

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'I', NEW DELHI**

**Before Sh. Satbeer Singh Godara, Judicial Member
&
Sh. Avdhesh Kumar Mishra, Accountant Member**

ITA No. 1088/Del/2016 : Asstt. Year : 2011-12

Xerox India Ltd., 5 th Floor, Vatika Business Park, Sector-49, Sohna Road, Gurgaon-122018	Vs	DCIT, Circle-27(2), New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAACM8634R		

**Assessee by : Sh. Tarandeep Singh, Adv. &
Sh. Sandeep Yadav, Adv.
Revenue by : Sh. Dharamvir Singh, CIT-DR**

Date of Hearing: 28.10.2024	Date of Pronouncement: 13.11.2024
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ORDER

Per Satbeer Singh Godara, Judicial Member:

This assessee's appeal for Assessment Year 2011-12 arises against the DCIT, Circle-27(2), New Delhi, assessment order dated 30.12.2015 framed in consequence to the Dispute Resolution Panel ("DRP")-2, New Delhi directions dated 18.11.2015, in proceedings u/s 143(3) r.w.s. 144C(4) of the Income Tax Act, 1961 (in short "the Act").

2. Heard both the parties at length. Case filed perused.
3. It emerges at the outset that our instant adjudication is restricted to the assessee's 8th and 9th substantive grounds raised in the instant appeal as the tribunal's first round order dated 19.10.2020 had not decided the same. This prompted the assessee to file its Miscellaneous Application MA No. 271/Del/2020. The Revenue is indeed very fair in not disputing

the fact that the tribunal order dated 20.08.2024 in the assessee's said Miscellaneous Application has recalled its earlier order to this limited extent.

4. Both the learned representatives take us to the assessee's 8th and 9th substantive grounds in this factual backdrop reading as under:

"8. That on facts and in law the AO/DRP erred in making/upholding a disallowance of Rs.26,09,863/- being depreciation allowance on capital assets converted into stock in trade.

8.1 That on facts and in law the AO/DRP erred in not following the decision of Hon'ble ITAT / High Court in appellant's own case in AY 2007-08 on identical issue.

9. That on facts and in law while computing the final tax liability the AO erred in not granting credits for TDS Certificates of Rs.8,40,136/-."

5. We now proceed to deal with the assessee depreciation allowance on capital assets covered into stock-in-trade to the tune of Rs.26,09,863/- in the relevant previous year. Learned counsel invites our attention to the Assessing Officer's detailed findings in paragraphs 1.1 to 10.1 that the same is indeed a recurring issue which travelled up to hon'ble jurisdictional high court. He refers to the assessment discussion at page 13 para 10.1 more particularly that the hon'ble jurisdictional high court decision had not come for the "lead" Assessment Year 2007-08 which made the Assessing Officer to reiterate his findings. And that hon'ble jurisdictional high court said decision dated 18.01.2016 upheld the tribunal's findings deciding the issue of depreciation on recapitalized assets thereby rejecting the Revenue tax appeals to this effect.

6. Learned CIT-DR submits in this backdrop that once there is no dispute about the issue having finalized up to hon'ble

jurisdictional high court, the Assessing Officer may re-verify the facts for the purpose of allowing the assessee's impugned depreciation claim. We accordingly accept the assessee's 8th substantive ground for statistical purpose in very terms.

7. So far as the assessee's 9th substantive ground regarding TDS credit involving credit of TDS deducted amounting to Rs.8,40,136/- is concerned, both the parties very much agree during the course of hearing that the same requires the Assessing Officer's factual reconciliation and verification than our substantive adjudication. We accordingly restore the assessee's instant last ground as well for statistical purpose in very terms.

8. No other grounds have been pressed before us.

9. This assessee's appeal is allowed for statistical purpose in above terms.

Order Pronounced in the Open Court on 13/11/2024.

Sd/-

(Avdhesh Kumar Mishra)
Accountant Member

Dated: 13/11/2024

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Satbeer Singh Godara)
Judicial Member

ASSISTANT REGISTRAR