

आयकर अपीलीय अधिकरण "ए" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, PUNE

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
AND  
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1559/PUN/2018  
निर्धारण वर्ष / Assessment Year : 2014-15

Shri Ganesh Sahakari Sakhar Karkhana Ltd.,  
A/P. Rajangaon Khurd, Tal.-Rahata,  
Dist.-Ahmednagar-413719

PAN : AAEAS0636H

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Assistant Commissioner of Income Tax,  
Circle – Ahmednagar

.....प्रत्यर्थी / Respondent

Assessee by : Shri Hanmant Dattatry Davale  
Revenue by : Shri S.P. Walimbe

सुनवाई की तारीख / Date of Hearing : 19-07-2022  
घोषणा की तारीख / Date of Pronouncement : 21-07-2022

**आदेश / ORDER**

**PER S.S. VISWANETHRA RAVI, JM :**

This appeal by the assessee against the order dated 25-06-2018 passed by the Commissioner of Income Tax (Appeals)-2, Pune [‘CIT(A)’] for assessment year 2014-15.

2. The only issue is to be decided is as to whether the CIT(A) justified in confirming the disallowance of Rs.35,55,963/- on account of depreciation in the facts and circumstances of the case.

3. We note that the factory of the assessee closed during the previous year relating to A.Y. 2014-14. The assessee contended that it is entitled to claim depreciation in view of lease agreement dated 26-05-2014. We note that the CIT(A) examined the same and held the assessee is not entitled to claim depreciation due to closure of factory and no assets of factory put to use during previous year relevant to assessment year under consideration. The relevant part at Para No. 4.2 of the impugned order is reproduced as under for ready reference :

*“4.2 I have perused the facts of the case, Admittedly, it is a fact that factory of the appellant was totally closed during the relevant F.Y. The argument that they had entered into an agreement for leasing the factory and the issue was producing sugar in the said factory, is not found correct as because the agreement for partnership with Padmashri Dr. Vithalrao Vikhe Patil SSK Ltd. was entered into on 26.05.2014 only for the purpose of running of the factory. That means, the agreement for running the factory was entered into the next F.Y. and in the present F.Y., the factory was not in operation at all. Therefore, factually, the argument of the appellant is not correct and therefore, decisions cited on behalf of the appellant are not applicable to the facts of the present case. In view of these facts, I hold that since the factory was entirely closed during the relevant year and the assets were not put to use, therefore, the appellant is not entitled for any depreciation and accordingly, the depreciation claimed of Rs.35,55,963/- has been rightly disallowed by the AO. The order of AO on this point is accordingly confirmed.”*

4. On perusal of the above, we do not find any infirmity in the order of CIT(A) and it is justified. Thus, the sole ground raised by the assessee is dismissed.

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

Order pronounced in the open court on 21<sup>st</sup> July, 2022.

Sd/-  
(Inturi Rama Rao)  
ACCOUNTANT MEMBER

Sd/-  
(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

पुणे / Pune; दिनांक / Dated : 21<sup>st</sup> July, 2022.  
रवि

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

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)-2, Pune
4. The Pr. CIT-1, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

//सत्यापित प्रति// True Copy//

आदेशानुसार / BY ORDER,

वरिष्ठ निजी सचिव / Sr. Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune