IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C' : NEW DELHI

BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER

ITA No.2387/DEL/2022
(Assessment Year: 2017-18)

ITA No.2388/DEL/2022
(Assessment Year: 2018-19)

Krishna Maruti Limited, B – 5, Chirag Enclave, New Delhi – 110 048.	vs.	ACIT, Central Circle 25, New Delhi.

(PAN : AAACK1316N)

(APPELLANT) (RESPONDENT)

ASSESSEE BY : Shri Mohit Gupta, CA
Shri Neeraj Singh, CA
Shri Nitin Sharma, CA
REVENUE BY : Ms. Indu Bala Saini, Sr. DR

Date of Hearing : 01.04.2024
Date of Order : 03.04.2024

ORDER

PER SHAMIM YAHYA, ACCOUNTANT MEMBER :

These appeals by the assessee are directed against the orders of the ld. CIT (Appeals)-29, New Delhi both dated 28.07.2022 for the assessment years 2017-18 & 2018-19.

2. One issue raised in ITA No.2387/Del/2022 read as under :-

> "On the facts and circumstances of the case, the Ld. CIT (A) has erred, both on law and facts, in confirming disallowance of expenses amounting to INR 60,53,665/- by invoking the

> provision of section 14A of the Act without appreciating the fact that assessee has earned exempt income amounting to INR 11,138/- during the AY 2017-18 and no expense has been incurred to earn such exempt income. Also, assessee has suo-moto disallowed expenses to the extent exempt income earned during the year."

3. At the outset, in this case, ld. Counsel for the assessee submitted that assessee has suo-moto disallowed exempt income earned amounting to Rs.11,138/- but the authorities below have ignored the same and made disallowance under section 14A of the Income-tax Act, 1961 read with Rule 8D amounting to Rs.60,53,665/-. Ld. Counsel for the assessee pleaded that Hon'ble Delhi High Court in the case of Cheminvest Ltd. vs. CIT - (2015) 378 ITR 33 (Delhi) has held that disallowance under section 14A should be restricted to the exempt income earned. Since the exempt income earned has already been offered for tax by the assessee, no disallowance in this regard is called for. Accordingly, following the above precedent, we set aside the orders of the authorities below and decide the issue in favour of the assessee.

4. One common ground raised in both the appeals is that ld. CIT (A) has erred in confirming the disallowance of depreciation on account of allowance of depreciation @ 15% instead of depreciation claimed by the assessee @ 30% on Canter used for supply of goods to customers.

5. Brief facts of the case are that the Assessing Officer has made disallowance being excess 15% depreciation claimed by the assessee on canters of the assessee. In the depreciation chart prepared as per the Income

Tax Act, the assessee has claimed depreciation @ 30% on vehicle canter. These canters are used to transport auto components manufactured by the assessee company to the buyer of its products, M/s. Maruti Suzuki India Ltd. The AO made the disallowance on the ground that the assessee was not engaged in the business of running the vehicles on hire. Hence, he has allowed depreciation on canters @ 15% instead of 30% as claimed by the assessee. The assessee has submitted that its substantial sale was to M/s. Maruti Suzuki India Ltd. and that the canters were specially designed trucks made to carry goods/components to Maruti Suzuki India Ltd.

6. Upon assessee's appeal, ld. CIT (A) confirmed the addition.

7. Against the above order, assessee is in appeal before us. We have heard both the parties and perused the records. We note that further findings of the ld. CIT (A) read as under :-

> "As per I.T. Rules 1962 the higher rate of depreciation of 30% is admissible in respect of motor buses, motor lorries and motor taxis used in a business of running them on hire by the assessee. Thus the higher rate of depreciation of 30% is applicable only when the vehicles are used in the business of running them on hire. In this case, the vehicles owned by the appellant are being used to supply the goods manufactured by the appellant to its customers. There is no Agreement to Hire signed by the appellant with the purchasers to give on hire its canters to the purchasers of its goods. Also it is important to note that there is no Hire Income shown in the Profit & Loss account of the appellant to reflect that Hire Charges have been received by its. Further, since no Hire charges have been paid by the purchasers of the appellants goods no TDS has been deducted on the said Hire charges. The appellant is a manufacturer of auto parts supplying goods to OEMs. It is not engaged in the business of running the vehicles on hire. The canters are not used to carry

the goods of others and hence no hire charges have been derived for use of the canters."

8. We find that authorities below have passed reasonable order. It is undisputed that vehicles used are not hired for running but were used for assessee's own business. There is no hire income shown in the profit and loss account to reflect any hire charges received. In these circumstances, in our considered view, authorities below have passed well-reasoned order which does not require any interference on our part. Accordingly, we affirm the same on this issue.

9. In the result, the appeal being ITA No.2387/Del/2022 is partly allowed and the appeal being ITA No.2388/Del/2022 is dismissed.

Order pronounced in the open court on this 3rd day of April, 2024.

Sd/-	**sd/-**
(YOGESH KUMAR U.S.)	**(SHAMIM YAHYA)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated the 3rd day of April, 2024
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Copy forwarded to:

1.Appellant
2.Respondent
3.CIT
4.CIT (A)-29, New Delhi.
5.CIT(ITAT), New Delhi.

AR, ITAT
NEW DELHI.