

**IN THE INCOME TAX APPELLATE TRIBUNAL
JABALPUR BENCH, JABALPUR**

BEFORE SHRI SANJAY ARORA, HON'BLE ACCOUNTANT MEMBER &
SHRI MANOMOHAN DAS, HON'BLE JUDICIAL MEMBER

I.T.A. No. 80/JAB/2019
(Asst. Year : 2016-17)

Dy. CIT, Circle-1(1), Jabalpur.	vs.	Rajluxmi Enterprises Pvt. Ltd., 1, Srihaarsh Maharana Pratap Ward, Narsinghpur (MP) [PAN : AADCR 8445 E]
(Appellant)		(Respondent)

Appellant by : Shri Rahul Bardia, FCA
Respondent by : Shri Ravi Mehrotra, Sr. DR

Date of hearing : 14/06/2022
Date of pronouncement : 15/06/2022

ORDER

Per Sanajy Arora, AM

This is an Appeal by the Revenue directed against the order dated 27/08/2019 by the Commissioner of Income Tax (Appeals)-1, Jabalpur ('CIT(A)' for short), partly allowing the assessee's appeal contesting it's assessment u/s. 143(3) of the Income Tax Act, 1961 ('the Act', hereinafter) dated 20/12/2018 for Assessment Year (AY) 2016-17.

2. The assessee-company, in the business of civil construction, was in the course of assessment proceedings for the relevant year found to have claimed an opening Written Down Value (WDV) of it's block of assets (for the purpose of

computing depreciation u/s. 32 of the Act) in excess of its closing value for the immediately preceding year (AY 2015-16) by Rs. 189.43 lacs, as under:-

	Opening WDV	Closing WDV	Difference
AY 15-16	28888926	41239443 (1)	
AY 16-17	60181955 (2)	76119276	18942512 (2 -1)

The difference, it was explained before the Assessing Officer (AO), had occurred on account of an error in taking the figures from the balance-sheet prepared from the books of account (for the purposes of the Companies Act, which provides for a separate schedule for depreciation), so that the only result of the said error would be an excess claim of depreciation (u/s. 32(1)) for the current year, which may be disallowed. In view of the AO, it was, however, a case of unexplained increase in fixed assets, and who therefore added the entire amount of difference as unexplained investment. The assessee, however, found favour with the Id. CIT(A) in first appeal, who accordingly found the said, admitted mistake by the assessee to have led to an increased claim of depreciation for Rs. 31,63,707, for which the amount an adjustment to the returned income in assessment was confirmed by him, deleting the balance addition of Rs. 1,57,78,805.

3. We have heard the parties, and perused the material on record.

3.1 There is, as apparent, no question of any unexplained investment, which charge is misconceived. The assessee before us, through Shri Bardia, demonstrated the opening value of the gross block (of assets) for the immediately preceding year (i.e., as on 01/04/2014) as having been mistakenly taken as the opening WDV (i.e., as on 01/04/2015) of the block of assets for the current year. The only issue that arises is the consequence/s thereof, i.e., of the said error. As was common ground before us, the same leads to a higher claim of depreciation for the current year and, consequentially, for the succeeding years in the form of a higher closing (as on

31/03/2016) WDV for the current year inasmuch as the same forms the basis for the depreciation for the following years. Shri Bardia could not readily confirm if the rectification had been accordingly effected for the succeeding years as well. While the Id. CIT(A) has quantified the former (i.e., depreciation) at Rs. 31.64 lacs, sustaining the addition for the current year to that extent, he has issued no finding in respect of closing WDV (as on 31/03/2016). The assessee's working thereof at Rs. 611.16 lacs (reproduced at page 6 of the impugned order) was found incorrect as the figure of the total additions to the fixed assets (during the year) thereby did not match the additions as per the books of account (PB pg.73). Surely, the addition to different block of assets cannot be at variance with the depreciation chart prepared for tax purposes. The same stands since corrected by Shri Bardia (copy on record) which, reproduced as under, yields depreciation difference for the current year at Rs. 30,32,266:

S. No	Particulars	Rate	WDV as on 01/04/2015	Addition		Total	Depreciation	WDV as on 31/03/2016
				More than 180 days	Less than 180 days			
1	Plant & Machinery	15%	3,91,86,636	2,69,90,968	21,41,600	6,83,19,204	1,00,87,260	5,82,31,944
2	Furniture & fixture	10%	18,82,773	58,707	59,394	20,00,874	1,97,118	18,03,756
3	Computer	60%	1,81,806	2,61,900	10,886	4,54,592	2,69,489	1,85,103
4	Computer	0%	-	-	-	-	-	-
	Total		4,12,51,215	2,73,11,575	22,11,880	7,07,74,670	1,05,53,867	6,02,20,803

The same is more in keeping with the depreciation difference indicated by the break-up of the difference of Rs. 189.43 lacs as observed by the AO; the segregation of which across different block of assets finds reflection at page 5 of his order (and also reproduced at page 5 of the impugned order). The closing (as on 31/03/2016) WDV of the different block of assets as per the revised chart is at Rs. 6,02,20,803, the break-up of which over different blocks of assets is as:

- a) Plant and machinery @ 10% - Rs. 5,82,31,944
- b) Furniture and fixtures @ 10% - Rs. 18,03,756
- c) Computers @ 60% - Rs. 1,85,103

3.2 We, in view of the foregoing, find no reason to interfere with the impugned order, i.e., in principle, though consider it pertinent to clarify as under:

- a) the addition to be sustained for the current year would be Rs. 30,32,266, being the excess depreciation claimed per the return of income; and
- b) the closing WDV as on 31/03/2016 of different block of assets is Rs. 6,02,20,802, break-up of which is stated above, and on the basis of which the depreciation for the following years is to be worked out;

inasmuch as that only would eliminate the consequence of adopting a higher opening WDV for the current year. The AO shall, for the purpose of giving tax effect to this order, require the assessee to furnish the modified depreciation charts for each of the succeeding years for which income has been returned to date (being the date on which he issues the said notice), and issue a finding as to the closing WDV for each of those years after verifying the same, after of course hearing the assessee in case his verification yields a difference/s, clearly explaining and clarifying the same where not resolved, and allow depreciation (for those years) accordingly. Each of these orders would be an order passed in consequence of and to give effect to this order. The same shall be passed within a reasonable time of not more than three months of this order and, in any case, within the time limit prescribed by law.

3.3 We decide accordingly.

4. In the result, the Revenue's appeal is disposed of on the above terms.

Order Pronounced in open court on June 15, 2022

sd/-
(Manomohan Das)
Judicial Member

sd/-
(Sanjay Arora)
Accountant Member

Dated: 15/06/2022

vr/-

Copy to:

1. The Appellant: Dy. CIT, Circle-1(1), Jabalpur.
2. The Respondent: M/s. Rajluxmi Enterprises Pvt. Ltd., 1, Srihaarsh Maharana Pratap Ward, Narsinghpur (MP)
3. The Principal CIT-1, Jabalpur.
4. The CIT(A)-1, Jabalpur.
5. The Sr.D.R., ITAT, Jabalpur.
6. Guard file.

By order

(VUKKEM RAMBABU)
Sr. Private Secretary,
ITAT, Jabalpur.