee by a catena of decisions from Hon'ble High Courts. In these decisions, it was held that computer peripherals like printers are part of the computer system and hence entitled for depreciation at the rate of 60%. In this regard I may refer to the following decision:-

Hon'ble Madras High Court in the case of CIT vs. Cactus Imaging India Pvt. Ltd (TC No.921 & 922 of 2008 order dated 16.04.2018)

Hon'ble Delhi High Court in the case of CIT vs. Bses Yamuna Power Ltd. (ITA No. 1267 of 2010 order dated 31.08.2010).

5. Respectfully following the above precedent, I set aside the orders of the



authorities below and decide the issue in favour of the assessee."

5. Respectfully following the decision of co-ordinate Bench of Tribunal in assessee's own case, I direct the Assessing Officer to allow depreciation on printers of computers at 60% as claimed by assessee. I reverse the orders of the lower authorities and allow the claim of the assessee.

6. In the Result, the appeal of assessee is allowed.

Order pronounced in the open court on 01.06.2020

Sd/-

(महावीर सिंह / MAHAVIR SINGH)

(उपाध्यक्ष / VICE PRESIDENT)

मुंबई, दिनांक/ Mumbai, Dated: 01.06.2020

सुदीप सरकार, व. निजी सचिव/ Sudip Sarkar, Sr.PS

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई /
DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy// आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार

(Asstt. Registrar)

आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai