

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANOJ KUMAR AGGARWAL, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.: 513/CHNY/2021

निर्धारण वर्ष /Assessment Year: 2017-18

**M/s. Angalakshmi Spinning
Mill,**
154/1, Mathakai Thottam,
Pallapalayam,
Coimbatore – 641 103.

The Income Tax Officer,
vs. Non-Corporate Ward 4(1),
Coimbatore.

PAN: AACFA 3911G

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by
प्रत्यर्थी की ओर से/Respondent by

: Shri N.Arjun Raj, CA
: Shri AR.V. Sreenivasan, Addl.CIT

सुनवाई की तारीख/Date of Hearing : 04.08.2022

घोषणा की तारीख/Date of Pronouncement : 24.08.2022

आदेश /O R D E R

PER MAHAVIR SINGH, VICE PRESIDENT:

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi in Appeal No.CIT(A), Coimbatore-3/10640/2019-20 dated 24.09.2021. The assessment was framed by the Income Tax Officer, Non-Corporate Ward – 4(1), Coimbatore

for the assessment year 2017-18 u/s.143(3) of the Income Tax Act, 1961 (hereinafter the 'Act') vide order dated 21.08.2018.

2. The only issue in this appeal of assessee is as regards to the order of CIT(A) not allowing the replacement of spare parts as revenue expenditure and treated the same as capital expenditure. Without prejudice, the assessee has also raised allowance of claim of deduction u/s. 80IA of the Act and computed levy of taxes u/s.115JC of the Act. For this, assessee has raised the following effective grounds:-

2. Without prejudice to the above it is also submitted

- (i) the CIT(A) is erred in not allowing revenue expenditure of Rs. 1,06,89,395/- towards spares purchase treating the same as capital expenditure even when the assessing officer has clearly stated it was purchase of spares only.
- (ii) without prejudice to the above the CIT(A) is also erred in not allowing Rs.2,70,06,889/- u/s 80IA.
- (iii) the officer is also not correct in levying tax under sec. 115IC and CIT(A) is erred in not deleting the same.

3. The officer is erred in levying interest of Rs. 2,26,424/ u/s 234C in the computation statement without any direction in the assessment order and CIT is also erred in not deleting the same.

3. Brief facts are that the assessee firm is engaged in the business of running a spinning mill. During the course of assessment proceedings, the AO noticed that the assessee has replaced the machinery for an amount of Rs.1,06,89,395/- and claimed the same

as revenue in nature. The AO noted after verifying the invoices dated 15.02.2016 that the spare part purchased by assessee for this huge sum which will bring them enduring benefit and therefore, the expenditure incurred is capital in nature. The AO relied on the decision of Hon'ble Supreme Court in the case of CIT vs. Mangayarkarasi Mill P. Ltd., Civil Appeal No.4579 of 2009. Accordingly, he treated expenditure on account of replacement of machinery as capital expenditure and allowed depreciation at the rate of 15%. The AO also disallowed the claim of deduction u/s.80IA of the Act. Aggrieved, assessee preferred appeal before the CIT(A).

4. The CIT(A) also confirmed the action of the AO and noted that the amount spent by the assessee for replacement of machinery is sizable amount which cannot be attributed to spare parts or it is clearly the replacement of machinery itself and therefore, treated the expenditure as capital in nature. Aggrieved, assessee came in appeal before the Tribunal.

5. We have heard rival contentions and gone through facts and circumstances of the case. We noted from the invoice that the spare parts purchased by assessee is consisting of Elite Compact set for

LMV LR 6/S Ring Spinning Frames and the description of machinery

to be converted is as under:-

Manufacturer and type	:	LMW LR 6/S
Spindle gauge	:	70 mm
Ring diameter	:	to be indicated
No.of spindles	:	1.008

In this very invoice, the German company i.e., Spindelfabrik Suessen GmbH noted that the spare parts are within the spinning mill and frame work of conversion.

- For EliTe® spinning, we recommend to use high-performance spinning rings.
- Worn rings should be replaced before the conversion.
- Pls ensure that the pressure on the front top roller is at least 16 kg.
- The travelling blower must be equipped with a special nozzle for the EliTe® Compact Set.
- It is the task of the mill to adjust the travelling blower. All renowned manufacturers of travelling blowers offer such nozzles.

It was the finding of the technical team that the following spares or components of the existing drafting system are reusable:-

- Top weighting arms with top rollers and complete cradles
- Bottom apron nose bar.
- Bottom apron tensioner with bottom aprons; it is recommended to install new synthetic bottom aprons.
- Back bottom rollers, front and knurled bottom rollers

Finally the proforma invoice also gave a birds view that this change in spindles or ring spinning frame will not give enduring benefit or it

will neither increase the capacity of the spinning mill. Following is the observations:-

“By the modernization of your ring spinning frame with the EliTe®Compact-Set, the mechanical limits of performance, as indicated by manufacturer of the frame, are neither impaired nor extended.”

5.1 We also noted from the invoice that the quantity of units is four sets. We noted that exactly on identical facts, the Co-ordinate Bench of this Tribunal in the case of DCIT vs. Prabhu Spinning Mills P Ltd., ITA No.603/Mds/2013, order dated 29.08.2013 has considered exactly identical issue and discussed the same compact spinning system and determined the nature of expenditure and Tribunal considered this issue vide para 12 as under:-

“12. Heard both sides. Perused the orders of lower authorities and the decision of the co-ordinate Bench of this Tribunal in the assessee’s own case for the earlier assessment year i.e. 2008-09. The Commissioner of Income Tax (Appeals) following the decision of Tribunal in the assessee’s own case for the assessment year 2007-08 in ITA No.1847/Mds/2011 dated 20.01.2012 allowed the claim of the assessee holding that expenditure on compact spinning system is allowable as revenue expenditure. We have gone through the order of the co-ordinate Bench of this Tribunal in the assessee’s own case for the assessment year 2008-09 in ITA No.593/Mds/2013 dated 9.7.2013, wherein similar issue has been considered and held in favour of the assessee observing as under:-

“6. We have heard the submissions made by the representative of both the sides and have perused the orders of the authorities below as well as the case laws relied on by the representatives of both the sides. We find that the issue in hand has already been adjudicated by the co-ordinate bench of the Tribunal in assessee’s own case for

the AY. 2007-08 in ITA No. 1847/Mds/2011 (supra) wherein the Tribunal has discussed in detail the process of Compact Spinning System to determine the nature of expenditure. The relevant extract of the order of the Tribunal is re-produced here in below:

“11. After cogitating the rival stands in the light of the obtaining evidence/facts/circumstances of the case, we have found that during the year the assessee-company had installed a new technology called ‘Compact Spinning System’. To understand the exact nature of this expenditure we have to examine the process involved in this case. The yarn from the stage of Simplex is sent to Drafting before spinning. The drafting system is situated in the ring frames. The conventional drafting system has been replaced with the latest, state-of-the-art gadget called ‘Compact Spinning’. After examining the relevant details, we have found that this is a single piece gadget which is fixed to each Spindle. It is not a ‘machinery’ by itself but only an ‘attachment to the machine’ (like manual analog wall clock is fixed with battery operated system). It has been claimed as revenue expenditure. The old drafting systems have become scrap on replacement. The Id. A.R has taken us through a set of colour photographs to illustrate the nature and working of this 'Compact Spinning System'. It is seen from the records [paper book page 5] that the assessee had purchased 33 number of ring frames and 18 ring frames fitted with gadgets. The company has purchased 18 number of sets, as one set is required for one ring frame. Thus, total number of gadgets for 18 ring frames comes to 20,736 and the rate per gadget so purchased comes to Rs. 4,079/-. We have seen the commercial invoices enclosed in the paper book and found the submission of the Id. A.R to be correct. We have found that during the year the assessee-company has installed new technology gadgets called 'Compact Spinning System'. The yarn from the stage of Simplex is sent through the Drafting for spinning by ring frames. The Drafting system is situated in the ring frames. The conventional drafting system is replaced with the latest, state of the art gadget called ‘Compact Spinning’. This is a single piece gadget and this is fixed to each spindles. Each gadgets cost Rs. 4,100/- each because the assessee has purchased 37,296 such gadgets in 37 sets[batches] for Rs. 15.39 crores. Thus, it is not a machinery by itself but only an attachment to the existing machine. We have understood that this gadget cannot function independently. It functions only and only if it is fixed in the spindles. Each ring frame comes with conventional drafting gadget as we have understood from the pictograph and photographs produced by the Id. A.R. Therefore, in order to

produce high quality of yarn, the conventional type is replaced with the latest, hi-tech gadget. It was brought to our notice and it was found for a fact that all the ring frames have not been replaced with the latest gadget. Only certain number of ring frames are fitted with this new gadget and the remaining continued to manufacture earlier quality of yarn catering to the requirement of lower strata of the society. Out of 50 ring frames, only 37 ring frames are fitted with this gadget and the remaining are running with conventional gadget. This fact was also found to be undeniable and to be correct. It was also found to be a fact that the old drafting systems simply become scrap on replacement and cannot be used again as such. We are convinced that the yarn normally contains 'hairy' substance like bristles on the side of the thread and when this yarn is sent through the 'Compact Spinning System', these hairy substances are removed and yarn gets a shining. Manufacturing premium quality of yarn which fetches higher price in the market and attracts high income group customers. We have also understood the need for installing these compact spinning systems because these are used in manufacture of T shirts and the manufacturers of T Shirts need such premium brand products. This change was necessitated to compete in the market and this step of the assessee cannot be taken as a surprise but has to be treated as taken in business exigency. When a question regarding life of these gadgets was put to the Id. A.R, he stated that each gadget itself consist of many small parts and each part is assembled together to have one single gadget so, they are subject to heavy wear and tear due to continuous running. It was brought to our notice with certitude that these gadgets require constant replacement almost after four years at the maximum”.

We find that the Tribunal while adjudicating the matter has also taken into consideration various case laws decided by the Hon'ble Supreme Court of India including Assam Bengal Cement Co. Ltd., Vs. CIT reported as 27 ITR 34 (SC); Empire Jute Co. Ltd., Vs. CIT reported as 124 ITR 1 (SC); Alembic Chemical Works Co. Ltd., Vs. CIT reported as 177 ITR 377 (SC); and the order of the Tribunal in the case of M/s. Vijayeswari Textiles Ltd., in ITA No. 963/Mds/2011 for AY. 2006-07 dated 23-08-2011. The co-ordinate bench of the Tribunal after discussing the facts of the case and the aforesaid decisions of the Hon'ble Apex Court came to the conclusion that the expenditure incurred by the assessee on introducing the Compact Spinning System is Revenue in nature and is thus an allowable expenditure.

7. Since the issue in hand is similar to the one decided by the Co-ordinate Bench of the Tribunal, we respectfully follow the decision of the Tribunal in assessee's own case for the AY. 2007-08, and dismiss this appeal of the Revenue holding the expenditure incurred by the assessee on introducing Compact Spinning System as Revenue Expenditure. Accordingly, the appeal of the Revenue is dismissed."

13. Respectfully following the decision of the co-ordinate Bench of this Tribunal, we reject the grounds of appeal of the Revenue."

5.2 Even this issue is considered by the Hon'ble High Court of Madras in the case of Super Spinning Mills Ltd., [2013] 357 ITR 720 and considered the replacement of machinery as revenue in nature by holding that the basic test is to find out whether expenditure is incurred to preserve and maintain already existing asset and said expenditure must not be incurred to bring any new asset into existence to obtain a new advantage. The expenditure is to be treated as revenue in nature. In the present case before us also the fact is that the assessee has replaced the spare parts which are regular repairs and maintenance because it is a routine replacement of spare parts. Even the Revenue has not administered how the replacement will bring enduring benefit to the assessee. Hence, respectfully following the Co-ordinate Bench decision in the case of Prabhu Spinning Mills, *supra* and the decision of Hon'ble Madras

High Court in the case of Super Spinning Mills Ltd., *supra*, we allow the claim of assessee and reverse the orders of lower authorities.

6. In the result, the appeal filed by the assessee is allowed.

Order pronounced in the open court on 24th August, 2022 at Chennai.

Sd/-

(मनोज कुमार अग्रवाल)

(MANOJ KUMAR AGGARWAL)

लेखा सदस्य /ACCOUNTANT MEMBER

Sd/-

(महावीर सिंह)

(MAHAVIR SINGH)

उपाध्यक्ष /VICE PRESIDENT

चेन्नई/Chennai,

दिनांक/Dated, the 24th August, 2022

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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