

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

Before Shri Chandra Poojari, AM & Shri George George K, JM

ITA No.1185/Bang/2011 : Asst.Year 2008-2009

The Joint Commissioner of Income-tax (OSD) Circle 11(2) Bangalore.	v.	M/s.Bharat Fritz Werner Ltd. Off : Tunkur Road Yeshwanthpur P.O. Bengaluru - 560 022. PAN : AAACB5723A.
(Appellant)		(Respondent)

Appellant by : Sri.Muzaffar Hussain, CIT-DR

Respondent by : Smt.Manasa Ananthan

Date of Hearing : 13.07.2021	Date of Pronouncement : 13.07.2021
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ORDER

Per George George K, JM

This appeal at the instance of the Revenue is directed against CIT(A)'s order dated 22.09.2011. The relevant assessment year is 2008-2009.

2. The solitary issue that is raised is whether the CIT(A) has erred in deleting the addition of Rs.87,50,000 made on account of disallowance of claim of payment of property tax.

3. At the very outset, we notice that the ITAT in its consolidated order dated 21.12.2012 had disposed of the above Revenue's appeal and the assessee's appeal in ITA No.1123/Bang/2011. The ITAT in its consolidated order dated 21.12.2012 had dismissed the Revenue's appeal and partly allowed the assessee's appeal. As against the consolidated order of ITAT dated 21.12.2012, the Revenue had filed appeal u/s 260A of the I.T.Act before the Hon'ble High Court of Karnataka. The Hon'ble High Court vide its judgment dated 01.02.2021 in ITA No.266 of 2013 confirmed the ITAT's order

as regards the deletion of addition of Rs.87,50,000 (the issue raised in ITA No.1185/Bang/2011). The relevant finding of the Hon'ble High Court reads as under:-

“9. So far as last substantial question of law is concerned, from perusal of Section 43B of the Act provides that any sum payable by way of tax, duty, cess or fee shall be allowed in the year in which it is actually paid. It is not in dispute that on account of directions issued by the court, the assessee paid a sum of Rs.87,50,000/- towards property tax. Therefore, the assessee is entitled to deduction to the extent of property tax which was paid by it. The Commissioner of Income Tax (Appeals) appeal as well as the tribunal have rightly held that the liability was certain and has rightly deleted the disallowance. Reference in this connection may be made to decision of the Supreme Court in BHARAT EARTH MOVERS supra. Therefore, the fourth substantial question of law is answered against the revenue and in favour of the assessee.”

4. In view of the above finding of the Hon'ble High Court, posting of the Revenue's appeal in ITA No.1185/Bang/2011 for hearing by the ITAT's Registry is a mistake. Hence, the Revenue's appeal is dismissed. It is ordered accordingly.

5. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on this 13th day of July, 2021.

Sd/-
(Chandra Poojari)
ACCOUNTANT MEMBER

Sd/-
(George George K)
JUDICIAL MEMBER

Bangalore; Dated : 13th July, 2021.
Devadas G*

Copy to :

1. The Appellant.
2. The Respondent.
3. The CIT(A)-1, Bangalore
4. The Pr.CIT-1 Bangalore
5. The DR, ITAT, Bengaluru.
6. Guard File.

Asst.Registrar/ITAT, Bangalore