

**IN THE INCOME TAX APPELLATE TRIBUNAL
“G” BENCH, MUMBAI**

**BEFORE MS PADMAVATHY S, AM &
SHRI RAJ KUMAR CHAUHAN, JM**

**I.T.A. No. 1072/Mum/2024
(Assessment Year: 2020-21)**

SVC Co-operative Bank Ltd. SVC Tower, Nehru Road, Santacruz (East), Mumbai-400055. PAN : AAAAT0177C	Vs.	ACIT Circle-1(3)(1), Room No. 535, 5 th Floor, Aayakar Bhavan, M.K. Road, Mumbai-400020.
Appellant)	:	Respondent)

Appellant/Assessee by : Shri Rajeev Waglay, Advocate
Revenue/Respondent by : Shri Dr. Kishor Dhule, CIT-DR

Date of Hearing : 13.06.2024
Date of Pronouncement : 18.06.2024

ORDER

Per Padmavathy S, AM:

This appeal is against the order of assessment passed by the Commissioner of Income Tax/ National Faceless Appeal Centre, Delhi [for short 'CIT(A)] dated 26.02.2024 for the AY 2020-21. The only grievance raised by the assessee through various grounds of appeal is the disallowance of depreciation on the ground that the assessee has not submitted the evidences to support the purchase of assets.

2. The assessee is a co-operative bank engaged in the business of banking. The assessee filed the return of income for AY 2020-21 on 12.02.2021 declaring a total income of Rs. 120,42,99,680/-. The case is selected for scrutiny under CASS and the statutory notices were duly served on the assessee. The Assessing Officer (AO) during the course of assessment noticed certain discrepancies in the Written Down Value (WDV) as per Form-3CD of intangible assets and called on the assessee to furnish the relevant details. After perusing the details furnished by the assessee the AO held that the assessee could not substantiate the purchase of new software amounting to Rs. 22,41,94,613/- and therefore, the depreciation claimed on the same amounting to Rs. 7,96,37,194/- cannot be allowed as a deduction and accordingly made addition to the income returned by the assessee.

3. Aggrieved, assessee filed further appeal before the CIT(A). Before the CIT(A) the assessee submitted invoices and other documentary evidences in support of the purchase of software as additional evidence under Rule 46A of the Income Tax Rules, 1962 (the Rules). The CIT(A) admitted the additional evidence and called for remand report from the AO. However, the AO did not furnish any remand report and therefore, the CIT(A) treated the AO does not have any objection of the additional evidence and nor has any comments on the merits. The CIT(A) perused the additional evidences in detail and gave partial relief to the assessee by upholding the disallowance of depreciation to the extent of Rs. 30,85,360/-. The relevant findings of the CIT(A) are extracted below:

“7.9 On examining all the documentary proof in the form of invoices/bills submitted by the appellant in its submissions during the course of appellate proceedings evidencing purchase/development of software of Rs. 22,42,56,613/- during the year under consideration, it is found that appellant has still failed to provide supporting invoices/bills in respect of following amounts of addition to software despite affording multiple opportunities during the appeal proceedings:-

<i>Date</i>	<i>Amount (in Rs.)</i>	<i>Vendor</i>
26-Jul-2019	12,07,500	Essen Vision Software Ltd.
11-Oct-2019	17,50,000	AGS Transact Technologies Pvt. Ltd.
07-Nov-2019	1,25,000	AGS Transact Technologies Pvt. Ltd.
31-Mar-2020	30,49,950	Essen Vision Software Ltd.
31-Mar-2020	38,81,392	Pentagon System & Services Pvt. Ltd.
1-Jul-2019	23,27,600	Software for Bank's New Website
Total	1,23,41,442	

Therefore, total value of the intangible asset in the form of software purchased by the appellant during the FY 2019-20 is restricted to Rs. 21,19,15,171/- (Rs. 22,42,56,613/- minus 1,23,41,442/-). As the appellant failed to authenticate the alleged software purchases of Rs. 1,23,41,442/- during both the assessment and appellate proceedings, no depreciation @25% thereon amounting to Rs.30.85,360/- can be allowed to the appellant in respect of the said amount. Therefore, the disallowance of depreciation on intangible assets (software) made by the AO at Rs. 7,96,37,194/- in the impugned assessment order is hereby confirmed to the extent of Rs. 30,85,360/- and the balance disallowance of Rs. 7,65,51,834/- is hereby deleted.”

4. The Id. AR submitted that the assessee has furnished the supporting document for the entire purchase of software and that the CIT(A) inadvertently missed to consider certain invoices. The Id. AR drew our attention to the details of invoices which were failed to be considered by the CIT(A) in page 5 of Paper Book (PB) as detailed below:

Sr. No.	Date	Amount	Name	Submitted on
1	07.10.2019	1,25,000	AGS Transact Technologies Pvt. Ltd.	25.08.2023 before CIT(A)
2	31.03.2020	38,81,392 (40% of base invoice value of Rs. 97,03,481)	Pentagon System & Services Pvt. Ltd.	10.01.2024 before CIT(A)
3	26.07.2019	50,49,950 (Excluding GST) (Wrongly mentioned as 30,49,950 by CIT(A))	Essen Vision Software Pvt. Ltd.	10.01.2024 before CIT(A)
4	26.07.2019	12,07,500	Essen Vision Software Pvt. Ltd.	17.02.2024 before CIT(A)
5	01.07.2019	23,27,600	Goldmine	17.02.2024 before

			Advertising Ltd.	AO
6	11.10.2019	17,50,000	AGS Transact Technologies Pvt. Ltd.	17.02.2024 before AO

5. Accordingly, the Id. AR prayed that no disallowance of depreciation is warranted on the ground that the purchases were not substantiated by the assessee since the assessee has furnished the supporting evidence for the entire additions made to software.

6. The Id. DR on the other hand supported the orders of the lower authorities.

7. We have heard the parties and perused the material available on record. During the course of assessment, the AO disallowed the depreciation on intangible asset for the reason that the assessee did not produce any evidence to support the purchase of software. The CIT(A) based on additional evidences submitted by the assessee gave partial relief to the assessee and upheld the disallowance of depreciation on intangible asset which according to the CIT(A) were not supported by the documentary evidence. From the perusal of the table containing details of invoices submitted before the CIT(A)/AO as extracted above we notice that the assessee has submitted the supporting documents for the list of additions which the CIT(A) held as not furnished (refer table from CIT(A)'s order). Therefore, we see merit in the submission of the assessee that the evidences for entire additions to software purchase were submitted by the assessee and that the CIT(A) has omitted to consider a part of the invoices submitted. However, in our view the bills which have been omitted to be verified by the CIT(A) needs to be examined for determining the allowability of the depreciation on the same. Therefore, we remit the issue of verification of the balance list of invoices, as tabulated in the paper book supporting the purchase of software, back to the CIT(A) with a direction to

examine the same and allow the depreciation in accordance with law. Needless to say that the assessee be given an opportunity of being heard. It is ordered accordingly.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 18-06-2024.

Sd/-
(RAJ KUMAR CHAUHAN)
Judicial Member

**SK, Sr. PS*

Sd/-
(PADMAVATHY S)
Accountant Member

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai