

आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH, CHENNAI

माननीय श्री महावीर सिंह, उपाध्यक्ष एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM

आयकर अपील सं./ ITA Nos.57 & 58/Chny/2021
(निर्धारण वर्ष / Assessment Year: 2008-09 & 2011-12)

M/s. Jaya Publications C/o. Mr. K. Soundaravelan (FCA) 16 Gyan Apartments, 38 Venkatraman Street, T. Nagar, Chennai – 600 017.	बनाम/ Vs.	DCIT Central Circle-2(2), Chennai.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AAAFJ-8435-E		
(□ पीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थी की ओरसे/ Appellant by	:	Shri T. Vasudevan (Advocate) – Ld. AR
प्रत्यर्थी की ओरसे/ Respondent by	:	Shri ARV. Sreenivasan (Addl. CIT)-Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	19-05-2022
घोषणा की तारीख / Date of Pronouncement	:	08-06-2022

आदेश / ORDER

Manoj Kumar Aggarwal (Accountant Member)

1. Aforesaid appeals by assessee for Assessment Years (AY) 2008-09 & 2011-12 having common issues arises out of separate orders of learned first appellate authority. The appeal for AY 2008-09 arises out of the order of Ld. Commissioner of Income Tax (Appeals)-18, Chennai

[CIT(A)] dated 28.02.2020 in the matter of assessment framed by the Ld. Assessing Officer [AO] u/s. 143(3) of the Act on 31.12.2010.

2. The Registry has noted a delay of 307 days in the appeals, the condonation of which has been sought by the assessee on the strength of condonation petition. The Ld. AR submitted that delay occurred due to lockdown situation arising out of Covid-19 Pandemic. Keeping in view the fact that the period starting from 15.03.2020 till 28.02.2022 is excluded by Hon'ble Supreme Court for limitation purposes in suo-moto writ petition (c) No. 3 of 2020 dated 10.01.2022, we condone the delay and admit the appeals for adjudication on merits.

3. In AY 2008-09, the assessee is aggrieved by (i) disallowance of depreciation on Computers; (ii) Denial of Deduction u/s 80G. The Ld. AR advanced arguments and assailed the estimated disallowances which have been controverted by Id. Sr. DR. Having heard rival submissions, our adjudication, would be as under.

4. The assessee being resident firm is stated to be engaged in publications. The assessee purchased computer for Rs.51.18 Lacs and claimed depreciation thereon. In support, the assessee produced the purchase invoices. However, Ld. AO held an opinion that the use of computers was not established and therefore, the depreciation would not be allowable. During appellate proceedings, the assessee submitted that the computers were used for office purposes and given to staff and news reporters for gathering the details. However, Ld. CIT(A) held that the burden of proof could not be discharged by the assessee that the computers were put to use for the purposes of business. Accordingly, the disallowance was confirmed.

5. The assessee paid donation of Rs.10 Lacs to Dr. MGR School for the speech and hearing impaired. However, the receipts were in the name of Ms. J.Jayalalitha and accordingly, the deduction was restricted to Rs. 5 Lacs. During appellate proceedings, the assessee submitted that donations were made out of funds of the assessee and receipt was issued in the name of one of the partners. No such deduction was claimed by Ms. J.Jayalalitha in her return of income. However, Ld. CIT(A) confirmed the action of Ld. AO. Aggrieved, the assessee is in further appeal before us.

6. So far as the depreciation claim is confirmed, we find that the assessee has purchased Computers for business purposes and claimed depreciation thereon. In support, the relevant invoices were produced. The only reason to disallow the depreciation is the conclusion of Ld. AO that the use of computers for business was not established. However, this conclusion is not supported by any concrete findings. The Computers so purchased by the assessee formed part of Block of Asset and the depreciation has been claimed as per law. The same is supported by the fact that the assessee has purchased as many as 120 computers which could not be said to be put for personal use. Therefore, we direct Ld. AO to grant depreciation as per assessee's claim. This ground stand allowed.

7. Regarding donation u/s 80G, it is the submissions of Ld. AR that the donations have been given out of firm's funds and the receipt has been issued in the name of one of the partners. Further, no such deduction has been claimed by the partner in her return of income. Concurring with these arguments, we direct Ld. AO to verify these facts and if found true, the deduction u/s 80G would be available to the

assessee. This ground stand allowed for statistical purposes. The appeal stand partly allowed.

AY 2011-12

8. The only grievance of the assessee, in this year, is disallowance of depreciation on computers. The same is based on assessment order for AY 2008-09. Since we have allowed depreciation in that year, the similar disallowance made in this year, would stand deleted. The appeal stand allowed.

9. The appeal for AY 2008-09 stand partly allowed whereas the appeal for AY 2011-12 stand allowed.

Order pronounced on 08th June, 2022

Sd/-
(MAHAVIR SINGH)
उपअध्यक्ष / VICE PRESIDENT

Sd/-
(MANOJ KUMAR AGGARWAL)
लेखअसदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 08-06-2022

EDN

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

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF