

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'A' BENCH, CHENNAI
श्री वी दुर्गा राव न्यायिक सदस्य एवं श्री जी. मंजुनाथा, लेखा सदस्य के समक्ष
Before Shri V. Durga Rao, Judicial Member &
Shri G. Manjunatha, Accountant Member

आयकर अपील सं./I.T.A. No.209/Chny/2022
निर्धारण वर्ष/Assessment Year: 2017-18

The Assistant Commissioner of
Income Tax,
Corporate Circle 3(1),
Chennai 600 034.

Vs. M/s. Shriram Transport Finance
Company Limited,
No. 4, 2nd Floor, Mookambika Complex,
Lady Desika Road, Mylapore,
Chennai 600 004.

[PAN:AAACS7018R]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Shri AR. V. Sreenivasan, Addl. CIT
: Shri S. Gautham, Advocate for Shri R.
: Sivaraman, Advocate

सुनवाई की तारीख/ Date of hearing
घोषणा की तारीख /Date of Pronouncement

: 25.08.2022
: 30.08.2022

आदेश /O R D E R

PER V. DURGA RAO, JUDICIAL MEMBER:

This appeal filed by the Revenue is directed against the order of the Id. Commissioner of Income Tax (Appeals) 15, Chennai, dated 22.09.2020 relevant to the assessment year 2017-18. The only effective ground raised in the appeal of the Revenue relates to deletion of disallowance of royalty claim of ₹.82,16,52,689/-.

2. The appeal filed by the Revenue is delay by 481 days in filing the

appeal. The Assessing Officer has filed an affidavit towards condonation of delay in filing the appeal by stating that the delay is within the lockdown extended period allowed by the Hon'ble Supreme Court due to outbreak of Covid-19 pandemic. The Id. Counsel for the assessee has not raised any serious objection. Since the Revenue was prevented by reasonable cause, the delay of 481 days in filing the appeal before the Tribunal is condoned and admitted the appeal for adjudication.

3. Brief facts of the case are that the assessee M/s. Shriram Transport Finance Company Limited filed its return of income for the assessment year 2017-18 on 30.10.2017 declaring total income of ₹.2086,53,37,720/-. The return filed by the assessee was processed under section 143(1) of the Income Tax Act, 1961 ["Act" in short]. Thereafter, the case was selected for scrutiny through CASS under complete category and notice under section 143(2) of the Act was issued on 21.08.2018. The Assessing Officer has completed the assessment under section 143(2) of the Act on 31.12.2019 determining total income of ₹.2168,69,90,409/- after making disallowance of royalty paid and claimed by the assessee at ₹.82,16,52,689/-.

3.1 With regard to the disallowance of royalty paid, the assessee has

claimed an amount of ₹.109,55,36,919/- as royalty paid to Shriram Ownership Trust, which was classified as payment to related party. The assessee was requested to explain the purpose of this royalty payment and justification for the same and as to why it should not be treated as capital in nature as per provisions of section 32 of the Act. After considering the submissions of the assessee, the Assessing Officer has observed that since the Department has not accepted the decision of the ITAT in assessee's own case for earlier assessment years and preferred further appeal before the Hon'ble Madras High Court, the payment of royalty was disallowed to the extent of ₹.82,16,52,689/- after allowing depreciation on royalty @ 25% of ₹.27,38,84,230/-. On appeal, by following the decision of the ITAT in assessee's own case for earlier assessment years, the Id. CIT(A) deleted the disallowance of royalty payment.

4. Aggrieved, the Revenue is in appeal before the Tribunal. By referring to the grounds of appeal, the Id. DR has submitted that the Department has not accepted the decision of the ITAT in assessee's own case for earlier assessment years and preferred further appeal before the Hon'ble Madras High Court and pleaded that the order of the Id.CIT(A) on this issue may be reversed.

5. On the other hand, the Id. Counsel for the assessee has submitted that the issue involved in this appeal is squarely covered in favour of the assessee by the decision of the Tribunal in assessee's own case for earlier assessment years and prayed for following the same.

6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including decisions of the Tribunal filed by the assessee. We find that the issue was squarely covered by the decision of the Co-ordinate Bench of this Tribunal in assessee's own case in ITA No.2893/Mds/2016, vide order dated 05.05.2017, wherein, following the decision of Co-ordinate Bench of this Tribunal in ITA No.406/Mds/2016 dated 29.07.2016, the Tribunal has held as follows:-

“10. We have considered the rival submissions on either side and also perused the material available on record. Shriram Ownership Trust is a Trust by itself, therefore, its logo cannot be used by any other concern. The object of the Trust is not to do business. The assessee-company was established for the purpose of business. When the assessee company used the logo belongs to Shriram Ownership Trust, this Tribunal is of the considered opinion that for the purpose of using the logo, the assessee has to necessarily make the payment. In the case before us, the payment was made on turnover basis, therefore, the same has to be allowed as revenue expenditure u/s 37(1) of the Act. This Tribunal do not find any reason to interfere with the order of the CIT(A) and accordingly, the same is confirmed.”

6.1 Moreover, similar issue was subject matter in appeal before the Tribunal in assessee's group case in the case ACIT v. Shriram City Union Finance Ltd. in I.T.A. No. 433/Chny/2021 dated 29.07.2022, wherein, by following the decision of the Tribunal in assessee's own case for the

assessment year 2016-17 in I.T.A. No.2007/Chny/2019 as well as in the case of DCIT v. Shriram City Union Finance Limited in I.T.A. No. 2009/Chny/2019 vide order dated 22.10.2019 decided the issue against the Revenue, in which, the Tribunal has observed and held as under:

“6. We have heard both the sides, perused the materials available on record and gone through the orders of authorities below including decisions of the Tribunal filed by the assessee. Similar issue on an identical fact was subject matter in appeal before the Tribunal for the assessment year 2016-17 in I.T.A. No.2009/Chny/2019 vide order dated 22.10.2019, wherein, the Tribunal has observed and held as under:

“7. We have heard the rival contentions and perused the material available on record. A perusal of the order of the Tribunal dated 24.05.2018 referred to supra shows that the Tribunal has followed the decision of the Co-ordinate Bench of the Tribunal in ITA No.728/Mds./2016 for assessment year 2012-13. The relevant portion of Revenue’s appeal in ITA No.728/Mds/2016 dated 24.08.2016 for assessment year 2012-13 in the case of M/s Shriram Transport Finance Co. Ltd., is extracted as under:-

26. The next ground of appeal is with regard to addition made on account of royalty to the extent of Rs.13,75,69,684/-.

27. Dr. U. Anjaneyalu, the Ld. Departmental Representative, submitted that the Assessing Officer made an addition of Rs.15,72,22,496/- paid to Shriram Ownership Trust. The Assessing Officer treated the same as capital expenditure and allowed depreciation at the rate of 12.5%. According to the Ld. D.R., the payment made to Shriram Ownership Trust towards royalty is nothing but a capital expenditure, therefore, the Assessing Officer has rightly allowed depreciation. Hence, according to the Ld. D.R., the CIT(Appeals) is not justified in deleting the addition made by the Assessing Officer.

28. On the contrary, Shri R. Sivaraman, the Ld. Counsel for the assessee, submitted that the assessee-Trust was using Logo of Shriram Ownership Trust for its business and paid royalty. According to the Ld. counsel, Shriram Ownership Trust is a separate entity. For using its Logo in the business of the assessee, a payment needs to be made and the assessee is

not purchasing the Logo. What was obtained by the assessee is only the right to use Logo. Therefore, according to the Ld. Counsel, it cannot be treated as capital expenditure.

29. We have considered the rival submissions on either side and perused the relevant material available on record. What was paid by the assessee is for the right to use the Logo belonging to Shriram Ownership Trust. When the assessee made payment for use of right, this Tribunal is of the considered opinion that the same cannot be treated as capital expenditure. Therefore, the CIT(Appeals) has rightly found that the payment made by the assessee is in the revenue field. In fact, similar addition made by the Assessing Officer for the assessment year 2002-03 was deleted by this Tribunal. The CIT(Appeals) by placing reliance on the order of this Tribunal in Shriram Tamil Nadu Pvt. Ltd., allowed the claim of the assessee. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

As it is noticed that the issue in the Revenue's appeals is now squarely covered by the decision of the Tribunal in assessee's own case for the earlier assessment years, respectively following the decision of the Co-ordinate Bench of the Tribunal, the findings of the ld.CIT(A) on this issue is confirmed."

6.2 The ld. DR could not controvert the above decisions of the Tribunal by filing any higher Court's decision having modified or reversed the order of the Tribunal. Respectfully following the above decision of the Tribunal, the ld. CIT(A) has rightly deleted the disallowance made by the Assessing Officer towards payment of royalty. Thus, we find no reason to interfere with the order passed by the ld. CIT(A). Accordingly, the ground raised by the Revenue is dismissed.

Respectfully following the decision of the Tribunal, the Id. CIT(A) has rightly deleted the addition towards disallowance of payment of royalty made by the Assessing Officer. Thus, we find no infirmity in the order passed by the Id. CIT(A) on this issue. Accordingly, the ground raised by the Revenue is dismissed.

7. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 30th August, 2022 at Chennai.

Sd/-
(G. MANJUNATHA)
ACCOUNTANT MEMBER

Sd/-
(V. DURGA RAO)
JUDICIAL MEMBER

Chennai, Dated, 30.08.2022

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy 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.