

THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Shri B.R. Baskaran (AM) & Shri Kuldip Singh (JM)

I.T.A. No. 2669/Mum/2017 (A.Y. 2005-06)

M/s. Syncom Healthcare Ltd. C/o. Karnavat & Co. 2A Kitab Mahal, 1 st Floor 192 Dr. D.N. Road Mumbai-400 001. PAN : AAKCS3274G (Appellant)	Vs.	DCIT-7(2) Room No. 624 6 th Floor Aayakar Bhavan M.K. Road Mumbai-400 020. (Respondent)
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Assessee by	None
Department by	Shri Ashish Phophare
Date of Hearing	11.05.2022
Date of Pronouncement	17.05.2022

ORDER

Per B.R.Baskaran (AM) :-

The assessee has filed this appeal challenging the order dated 23.2.2017 passed by learned CIT(A)-14, Mumbai and it relates to A.Y. 2005-06.

2. None appeared on behalf of the assessee on several occasions even though appeal was adjourned at the request of the assessee's counsel in one of the occasions. Hence, we proceed to dispose of the appeal ex-parte, without presence of the assessee.

3. The solitary issue urged in this appeal relates to disallowance of claim of repairs and maintenance expenses of Rs. 55,02,004/-.

4. We heard learned Departmental Representative and perused the record. The facts relating to the issue are that the assessee had claimed deduction of a sum of Rs.68.72 lakhs as repairs and maintenance expenses. It was noticed that the assessee has incurred this expenditure in renovation of premises taken on rent. Leased period of the premises was five years and hence the

assessee had treated this expenditure as deferred revenue expenses in the books of account and accordingly wrote of 1/5th of the expenditure in the books. However, for computing total income under Income tax Act, the assessee claimed entire expenditure of Rs. 68,77,505/- as deduction. The Assessing Officer restricted the claim to 1/5th expenditure as accounted for books of account and accordingly disallowed the balance amount of Rs.55,02,004/-. Learned CIT(A) also confirmed the same.

5. We noticed that the assessee had placed reliance on the decision rendered by Hon'ble Madras High Court in the case of T.V. S. Lean Logistics Ltd. (293 ITR 432) in support of the its claim. However, the tax authorities have expressed the view that the above said decision is distinguishable. It is well settled proposition of law that the entries made in the books of account are not determinative of the question as to whether an expenditure is allowable as deduction or not, meaning thereby any expenditure if it is found to be allowable in terms of section 28 to 40 of the Act is allowable, if the assessee has incurred the same during the year under consideration. We also notice that there is no concept of deferred revenue expenditure under the provisions of Income tax Act, unless any of the provisions provide for deferred deduction. Hence reasoning given by the tax authorities cannot be sustained. Hence we are of the view that the Ld CIT(A) has confirmed the disallowance without taking into account these legal principles. Further, none of the tax authorities has examined the nature of repairs and maintenance expenses incurred by the assessee. Accordingly, we are of the view that this issue requires fresh examination at the end of the Ld CIT(A). Accordingly, we set aside the order passed by learned CIT(A) and restore this issue to his file for examining it afresh in accordance with law, after affording adequate opportunity of being heard.

6. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order pronounced in the open court on 17.05.2022.

Sd/-
(KULDIP SINGH)
JUDICIAL MEMBER

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 17/05/2022

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.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai

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