

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'B' NEW DELHI)****BEFORE SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER
AND
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER****ITA No. 1369/Del/2024 (A.Y. 2016-17)**

Central Warehousing Corporation 4/1, Siri Institutional Area Warehousing Bhawan August Kranti Bhawan, Hauz Khas, New Delhi PAN: AAACC1206D	Vs.	ACIT Circle- 5(2) C. R. Building, ITO I.P. Estate, New Delhi
Appellant		Respondent

Assessee by	Sh. K. Sampath, Adv, Sh. V. Rajkumar, Adv.	
Revenue by	Sh. Rajesh Kumar Dhanista, Sr. DR	
Date of Hearing		29/01/2025
Date of Pronouncement		12/02/2025

ORDER**PER YOGESH KUMAR, U.S. JM:**

The present appeal is filed by the Assessee against the order of Commissioner of Income Tax Appeals/ National Faceless Appeal Centre - Delhi ['NFAC'] for short] dated 10/02/2024 for Assessment Year 2016-17.

2. The Grounds of Appeal are as under:-

“1. On the facts and in the circumstances of the case and in law the Ld. CIT(Appeals) Unit-3, Coimbatore (NFAC) erred in confirming the following actions of the Assessing Officer -

1. in making an addition of Rs. 1,11,93,565/- on account of cost of dunnage treating the same as capital in nature;

2. not giving appropriate directions for allowance of credit for taxes paid in terms of Form 26AS.

The above actions of the Ld. CIT(Appeals) being arbitrary, fallacious, unwarranted and illegal must be quashed with directions for relief.”

3. Brief facts of the case are that, the Assessee engaged in the business of Warehousing and other related activities. The Assessee filed its original return of income declaring income of Rs. 1,90,85,26,440/-. The case of the Assessee was selected for scrutiny and an assessment order came to be passed on 29/12/2018 u/s 143(3) of the Act by disallowing the dunnage expenses and made addition of Rs. 1,11,93,565/-. Aggrieved by the assessment order dated 29/12/2018, the Assessee preferred an Appeal before the Ld. CIT (A). The Ld. CIT(A) vide order dated 10/02/2024, dismissed the Appeal filed by the Assessee. As against the order of the Ld. CIT(A) dated 10/02/2024, the Assessee preferred the present Appeal on the grounds mentioned above.

4. The Ld. Counsel for the Assessee submitted that the Ld. A.O. and the Ld. CIT(A) have committed a grave error in making the identical addition though the issue is completely covered in Assessee's own case for Assessment Year 2012-13 and 2017-18. The Ld. Counsel for the Assessee relying on Assessee's own case for Assessment Year 2017-18 in ITA No. 353/Del/2021 dated 08/08/2022 sought for deletion of the addition.

5. Per contra, the Ld. Departmental Representative relying on the orders of the Lower Authorities sought for dismissal of the Appeal.

6. We have heard both the parties and perused the material available on record. The identical issue came for consideration before the Co-ordinate Bench of the Tribunal in ITA No. 353/Del/2021 for Assessment Year 2017-18 and the Co-ordinate Bench of the Tribunal vide order dated 08/08/2022 by following the ratio laid down in ITA No. 5449/Del/2017 for Assessment Year 2012-13, decided the issue in favour of the Assessee. The relevant portion of the order of the Co-ordinate Bench for Assessment Year 2017-18 in Assessee's own case are as under:-

"8. We have heard the rival submissions and perused the material on record. We find that an identical issue arose in assessee's own case for the A.Y. 2012-13 before the Tribunal and the Tribunal vide order dated 12.02.2020 in ITA.No.5449/Del/2017 allowed the claim of assessee. The relevant observations of the Tribunal are as under :

“7. The ld. DR submitted that on perusal of the records submitted by the assessee, the Assessing Officer felt that the assessee had adopted their own method of accounting and such method is arbitrary and without any basis. As rightly held by the Assessing Officer, both the Dunnage are capital assets and expenditure debited by the assessee in the profit and loss account on investment in ordinary Dunnage are of capital nature and therefore, cannot be allowed as Revenue expenditure.

