

**IN THE INCOME TAX APPELLATE TRIBUNAL,  
DELHI BENCH: 'G' NEW DELHI**

**BEFORE SHRI O.P. KANT, ACCOUNTANT MEMBER  
AND  
SHRI KULDIP SINGH, JUDICIAL MEMBER  
[Through Video Conferencing]**

ITA No.7249/Del/2017  
Assessment Year: 2014-15

Addl. CIT, Special Range-8, New Delhi	<b>Vs.</b>	M/s. Shriram Pistons & Rings Ltd., Himalaya House, 23, Kasturba Gandhi Marg, New Delhi
<b>PAN :AAACS0229G</b>		
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. Prakash Dubey Sr.DR
Respondent by	Sh. R.K. Kapoor, CA

Date of hearing	08.07.2021
Date of pronouncement	16.07.2021

**ORDER**

**PER O.P. KANT, AM:**

This appeal by the Revenue is directed against order dated 10/10/2017 passed by the learned Commissioner of Income-tax (Appeals)-28, New Delhi [in short 'the learned CIT(A)'] for assessment year 2014-15 raising following grounds:

1. *"Whether the Ld. CIT(A) was justified in deleting the disallowance of Rs. 2,75,82,000/- made by the AO on account of expenditure incurred for dies for new mode development by treating the same as capital expenditure."*

2. *"Whether the Ld. CIT(A) was justified in deleting the disallowance of Rs. 39,52,433/- made by the AO on account of expense under "Total Productivity Maintenance (TPM)/ISO 9001" by treating such expense as capital expenditure."*
3. *"The appellant craves leave to add, alter or amend any of the ground(s) of appeal before or during the course of hearing of the appeal."*

**2.** At the outset, the learned Counsel of the assessee submitted that the issue-in-dispute are identical to additions made in earlier years, which have been deleted by the ITAT, and thus Ld. CIT(A) has deleted the addition in dispute in the year under consideration relying on the decision of the ITAT in earlier years.

**3.** The Learned DR also could not controvert this statement of the Learned Counsel of the assessee.

**4.** We have heard rival submission of the parties on the issue in dispute and perused the relevant material on record. The finding of the Learned CIT(A) on the issue in dispute are reproduced as under:

*"7. I have considered the facts of the case, basis of disallowances made by AO and findings of Hon'ble ITAT vide their order dated 05.05.2017 in the case of appellant on identical facts for A.Y. 2010-11. Hon'ble ITAT. after discussing the issue and relying on the decision of jurisdictional High Court in appellant's own case, decided both the issues as under:*

*"8.1 On perusing the above finding of the Ld. C.IT(A), with regard to ground no.1 relating to deletion of disallowance of Rs. 80,34,087/- is concerned, we find that the assessee has incurred expenditure of Rs. 1,20,49,317/- on account of dies for new model development. However, the AO treated this expenditure as capital expenditure in nature and therefore, just allowed depreciation on the amount and disallowed the remaining amount of Rs. 80,34,087/-. We further note that in the assessment order, the AO has not given any reasoning for treating such expenditure as capital in nature and just mentioned that following earlier assessment orders, maintaining the consistency and to keep the issue alive he is treating the expenditure as capital in nature. On the other*

*hand, the assessee has argued that this issue of expenditure on dies and models has already been decided in assessee's favour by the Jurisdictional Delhi High Court in IT A No.167/2008 for A.Y. 1998-99 and in ITA No.480/2003 in AY 2000-01 in assessee's own case. We further find that ITAT, Delhi Bench in ITA No.5438/Del/2012 for AY 2009-10 in assessee's own case has again followed the decision of Hon'ble High Court and allowed the expenditure as revenue expenditure. Therefore, the issue is squarely covered by the decisions of ITAT as well as Hon'ble Jurisdictional High Court in the assessee's own case in earlier assessment years, the AO's action in treating the expenditure on dies and models as capital in nature was not justified. Hence, the Ld. CIT(A) has rightly deleted the disallowance of Rs.80,34,087/- made by the AO, which does not need any interference on our part, hence, we uphold the order of the Ld. CIT(A) on the issue in dispute and dismiss the ground no. 1 raised by the Revenue in its Appeal.*

*8.2 With regard to ground no.2 relating to deletion of disallowance of Rs. 12,16,796/- is concerned, we find that the AO has not given any basis for making such disallowance and just repeated the same logic that in preceding years such disallowance was made by the AO and therefore, following the principle of consistency and just to keep the issue alive, he made the disallowance. In the appellate proceedings, the assessee has produced the decision of ITAT, Delhi, in ITA No. 5438/Del/2012 in assessee's own case, wherein the issue has already been decided in favour of the assessee. Since the issue is squarely covered by the decision of higher judicial authority, the AO's action in disallowing the expenditure under the heads 'TPM and 'ISO-9001', total amounting to Rs. 12,16,796/- was not justified. Hence, the Ld. CIT(A) has rightly deleted the disallowance of Rs. 12,16,796/- made by the AO, which does not need any interference on our part, hence, we uphold the order of the Ld. CIT(A) on the issue in dispute and dismiss the ground no.2 raised by the Revenue in its Appeal."*

*7.1 Since the Hon'ble ITAT has already taken a view on both the issues as intended by appellant in both the grounds, respectfully following the same, Iso delete the additions made by AO on account of capital expenditure on dies for new model development amounting to Rs. 3,10,82,299/- and under the head Total Productivity Maintenance (TPM)/ISO 9001 amounting to Rs. 39,52,433/- and allow the grounds taken by appellant."*

**4.1** We find that Learned CIT(A) has followed decision of the ITAT in earlier years and, therefore, we do not find any error in the order of the learned CIT(A) on the issue-in-dispute raised before us. Accordingly, all the grounds of the appeal of the Revenue are dismissed.

**5.** In the result, the appeal of the Revenue is dismissed.

***Order pronounced in the open court on 16<sup>th</sup> July, 2021.***

***Sd/-***  
**(KULDIP SINGH)**  
**JUDICIAL MEMBER**

***Sd/-***  
**(O.P. KANT)**  
**ACCOUNTANT MEMBER**

Dated: 16<sup>th</sup> July, 2021.

RK/-(DTDC)

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi