

आयकर अपीलीय अधिकरण, कोलकाता पीठ 'B', कोलकाता
IN THE INCOME TAX APPELLATE TRIBUNAL "B" BENCH KOLKATA

Before Shri Sanjay Garg, Judicial Member and Shri Rakesh Mishra, Accountant Member

I.T.A. No.1228/Kol/2024
Assessment Year: 2017-18

Quippo Oil & Gas Infrastructure Limited **Appellant**
Plot No. 14A, 6th Floor, Mapel Tower,
Sector-18, Gurgaon, Haryana-122015.
(PAN: AAACQ1278P)

vs.

Income Tax Officer, Ward-11(3), Kolkata **Respondent**

Appearances by:

Shri Amit Agarwal, AR appeared on behalf of the Appellant
Shri Gautam Patra, Sr. DR appeared on behalf of the Respondent

Date of concluding the hearing: November 21, 2024
Date of pronouncing the order: November 25, 2024

अदेश / ORDER

Per Sanjay Garg, Judicial Member :

The present appeal has been preferred by the assessee against the order dated 31.03.2024 of the Ld. Commissioner of Income Tax, (Appeal), ADDL/JCIT(A)-2, Noida [hereinafter referred to as the "Ld. CIT(A)"] passed u/s. 250 of the Income-tax Act, 1961 (hereinafter referred to as the "Act") for AY 2017-18.

2. The sole issue involved in this case is as to whether the assessee is entitled to depreciation @ 15% (as held by the AO or @ 60% as claimed by the assessee) on oil drilling rigs.

3. The brief facts of the case are that assessee is in the business of leasing out of mobile drilling rigs equipment and related service to oil and gas industries. The assessee claimed depreciation on the oil drilling

equipment @ 60%, whereas, the AO allowed depreciation @ 15% as applicable to plant and machinery in general.

4. The Ld. CIT(A) also confirmed the order of the AO observing that the assessee himself was not in the business of mineral oil extraction, rather, the equipment was provided by the assessee to mineral oil concerns. Therefore, the said equipment of the assessee would not fall in the definition of 'plant' eligible for higher rate of depreciation. That the assessee was not the end user of the equipment. He accordingly, upheld the order of the AO that the assessee is entitled to depreciation @ 15% and not at the special rate of 60% for specialised equipment.

5. Before us, the Ld. Counsel for the assessee has invited our attention to the order of the Hon'ble Delhi High Court in the case of CIT Vs. HLS India Ltd. [2011] 355 ITR 292 (Del.), wherein, on identical facts and circumstances, the Hon'ble High Court in para 44 of the said order has narrated the facts of the said case as under:

"Feeling aggrieved by the order of the CIT(A) the Revenue preferred a further appeal before the Tribunal. In order to convince the Tribunal, the Revenue forwarded a two-fold argument. The first limb of this argument was that the business of the assessee-company is of leasing certain high-tech plant and, therefore, it cannot be allowed depreciation at 100 per cent. Under Appendix I to the Income-tax Rules, 1962, which is allowable to mineral oil concerns only. The second limb of the argument as adopted by the Revenue was that the depreciation at 100 per cent was allowable to "concerns" only and not on the plant and machinery used in the business. If the parliamentary intention has been to give benefit to other concerns then the classification would have been different, i.e., on the basis of plant and machinery and equipment as found in other categories. However, both the arguments could not find any support in the judicial wisdom of Tribunal which turned down the above mentioned pleas in the following manner, vide its order dt. 10th Jan., 2002."

6. The facts as reproduced above would reveal that the assessee in that case was also in the business of leasing of mineral oil extraction equipment and services. The Ld. Counsel has further invited our attention to para 45 of the said order to submit that the following question of law was framed by the Hon'ble High Court for adjudication:

“45. Now, the question before us in this regard is as to whether the assessee can be termed a “mineral oil concern” so as to put it in a position from where it can be entitled to claim depreciation at 100 per cent. Under item III(3)(ix)(b) in Appendix I to the Income-tax Rules, 1962; and further, even if the assessee is not a mineral oil concern, can it be given benefit of the aforesaid provision on the basis of the nature of operation of its high-tech wireline logging and perforation equipment.”

7. The Ld. Counsel has further invited our attention to para 50 of the said order, whereby, the aforesaid issue has been decided in favour of the assessee by the Hon’ble Delhi High Court as under:

“50. The table of rates of depreciation in Appendix I to the Rules prescribes a single rate of depreciation for the assets falling within a particular block of assets. It does not prescribe differential rates of depreciation with reference to the ownership of the asset. It would be pertinent to note here that the special rate of depreciation for the main item “III-Machinery and Plant” have been prescribed with reference to the nature of the particular asset and the character of its user including the types of business and the environmental conditions in which it is used. When OIL has certified in this regard, that the wireline logging and perforation equipment/tools which are used by the assessee are similar to those equipment/tools owned and used by mineral oil concerns and when there is no shadow is cast over the fact that the similar assets would qualify for a depreciation at 100 per cent. under the said entry if these are owned by a mineral oil concern like OIL, we do not find any substance in the Department's approach to deny the same to the assessee on the ground that the owner of the similar assets, we are concerned with, will not be so entitled. Mentioning of the fact, in the letter of OIL dt. 13th Novs, 1998, that these equipment/tools are meant only for use in underground oil field operations for wireline logging and perforation leaves no iota of doubt that the nature of the assessee's equipment and its user are similar to those equipments which are owned by the mineral oil concerns and eligible for depreciation under the aforesaid entry. The artificial distinction regarding the mobile nature of the assessee's equipment, which has been created and relied upon by the Department, is of no use because even if such a distinction exists it would neither alter the nature of the assessee's equipment nor the character of its user. We, therefore, are of the considered opinion that the assessee's wireline logging and perforation equipment is eligible for higher depreciation at 100 per cent. under cl. (ii) of s. 32(1) of the Act, read with item III(3)(ix)(b) of the schedule of rates of depreciation in Appendix I to the Income-tax Rules, 1962.

51. Having decided the issue in the aforesaid terms, we may take liberty to look into this issue from a different point of view. Depreciation allowance is a kind of tax benefit which is given to business concerns for promotion of business activities in any particular field of business. In the instant case depreciation is allowable to mineral oil concerns at 100 per cent. on the equipment used below the earth's surface. If the same depreciation is not allowed to other business concerns on the ground that the owner of the equipment is not a mineral oil concern but 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. However, practically

this is not a viable option because oil companies are facing immense pressure to increase output to meet the energy needs of our growing economy and this has resulted in extra work load.”

8. The Ld. Counsel has further placed reliance on the decision of the Hon'ble Supreme Court dated 06.02.2022 whereby, the Hon'ble Supreme Court has dismissed the Special Leave Petition filed by the revenue filed against the aforesaid order of the Hon'ble Delhi High Court. Ld. Counsel has further placed reliance on another decision of the Hon'ble Delhi High Court in the own case of the assessee in Pr. Commissioner of Income-Tax-7, Delhi Vs. Quippo Oil & Gas Infra Ltd., ITA 720/2019 dated 05.08.2019, whereby, the Hon'ble Delhi High Court while relying upon the aforesaid decision of the Hon'ble Delhi High Court in the case of HSL India Ltd. (supra) has dismissed the appeal of the revenue against the order of the Tribunal allowing 60% depreciation on the mineral oil extraction equipment.

9. In view of this, the issue is squarely covered in favour of the assessee by the aforesaid decisions of the Hon'ble Delhi High Court. No contrary decision has been cited by the Ld. DR. In view of the above discussion, we do not find any justification on the part of the lower authorities in making/confirming the impugned addition and the same is accordingly ordered to be deleted.

10. In the result, appeal of the assessee stands allowed.

Order is pronounced in the open court on 25.11.2024.

Sd/-

[Rakesh Mishra]
लेखा सदस्य/Accountant Member

Sd/-

[Sanjay Garg]
न्यायिक सदस्य/Judicial Member

Dated: 25.11.2024.

JD Sr. P.S

Copy of the order forwarded to:

1. **Appellant – Quippo Oil & Gas Infrastructure Ltd.**
2. **Respondent – ITO, Ward-11(3), Kolkata**
3. **CIT(A), Addl/JCIT(A)-2, Noida**
4. **Pr. CIT .**
5. **CIT(DR),**

True Copy

By Order

Assistant Registrar,
ITAT, Kolkata