

**IN THE INCOME TAX APPELLATE TRIBUNAL "G" BENCH, MUMBAI**  
BEFORE SHRI PRASHANT MAHARISHI, AM AND SHRI SANDEEP SINGH KARHAIL, JM

**ITA No. 848/Mum/2021**  
(Assessment Year 2017-18)

Great White Goal P. Ltd. 1301, 13 <sup>th</sup> Floor, Peninsula Business Park, Tower-B, Senapati Bapat Marg, Lower Parel, West, Mumbai-400 013	Vs.	The Asst. CIT-CC7(2), Room No.65, 6 <sup>th</sup> Floor, Aayakar Bhavan, M.K. Road, Mumbai-400 020
<b>(Appellant)</b>		<b>(Respondent)</b>
<b>PAN No. AAACM3669G</b>		

<b>Assessee by</b>	:	Sri Nitesh Joshi, AR
<b>Department by</b>	:	Sri Hoshang B. Irani, DR

<b>Date of hearing:</b>	08.03.2022
<b>Date of pronouncement :</b>	21.03.2022

**ORDER**

**PER PRASHANT MAHARISHI, AM:**

01. This appeal is filed by the assessee against the order passed by the learned Commissioner of income-tax (Appeals)-14, Mumbai [in short CIT(A)] dated 12<sup>th</sup> April, 2021 for Assessment Year 2017-18, wherein the learned CIT(A) has confirmed the disallowance of depreciation on Speed Boat claimed by the assessee amounting to ₹1,48,983/-. This is only issue involved in this appeal.
  
02. Assessee has raised following grounds :-



*"On the facts and in the circumstances of the case and in law, the following grounds are submitted without prejudice to one another.*

*1. The Learned Commissioner of Income Tax Appeal-49, Mumbai, (CIT(A)-49, Mumbai] erred in confirming the disallowance of the claim of depreciation on Speed Boat of Rs. 1,48,983/- without appreciating the nature of Business of the appellant, without appreciating the fact that the said claim of depreciation on Speed boat was allowed consistently from the date of Purchase i.e. from Assessment Year 2012-2013 till aforesaid Assessment Year except Assessment Year 2014-2015 and also ignoring the justification for non-filing of appeal against the disallowance of depreciation in Assessment Year 2014-2015 and also ignoring the various judicial decisions relied upon by the appellant.*

*"The Appellant prays that the disallowance of Rs. 1,48,983/-, made in respect of depreciation on speed boat, be deleted."*

03. Brief fact of the case shows that the assessee is a company engaged in the business of manufacturing & marketing of electrical goods and accessories, writing instruments and shaving blade. The assessee has administrative office at Mumbai and factories at Valsad, Gujarat and Haridwar, Uttarakhand. It has sales Depot and branches across the country. It also has more than



5000 dealers and more than 50 del- credere agents all over India.

04. The assessee has filed its return of income on 30.10.2017 declaring a total income of ₹25,50,45,580/-. This was subsequently revised on 27.06.2018 at ₹25,51,41,840/-. The case of the assessee was picked up for scrutiny.
05. The Assessing Officer noted that assessee has claimed depreciation of ₹1,48,983/- on Speed Boat. The assessee was asked to furnish the details that how the same was allowable to the assessee. The assessee submitted that company has purchased the Speed Boat jointly with another party and assessee share in it is 50%. This Speed Boat was purchased in Financial Year 2011-12 relevant to Assessment Year 2012-13. The Speed Boat is landed at Gateway of India and used for entertaining the agents and dealers across India, who regularly visits the office of the assessee. The assessee further stated that this depreciation has been allowed by the Assessing Officer in Assessment Year 2012-13. There is no change in the facts and circumstances. Thus, according to assessee it is allowable.
06. The learned Assessing Officer rejected the contention of the assessee and found that there is no evidence to show that the Speed Boat has been used for the purpose of entertaining agents and dealers. He also took note of the manufacturing unit of the assessee situated at different locations. Therefore, he held that it is not used for the

purpose of the business but has been used for personal purposes. He further noted that for Assessment Year 2014-15, the above depreciation was disallowed and therefore he disallowed the same for this year too. Accordingly, the total income of the assessee was assessed at ₹25,52,90823/- by making an above disallowance of depreciation on Speed Boat of ₹1,48,983/.

07. The assessee preferred the appeal before the learned CIT (A) who confirmed the disallowance.
08. On appeal before us, the learned Authorised Representative submitted that assessee has been claiming the depreciation on this asset since Assessment Year 2012-13 and allowed. For Assessment Year 2013-14, though the depreciation was disallowed but assessee has not preferred any appeal. It was further stated that for Assessment Year 2014-15, the income was computed under section 115JB of the Act and therefore, there was no question of any disallowance. For Assessment Years 2015-16 & 2016-17 no disallowance has been made. It is submitted that the impugned appeal for Assessment Year 2017-18, where the depreciation was disallowed but for Assessment Year 2018-19 there is no disallowance made by the Assessing Officer. He further submitted that as the assessee is a company there could not be any personal use of the above asset. With respect to the user of the Speed Boat, he explained the same reason of entertaining guests and customers as explained before lower

authorities. He submitted that assessee has a turnover more than ₹415 Crores and is having a dealership network of more than 5000. Therefore, it cannot be denied that assessee is using the Speed Boat for entertaining its customers

09. The learned DR vehemently supported the orders of the lower authorities.

010. We have carefully considered the rival contentions and perused the orders of the lower authorities. Facts already culled out shows that assessee is a manufacturer has purchased a speed boat where the share of the assessee is 50% and is claiming depreciation thereon Under the pretext that it is being used by assessee for the purposes of its business for entertaining its dealers and customers whenever they come to Mumbai. The speedboat is anchored at Gateway of India. However no evidences produced before the learned assessing officer or before the learned CIT – A that the speedboat is used for the purpose which has been stated by the assessee. No doubt, the depreciation has been allowed to the assessee in assessment year 2012 – 13. For assessment year 2013 – 14 depreciation on speed boat was disallowed amounting to ₹ 312,247/- where the assessment order was passed u/s 143 (3) of the act. No doubt, the income of the assessee was computed for that year by applying the provisions of the book profit, however, fact remains, that assessee has accepted the disallowance of the above



item in its normal computation of income. Further, for assessment year 2014-15 also, depreciation was disallowed and the assessee has not agitated it further. Similarly, for that assessment year also the income was computed under the provisions of Section 115JB of the act. For assessment year 2015 - 16 the case of the assessee was selected only for limited scrutiny purposes as evident from letter dated 10 October 2017 of the assessee which is placed at page number 21 of the paper book, the reasons for selection of the case of the assessee Under the limited scrutiny was not for disallowance of depreciation on speed boat and therefore naturally there is no addition on that count. Thus, it cannot be said that for assessment year 2015 - 16 the depreciation on speedboat was allowed by the AO. Similarly, for assessment year 2016 - 17, the facts are not coming out from the assessment order itself whether the case was picked up for examination of which specific issues, however, there was no question raised by the AO on this issue. The current assessment year i.e. assessment year 2018 - 19 was selected in complete scrutiny and the assessing officer has disallowed the depreciation on speedboat referring the orders of the earlier assessment years. Assessment year 2018 - 19 was passed u/s 13 (3) of the act on 29<sup>th</sup> of March 2021. The reasons for selecting the case of the assessee for scrutiny mentioned in paragraph number 1 of the assessment order and we do not find that there is any mention of claim of the assessee with respect to the

depreciation on speedboat. Therefore, it cannot be said that the assessee has been allowed depreciation for that year by the learned assessing officer. Even otherwise, each assessment year is separate and distinct assessment unit and therefore generally, unless glaring irregularity or inconsistency is noticed, allowability of allowance can be presumed. Even otherwise, in the present case it cannot be said that the depreciation on speedboat has been allowed to the assessee consistently.

011. We find that speed boards are specially covered Under IV of appendix – 1 of the table of depreciation rates provided as per rule [5] of The Income Tax Rules 1962. It is the only asset in the block of the asset on which depreciation is claimed by the assessee. For the allowability of depreciation on any asset, it should be owned by the assessee as well as it should be used for the purposes of the business. The learned lower authorities have categorically held that the assessee has failed to show any evidence that speed boat has been used by the assessee for the purposes of the business of the assessee. Therefore, user test for claim of the depreciation on speedboat fails.

012. The other financial parameters such as turnover et cetera or the number of dealership and agents are of no relevance, thus, do not support the case of the assessee in absence of any evidence that the speedboat is used for the purpose of the business of the assessee.



013. The argument of the learned authorised representative that in case of a company assessment, the depreciation could not have been disallowed for the reason that assets have been used for personal purposes. We fully agree with that but in the present case there is no evidence that the speedboat is used for the purpose of the business and therefore this argument does not apply on the facts of the case.

014. In view of this, we confirm orders of the lower authorities and upheld action of Id Assessing Officer of disallowance of depreciation on the speed boat.

015. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open court on 21.03.2022.

Sd/-  
(SANDEEP SINGH KARHAIL)  
(JUDICIAL MEMBER)

Sd/-  
( PRASHANT MAHARISHI)  
(ACCOUNTANT MEMBER)

Mumbai, Dated: 21.03.2022

*Sudip Sarkar, Sr.PS*

Copy of the Order forwarded to :

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

BY ORDER,

True Copy//



Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Mumbai