

A.Y. 2012-13 :

2. Tersely stated, the facts of the case are that the assessee acquired Chemical business of Gramos Chemicals India Pvt. Ltd. vide agreement on 04-11-2011 for a total consideration of Rs.7.25 crore, which included both tangible and intangible assets. The assessee earmarked a sum of Rs.7,18,87,000/- towards certain specified Intangible assets and the remaining amount of Rs.6.13 lakh towards certain tangible assets. Depreciation was claimed on both the categories of the assets. In this appeal, we are concerned only with depreciation on Intangible assets claimed by the assessee at Rs.90,99,602/-. The Assessing Officer (AO) did not grant depreciation on two species of the Intangible assets, namely, Marketing Information comprising of Commercial information, Customer data, Distribution network and Suppliers contract and Non-compete fees. The Id. CIT(A) observed that almost similar Purchase agreement was entered into between the assessee and Conventya India Pvt. Limited during the year in which the assessee transferred its Electroplating business. He countenanced the decision of the AO by observing that the denial of depreciation on Market information and Non-

compete fees was upheld by him in the hands of Conventya India Pvt. Ltd. Following similar view, he affirmed the assessment order on this aspect.

3. We have heard both the sides and perused the relevant material on record. The only question is about the denial of depreciation on two categories of Intangible assets, namely, Non-compete fees and Market information comprising of Commercial information, Customer data, Distribution network and Suppliers contract. Apart from the assessee acquiring the Chemical business of Gramos Chemicals India Limited, it transferred its Electroplating business during the year under consideration to Conventya India Private Limited by receiving certain consideration on similar Intangible assets, *inter alia*, Marketing information and Non-compete fee. The question of denial of depreciation in the hands of Conventya India Limited came up for consideration before the Tribunal. Vide its order dated 17-02-2020, the Tribunal in ITA Nos. 974 and 975/PUN/2017 has ordered to grant depreciation on such intangible assets in the hands of Conventya India Pvt. Limited for the assessment years 2012-13 and 2013-14, a copy of which has been placed at page 86 onwards of the paper book.

In reaching the conclusion for granting depreciation on Non-compete fees, the Tribunal relied on the judgment of Hon'ble Bombay High Court in *Pr. CIT Vs. Piramal Glass Limited (2019) 105 CCH 0034 Mum HC*. As regards the depreciation on Customer data and Distribution network etc., the Tribunal relied on another decision in *Brembo Brake India Pvt. Ltd. Vs. DCIT [TS-5119-ITAT-2015 (Pune)-O]*. No contrary decision has been brought to our notice by the ld. DR. In view of the foregoing discussion, it is clear that the sole reason given by the ld. CIT(A) for rejecting the assessee's claim of depreciation on such categories of capital assets, being, his own decision in the case of Conventya India Limited, does not survive anymore because of its overturning by the Tribunal. The ld. DR fairly admitted the position about the issue under consideration being a fully covered matter. Respectfully following the precedent, we hold that the authorities below were not justified in denying depreciation on Non-compete fees and Market information comprising of Commercial information, Customer data, Distribution network and Suppliers contract.

A.Y. 2013-14 :

4. Both the sides are in agreement that the facts and circumstances for the assessment year 2013-14 are *mutatis mutandis* similar to those of the preceding year. Following the view taken hereinabove, we entitle the assessee to depreciation on Non-compete fees and Market information.

5. In the result, both the appeals are allowed.

Order pronounced in the Open Court on 24th February, 2022.

Sd/-
(S.S.VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 24th February, 2022
Satish

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

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-1, Pune
4. The Pr.CIT-1, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "B" / DR 'B', ITAT, Pune
6. गार्ड फाईल / Guard file

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	22-02-2022	Sr.PS
2.	Draft placed before author	23-02-2022	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

*