8. So also, it is the submission of the ld. DR that even though the amount of Rs.50 crores was paid towards license/registration fee, such benefits under the license/registration fee are likely to be accrued during the period of 20 years and therefore, it has to be treated as deferred revenue expenditure in the books of the assessee. Since the benefit under the license fee is for a determined period of 20 years, the assessee should have claimed deduction of such Rs.50 crores over a period of 20 years @ 2.5 crores per year and therefore, the excess amount claimed by the assessee was rightly disallowed by the Assessing Officer.

9. Per contra, the ld. AR contended that it was submitted before the Assessing Officer that the assessee corporation has been using two types of Dunnages - ordinary Dunnage and special Dunnage and there is perceptible difference in the basic ingredient, life expectancy and the nature of these two types of Dunnages. The ordinary Dunnage once used cannot be re-used whereas the special Dunnage is high efficiency flooring Dunnage wherein jute impregnated with coal tar and poly film is used as Dunnage to prevent the floor seepage having its life expectancy of over five years. The practice of the assessee has been that there is capitalization of expenditure for special Dunnage whereas debiting the expenditure for ordinary Dunnage to the profit and loss account and claimed the same to be revenue expenditure. For the earlier years also, the first appellate authority gave relief to the assessee on this count, which the ld. CIT(A) followed in this case and therefore, there is no perversity in the findings returned by the ld. CIT(A).

10. He further submitted that it is settled principle of law that license/registration fee paid to acquire the right to run the business is a commercial right to carry on the business of the assessee and therefore, it falls within the meaning of asset u/s. 32(1)(ii) of the Act whereon the assessee is entitled to claim depreciation. Since the ld. CIT(A) followed the decision of the Tribunal on these two aspects, the ld. AR submits that there is no perversity in the findings of the ld. CIT(A) and the same cannot be disturbed.

11. We have perused the record in the light of submissions made on either side. At the outset, there is no dispute that the assessee has been using two types of Dunnage, though for the same purpose, but with two different life times, namely, the special Dunnage having life time of more than five years, whereas the ordinary Dunnage

has to be used only for one year and unusable thereafter. It is also not in dispute that the assessee has capitalized the expenditure on the special Dunnage in their accounts and has been claiming depreciation @ 16% per annum over the useful period and on the same analogy in respect of ordinary Dunnage, they are treating the expenditure for one year and debiting the same to the profit and loss account to claim it as revenue expenditure. It is also not in dispute that the Revenue has been accepting the capitalization of special Dunnage and allowing depreciation @ 16% per annum over the period of life expectancy of such Dunnage.

12. Having regard to this fact that the life expectancy is taken as the determining factor for the separate treatment to the Dunnage, we do not find any illegality or irregularity in the view taken by the ld. CIT(A) that because of the single use within a year in respect of ordinary Dunnage, the expenditure thereon has to be taken as revenue expenditure and no addition on that score could be made. This finding of the ld. CIT(A) cannot be said to be illegal or irregular or perverse. We, therefore, find the ground No. 1 of appeal of the Revenue as devoid of merits.”

8.1. Before us no distinguishable facts in the year under consideration than that of in earlier assessment years has been pointed-out by the Revenue Therefore, we find no reason to interfere with the order of the Ld. CIT(A). Thus, the grounds of Revenue are dismissed.”

7. By respectfully following the order of the Co-ordinate Bench of the Tribunal for Assessment Year 2017-18 in Assessee's own case (supra), we delete the addition made by the A.O. which has been confirmed by the Ld. CIT(A).

8. In the result, the Appeal of the Assessee is allowed.

Order pronounced in the open court on 12th February, 2025

**Sd/-
(AVDHESH KUMAR MISHRA)
ACCOUNTANT MEMBER**

Date:- 12.02.2025

R.N, Sr.P.S*

**Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI