

| आयकर अपीलीय अधिकरण न्यायापीठ, मुंबई |
IN THE INCOME TAX APPELLATE TRIBUNAL
"G" BENCH, MUMBAI

BEFORE MS. KAVITHA RAJAGOPAL, HON'BLE JUDICIAL MEMBER
&
SHRI GIRISH AGRAWAL, HON'BLE ACCOUNTANT MEMBER

I.T.A. Nos. 3324 & 3323/Mum/2024
Assessment Year: 2014-15 & 2015-16

Godrej & Boyce Mfg. Co. Ltd. M/s. Kalyaniwalla & Mistry LLP Esplanade House, 2 nd Floor 29, Hazarimal Somani Marg Fort Mumbai - 400001 [PAN: AAACG1395D]	Vs	Dy. Commissioner of Income Tax, Circle -14(1)(2), Mumbai
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अपीलार्थी/ (Appellant)		प्रत्यर्थी/ (Respondent)
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Assessee by :	Ms. Sonalee Godbole, A/R
Revenue by :	Dr. Kishor Dhule, CIT D/R

सुनवाई की तारीख/Date of Hearing : 20/08/2024
घोषणा की तारीख /Date of Pronouncement: 22/08/2024

आदेश/ORDER

PER GIRISH AGRAWAL, ACCOUNTANT MEMBER:

These two appeals filed by the assessee are against the separate orders of National Faceless Appeal Centre/CIT(A), even dated 29/04/2024 pertaining to Assessment Years 2014-15 and 2015-16.

2. As the issues arising in both these appeals are common, they were heard together and are disposed of by way of this common order.

3. The sole grievance of the assessee is against the action of the Id. CIT(A) in confirming the allowance of depreciation claimed u/s 32 of the Act, without appreciating the provisions of Explanation 2B to Section 43(6) of the Act amended by the Finance Act, 2003.

3. The ld. A/R, at the outset, fairly submitted that the ld. CIT(A) has decided the issue against the assessee while following the decision of Co-ordinate Bench ITAT Mumbai in assessee's own case for AY 2003-04 and 2004-05, to which the ld. CIT D/R had nothing to object upon.

4. We have heard rival contentions and perused the material available on record. We find that ld. CIT(A) in the impugned order has followed the order of this Tribunal in the assessee's own case in *ITA Nos. 4538 & 4539/M/2011 for AY 2003-04 & 2004-05, dt. 31/12/2014*, and decided the issue against the assessee and in favour of the revenue. Before the ld. CIT(A) also, assessee had fairly conceded that the issue stands decided against it.

4.1. The Tribunal while adjudicating the identical issue in the assessee's own case in *ITA Nos. 4538 & 4539/M/2011 for AY 2003-04 & 2004-05, vide order dt. 31/12/2014*, had held as under:-

"20. We have perused the aforesaid decisions and found that the Hon'ble High Courts and Hon'ble Supreme Court in the above said decisions are unanimous to hold that where a substantive right has been affected by the amendment, the amendment, if not so expressively provided under the relevant statute, will have to be taken prospectively. However, the above decisions cannot be applied to the facts and circumstances of the present case. In the present case, as observed above by us, the omission of the words "as appearing in the books of account" neither have in any way affected any substantive right already vested in the assessee nor has taken away any such right which was accruing to the assessee before such omission. In fact, the curative amendment was made by the Parliament vide [Finance Act, 2000](#) and only the ambiguity has been removed vide [Finance Act, 2003](#) so as to bring clarity. In our humble view, whatever rights had accrued to the assessee in view of the ambiguity in the provisions at the time of their insertion vide [Finance Act, 1999](#), the same had been taken away/clarified immediately by removing the ambiguity through amendment made vide [Finance Act, 2000](#). Hence, without going into the details of the facts of the various case laws, we have no hesitation to hold that the proposition laid therein cannot be applied to the facts and circumstances of the case in hand. These grounds are accordingly decided against the assessee."

5. As the facts for the impugned assessment years are identical with nothing new is emanating in terms of facts or question of law, the issue

remains no longer *res-integra* in the light of the said decision of the Tribunal (*supra*). Therefore, we do not find any reason to interfere with the findings of the Id. CIT(A) and dismiss the effective grounds raised by the assessee.

6. In the result, both the appeals of the assessee are dismissed.

Order pronounced in the Court on 22 August, 2024 at Mumbai.

Sd/-
(KAVITHA RAJAGOPAL)
JUDICIAL MEMBER

Sd/-
(GIRISH AGRAWAL)
ACCOUNTANT MEMBER

Mumbai, Dated 22/08/2024

Sd/-

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील)/ The CIT(A)-
5. विभागीय प्रतिनिधि ,आयकर अपीलीय अधिकरण, मुंबई /DR,ITAT, Mumbai,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,
TRUE COPY

Assistant Registrar
आयकर अपीलीय अधिकरण
ITAT, Mumbai