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

BEFORE,
SHRI S.RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER

ITA No.4885/Del/2018
(ASSESSMENT YEAR 2014-15)

Addl. CIT Special Range-7 New Delhi-11002	Vs.	M/s Quippo Oil and Gas Infrastructure Ltd. D-2, 5th Floor, Southern Park, Saket New Delhi-110017 PAN-AAACQ1278P
(Appellant)		**(Respondent)**

Assessee by	Ms Alka Arren, CA
Respondent by	Sh. P.N. Barnwal, CIT-DR

Date of Hearing	25/04/2024
Date of Pronouncement	03/05/2024

ORDER

PER S.RIFAUR RAHMAN, AM:

This appeal has been filed by the Revenue against the order of Learned Commissioner of Income Tax (Appeals)-7, New Delhi ["Ld. CIT(A)", for short], dated 09/04/2018 for Assessment Year 2014-15.

2. The brief facts of the case are, the assessee filed its return of income on 29/11/2014 declaring loss of Rs.16,99,622/-, and subsequently processed u/s 143(1) of the Income Tax Act ('the Act'

for short). The case was selected for scrutiny under CASS and statutory notices u/s 143(2) and 142(1) along with a questionnaire were issued and served on the assessee. In response, the Authorized Representative of the assessee attended and submitted the information as called for.

3. The assessee is a company engaged in the business of providing drilling rigs equipment's and other related services to oil and gas industries for the purpose of exploration and extraction of mineral oil. During the assessment proceedings, the Assessing Officer observed that the assessee has claimed mobilization expenses and for which no TDS was made and, accordingly, he disallowed the same (this issue is not under appeal). The Assessing Officer further observed that assessee has claimed depreciation @ 60% on computer allied accessories amounting to Rs.2,40,35,725/. Further, he observed that on examination of the repair and maintenance expenses, the assessee has claimed an amount of Rs.9,45,14,956/- and observed that an amount of Rs.5,57,93,040/- was claimed for Repairs and Maintenance of machinery, according to him, which is to be capitalized. Therefore, he capitalized the

above amount and allowed the depreciation @ 15% on the above said amount and the net amount of Rs.4,74,24,084/- is added to the income of the assessee.

4. Aggrieved with the above order, the assessee preferred an appeal before the Ld. CIT(A) and before Ld. CIT(A) the assessee has made a detailed submissions and submitted that the issues under consideration relating to depreciation on oil rigs and computers. The issue of capitalization of repairs and maintenance are covered issue in favour of the assessee by the earlier decision of First Appellate Authority. The Ld. CIT(A) has allowed the grounds raised by the assessee by following the appellate order in assesse's own case.

5. Aggrieved with the above order, the Revenue is in appeal before us, raising the following grounds of appeal:

> *"1. (a) "On the facts and under the circumstances of the case, Ld. CIT(A) has erred in law and facts in deleting the disallowance of Rs. 1,08,16,075/- made on account of depreciation claimed by the assessee at a higher rate by not correctly interpreting the provisions of section 32 of the Income Tax Act, 1961 on the facts and the circumstances of the case.*
>
> *(b) by not correctly appreciating the facts that the assessee is not in the business of drilling operation in oil field of mineral oil, but actually is in the business of providing plant and machinery on hire only.*

(c) by incorrectly relying on the decision of CIT vs. HLS India Ltd., the facts of which are not squarely applicable in the instant case of the assessee company.

2. "On the facts and under the circumstances of the case, Ld. CIT(A) has erred in law and facts in deleting the addition of Rs. 4,74,24,084/- on account of repair and maintenance charges capitalization without appreciating the fact that expenditure incurred was for improving the capacity of assets which bestowed upon the assessee a benefit of an enduring nature.

3. The appellant craves to be allowed to add and alter any fresh ground(s) of appeal and/or delete or amend any of the ground(s) of appeal."

6. At the time of hearing, the Ld. DR brought to our notice the relevant facts on record from the assessment order and also objected to the findings of the First Appellate Authority. With regard to issue of depreciation, she submitted that the assessee has claimed depreciation on computer allied accessories, therefore, the assessee cannot claim the deprecation @ 60%. By considering the same as computer, she submitted that the depreciation allowed for computer and allied accessories are different. She supported the findings of the Assessing Officer.

7. With regard to the issue of capitalization of repairs and maintenance expenses, the Ld. DR fairly accepted that the issue under consideration is covered in favour of the assessee.

8. On the other hand, the Ld. AR brought to our notice the depreciation schedule under Companies Act as well as Income Tax Act which are part of Paper Book filed before the Lower Authorities as well as in the appeal memo. She submitted that the depreciation claimed by the assessee is not for computer allied accessories whereas the depreciation schedule clearly shows that the deprecation claimed by the assessee for the assets forming part of block of assets which consists of oil rigs and the computers installed by the assessee. Both these assets are falling under the rate of 60% forming part of this block assets.

9. With regard to depreciation on drilling rigs, she submitted that this issue is covered in favor of the assessee and she submitted that a chart indicating a various decisions of Co-ordinate Bench and also jurisdictional Hon'ble High Court which is placed on record. With regard to depreciation on computer, she submitted that deprecation on computers are always remains at 60% and the rate of depreciation is common for oil rigs and computer. Both these assets are shown in one block of assets.

11. With regard to issues of disallowance of Repairs and Maintenance Expenses, she submitted that this issue is also covered in favour of the assessee in assessee's own case by the Hon'ble ITAT, Delhi Benches. She brought to our notice the relevant decision which is filed in the form Paper Book.

12. Considering the rival submissions and material places on record, we observe that the issue under consideration relating to disallowances of depreciation @ 60%, we observed that the block of assets consists of Oil drilling rigs and computers, since this block falls under rate of depreciation @ 60%. The assessee has grouped the above assets in one block and claimed the depreciation @ 60%. The Assessing Officer wrongly observed that the deprecation claimed by the assessee is for computer allied accessories. The deprecation schedule filed by the assessee clearly shows that this block consists of two types of assets viz. oil drilling rigs and computers. With regards to depreciation of oil rigs the issue is fairly covered in favour of the assessee in the recent decision of Co-ordinate Bench of ITAT, Delhi in ITA No.3554/Del/2018 dated 23/03/2023. For the sake of clarity, it is reproduced below:

*"9. **The Ground No. 1** is regarding deletion of disallowance of higher depreciation on Oil drilling rigs given on hire. The assessee had claimed depreciation of Rs.4,02,38,373/- at 60% on oil drilling rigs classifying them as plant used for extracting mineral oil as per entry at Part Alll-(8) (xii) of New Appendix I of the Income Tax Rules, 1962. The A.O. disallowed the excess of Rs. 3,01,78,780/-on the ground that the assessee is not a mineral oil concern. In appeal, the Ld.CIT(A) by relying on the decision of the Hon'ble Delhi High Court in the case of CIT vs. HLS India Ltd. (2011) 335 ITR 292 (Del.) and also order of the assessee's own case in earlier years, deleted the addition made by the A.O.*

10. For the purpose of claiming the deprecation u/s 32 of the Act, following two conditions need to be satisfied:-

(i) The assets must by owned by the assessee.
(ii) The assets must be used for the purpose of business or profession.

In the instant case, both the above conditions are duly satisfied since the oil rigs being plant of 'specific category' are owned by the assessee and further it is used in drilling operations for the purpose of exploration and extraction of mineral oil in the field of mineral oil concerns.

11. The Hon'ble Jurisdictional High court in the case of CIT Vs. HLS India Ltd. (2011) 335 ITR 292 (Del) held as under:-

> *"Depreciation allowance is a kind of tax benefit which is given to the business concerns for promotion of business activities in any particular field of business. In the instant case depreciation is allowable to mineral oil concerns 100% on the equipments used below the earth surface. If the same depreciation is not allowed to other business concerns on the ground that the owner of these equipments is not a mineral oil concern but it is just providing an assistance or leasing these equipments to a mineral oil concern then definitely this "other concern will charge more for these services and consequently the mineral oil concerns will be commercially forced not to outsource wireline logging activities to other companies but to do it themselves".*

12. Further, the above order of the Hon'ble High Court of Delhi has been challenged by the Department in SLP No. 2723/2012 which has been dismissed by the Hon'ble Supreme Court. Thus, by respectfully following the above decisions, we do not find error in the order of the Ld.CIT(A) in deleting the above addition. Accordingly, we dismissed the ground no. 1 of the Revenue."

Respectfully following the above decision, we are inclined to allow the grounds raised by the assessee.

13. With regard to depreciation on computers, we observed that the assessee has installed computer which are forming part of this block of assets claiming depreciation @ 60%, therefore, as per Income Tax Act, depreciation on computers are allowed @ 60%, therefore, there is nothing wrong in claiming the depreciation on computer @ 60% by the assessee. Accordingly, this issue also decided in favour of the assessee.

14. With regard to the issue of disallowance of Repairs and Maintenance Expenses, we observed that this issue also raised by the Revenue also covered in favour of the assessee in the recent decisions of the Co-ordinate Bench of ITAT, Delhi in ITA Nos.3886/Del/2015, 3887/del/2015 and 2027/Del/2017. For the sake of clarity, the decision of the Co-ordinate Bench in ITA No.3886/Del/2015 are reproduced below:

> *"13. We have carefully considered the rival submissions. The assessee-company is engaged in providing plants and machinery, mobile drilling rigs, equipment and other related services to oil and gas industry. The assessee during the year has entered into contract with Jubilant Oil and*

Gas Pvt. Ltd. On perusal of the terms of the contract, it was observed that while the payment terms are clearly specified and there does not appear to be any reimbursement of expenses relating to repair and maintenance specified therein. There is no dispute that expenses have been actually incurred towards repair and maintenance. The only dispute is whether such expenditure are eligible for deduction or being capital in nature. At this juncture, we take note of the plea of the assessee that there is no reimbursement of expenses and such expenses are integral part of the execution of the contract as demonstrated. Hence, the expenditure incurred requires to be set off against the revenue income arising from contract as per rudimentary principles of accountancy. The assessee has taken a plea that no new asset is created or no benefit of enduring nature has been derived. We do not see any rebuttal on this score from the revenue. The Assessing Officer has merely proceeded on a hypothesis of such expenditure being capital in nature without showing any justifiable grounds for doing so. The Assessing Officer has capitalized such expenditure without showing any reasonable grounds. On the contrary, we find merit in the conclusion drawn by the CIT(A) holding the same to be revenue expenditure on the face of such tell-tale facts. In the absence of any merits in the plea of the revenue, we decline to interfere with the order of the CIT(A).”

Respectfully following the above decision, we are inclined to dismiss the grounds raised by the Revenue.

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

Order pronounced in open Court on 3rd May, 2024.

Sd/-	Sd/-
(VIMAL KUMAR)	**(S.RIFAUR RAHMAN)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated: 03/05/2024
Pk/sps

Copy forwarded to:
1. Appellant
2. Respondent
3. CIT

4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI