

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "B", MUMBAI
(THROUGH VIRTUAL COURT)**

**BEFORE SHRI C.N. PRASAD, HON'BLE JUDICIAL MEMBER AND
SHRI S. RIFAUR RAHMAN, HON'BLE ACCOUNTANT MEMBER**

ITA No. 267/MUM/2018 (A.Y: 2014-15)

M/s. Bangalore Shirt Co. Pvt. Ltd., C/o. Shankarlal Jain & Associates 12, Engineer Building 265, Princess Street Mumbai – 400 002 PAN: AAACB2193G	v.	Income Tax Officer - 6(1)(3) Aayakar Bhavan Queens Road, Mumbai – 400 020
(Appellant)		(Respondent)

Assessee by : **None**
Department by : **Mrs. Kavita P. Kaushik**

Date of Hearing : **19.10.2020**
Date of Pronouncement : **19.10.2020**

ORDER

PER C.N. PRASAD (JM)

1. This appeal is filed by the assessee against the order of the Learned Commissioner of Income Tax (Appeals) – 12, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 13.11.2017 for the A.Y. 2014-15.
2. Assessee has raised following grounds in its appeal: -

"1. Ld. CIT (Appeal) erred in conforming disallowances of depreciation on Motor car of Rs.300359/-on the plea that car is not being used for the business of appellant as users of car could not be proved in lake of logbook without appreciating fact the car is being used director and executives of the company at Mumbai.

2. Ld. CIT (Appeal) erred in confirming disallowances out of interest of Rs. 116367/- being interest paid on borrowing for acquisition of car for presumed non user of car for assessee's business.

3. Ld. CIT (appeal) failed to appreciate the fact that running expenses of the car as incurred the Mumbai are not being disallowed by Ld. Assessing officer in Assessment order, while making assessment.

4. The Appellant pray that disallowance of depreciation and interest be deleted.

5. The appellant crave your honours leave to add, alter or amend any grounds of appeal during the course of hearing or before."

3. Ld. Counsel for the assessee through letter dated 16.10.2020 submitted that the issues in appeal are decided in assessee's own case by the Tribunal in ITA.Nos. 498/Mum/2015, ITA.Nos. 265 & 266/Mum/2018 dated 30.09.2020. Copy of the order is placed on record.

4. Ld. DR vehemently supported the orders of the authorities below.

5. On hearing the Ld. DR and perusing the order of the Tribunal, we find that Ground Nos. 1 and 2 of grounds of appeal relates to disallowance of depreciation on motor car and interest on borrowals for acquisition of car and these issues have been decided in favour of the assessee in

assessee's own case for the A.Y. 2011-12 and A.Y. 2013-14 in ITA.No. 498/Mum/2015 and ITA.No. 266/Mum/2018 by order dated 30.09.2020 by the Tribunal holding as under:

"4. We have heard the rival submissions, perused the orders of the authorities below and the case laws relied on. On a perusal of the order of the Tribunal for the A.Y. 2012-13 dated 08.08.2018 we noticed that the Tribunal allowed the claim for depreciation and interest expenditure as allowable deduction observing as under: -

"6. Coming to the additional grounds, the Assessing Officer while completing the assessment noticed that assessee purchased BMW Car and registered the same in one of the Director's relatives. The assessee contended that the car was purchased by taking loan and the company repaid the loan through EMI. It is also contended that the car was used for the purpose of business and the car was purchased through the funds of the company. The asset belongs to the company and therefore the depreciation as well as the interest was rightly claimed as deduction. However, the Assessing Officer not convinced with the submissions of the assessee denied depreciation and interest on car loan. On appeal the Ld.CIT(A) following the decision of the Apex court in the case of Mysore Minerals Ltd. v. CIT [239 ITR 775] and the Hon'ble Jurisdictional High Court in the case of CIT v. Dilip Singh Sardarsingh Bagga [201 ITR 995] allowed the claims of the assessee.

7. Ld. DR strongly supported the orders of the Assessing Officer and the counsel for the assessee strongly placed reliance on the orders of the Ld.CIT(A).

8. We have heard the rival submissions, perused the orders of the authorities below. In this case the depreciation was denied as the vehicle was registered in the name of the relative of the Director. The Ld.CIT(A) following the decision of the Apex Court in the case of Mysore Minerals Ltd. v. CIT (supra) and the Hon'ble Jurisdictional High Court in the case of CIT v. Dilip Singh Sardarsingh Bagga (supra) wherein it has been held that depreciation is allowable in the hands of the company even if the vehicle is registered in the name of its Directors, allowed the claim of the assessee. Similarly, the interest paid on car loan is allowable as deduction. Thus, we do not find any infirmity in the order passed by the Ld.CIT(A). The additional ground raised by the Revenue is rejected."

5. Respectfully following the said decision, we direct the Assessing Officer to allow depreciation and interest on borrowals for the purchase of the said car as deduction. For the same reasons we hold that the running expenses of the vehicle should also be allowed as deduction. In the result, the grounds raised by the assessee in these appeals are allowed.

6. Respectfully following the same, we decide the issues in favour of the assessee and allow these grounds.

7. In the result, appeal of the assessee is allowed.

Order pronounced on 19.10.2020 as per Rule 34(4) of ITAT Rules by placing the pronouncement list in the notice board.

Sd/-
(S. RIFAUH RAHMAN)
ACCOUNTANT MEMBER
Mumbai / Dated 19/10/2020
Giridhar, Sr.PS

Sd/-
(C.N. PRASAD)
JUDICIAL MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum