

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME-TAX APPELLATE TRIBUNAL 'C' BENCH, CHENNAI
श्री एसएस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखा सदस्य के समक्ष ।
Before Shri S.S. Viswanethra Ravi, Judicial Member &
Shri Jagadish, Accountant Member

आयकर अपील सं./I.T.A. No.910/Chny/2024
निर्धारण वर्ष/Assessment Years: 2014-15

Hi-Style India private Limited,
1652 G, 2nd Avenue, Anna Nagar,
Chennai 600 040.

Vs. The Deputy Commissioner of
Income Tax,
Corporate Circle 2(2),
Chennai.

[PAN: AACCH2545L]

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri Babu Peram, C.A.

प्रत्यर्थी की ओर से/Respondent by : Ms. R. Anita, Addl. CIT

सुनवाई की तारीख/ Date of hearing : 14.08.2024

घोषणा की तारीख /Date of Pronouncement : 21.08.2024

आदेश /O R D E R

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER:

This appeal filed by the assessee is directed against the order dated 06.02.2024 passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre [NFAC], Delhi for the assessment year 2014-15.

2. The assessee raised 2 grounds of appeal amongst which, the only issue emanates for our consideration is whether the Id. CIT(A) is justified

in confirming the order of the Assessing Officer in denying depreciation in the facts and circumstances of the case.

3. The assessee is a company engaged in the business of garments and other accessories. The assessee conducts its business under the name and style of M/s. Hi-Style India Private Limited. Originally, the assessee filed its return of income declaring a total income of ₹.91,88,120/-, wherein, the Assessing Officer completed the assessment under scrutiny determining the income of the assessee at ₹.93,07,680/- vide order dated 05.12.2016 passed under section 143(3) of the Income Tax Act, 1961 ["Act" in short], which was confirmed by the Id. CIT(A).

4. The Id. AR Shri Babu Peram, C.A. submits that the nature of business of the assessee is sale of high end branded readymade garments and its accessories for men and women in reasonably decorated showrooms which are obtained on lease basis for 3 – 5 years. The assessee improves the said leased premises by interior decoration like false-ceiling, racks, electrical light fittings, painting, partitions and change of flooring, etc. and expects life of the said items from 1 to 5 years and accordingly writing off the total expenditure at 20% ascertaining the life of expenditure incurred between 3 – 5 years. Further, he submits that the said items of interior decoration cannot be removed and it does not

fetch any value. He vehemently argued that the assessee is following the same method of write-off of 20% in the earlier years as well as the year under consideration. He submits that the Assessing Officer, in the year under consideration as well as in the earlier years, the same method was accepted by the Revenue, but, as per direction under section 263 of the Act, the Assessing Officer disallowed the expenditure in part. The Id. AR drew our attention to the decision of the Hon'ble Madras High Court in the case of CIT v. Ayesha Hospital P. Ltd. 292 ITR 266 (Mad) and argued that the Hon'ble High Court of Madras confirmed the order of the Tribunal in holding the expenditure incurred towards painting, re-laying of the damaged floors, partitions, etc. are revenue expenditure. Further, he drew our attention to the decision of the Hon'ble Supreme Court in the case of CIT v. Madras Auto Services P. Ltd. 233 ITR 468 (SC) and argued that the amount spent on leased premises is revenue expenditure. Further, he referred to another decision in the case of CIT v. Amrutanjan Finance Ltd. [2011] 15 taxmann.com 392 (Mad.), wherein, the Hon'ble Madras High Court held that the assessee therein is entitled to 100% depreciation on false-ceiling and wooden partition inclusive of furniture, electrical wiring and interior decoration and relevant portions in the said order are reproduced herein below:

The Revenue is on appeal against the order of the Tribunal relating to assessment year 1998-99. Even though the above Tax Case Appeal is admitted only on the first substantial question of law, out of the two questions raised, we feel that as the grounds are comprehensive and for the proper consideration of the questions raised, in terms of proviso to sub clause (4) of Section 260A of the Income Tax Act, the second question of law raised also merits consideration. Hence, the substantial questions of law raised in the Tax Case Appeal read as under:-

(i) Whether in the facts and circumstances of the case, the Tribunal was right in allowing 100% depreciation on partitions and structures even though the assessee had not been in a position to establish that the same were temporary in nature?

(ii) Whether in the facts and circumstances of the case, the Tribunal was right in remitting the issue of admissibility of deduction of non performing assets and diminution in the value of investments back to the officer when such a claim of deduction is not contemplated under the provisions of the Income Tax Act?

2. Both the counsel submitted that the claim as regards 100% depreciation on partition and structures is covered by the decision of this Court in T.C.No.197 of 2005 dated 26.7.2011 (M/s.Thiru Arooran Sugars Ltd., Chennai-34 Vs. The Deputy Commissioner of Income-tax, Special Range-VII, Chennai), wherein, rejecting the claim of the Revenue, this Court upheld the order of the Tribunal that the temporary structure by means of false ceiling and office renovation had not resulted in a capital expenditure. Applying the decision reported in [1998] 233 ITR 468 (Commissioner of Income Tax Vs. Madras Auto Service P. Ltd.) and [2007] 292 ITR 266 (Mad) (Commissioner of Income Tax Vs. Ayesha Hospitals P. Ltd.), this Court held that the assessee was entitled to 100% depreciation on the false ceiling and wooden partition inclusive of furniture, electrical wiring and interior decoration. It is seen from the order of the Tribunal that an identical claim in respect of the same assessee for the block period ending 3.10.1996 was allowed and the order of the Tribunal had become final. The Tribunal pointed out that temporary erection would qualify for 100% depreciation. As far as the present case is concerned, the assessee put up temporary wooden structure and partition for running computer centres. Applying the decision of this Court as cited above, we have no hesitation in confirming the order of the Tribunal, thereby answering the question against the Revenue.

5. On perusal of the above decision, we find force in the arguments of the Id. AR that the method adopted by the assessee in writing off the expenditure incurred therein basing on the life expectancy of items i.e., 3-

5 years. It is also brought to our notice that the Respondent Revenue was accepting the same in the earlier years.

6. The Id. DR Ms. R. Anita, Addl. CIT did not dispute the original scrutiny assessment proceedings and the method of write-off and claiming by way of depreciation. Admittedly, there is no dispute with regard to leased premises by the assessee as it is clear from the order of the Assessing Officer and the Id. CIT(A). Thus, following the decision of the Hon'ble Madras High Court, taking into account of facts and circumstances of the case, we find that the claim of depreciation as allowed by the Assessing Officer in the original scrutiny proceedings, are justified. Thus, the order of the Id. CIT(A) is quashed and the ground raised by the assessee is allowed.

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

Order pronounced on 21st August, 2024 at Chennai.

Sd/-
(JAGADISH)
ACCOUNTANT MEMBER

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Chennai, Dated, 21.08.2024

Vm/-

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant,
2. प्रत्यर्थी/ Respondent,
3. आयकर आयुक्त/CIT, Chennai/Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR &
5. गार्ड फाईल/GF.