

**आयकर अपीलीय अधिकरण "ए" न्यायपीठ मुंबई में।**

**IN THE INCOME TAX APPELLATE TRIBUNAL "A" BENCH, MUMBAI**

सर्वश्री राजेन्द्र, लेखा सदस्य एवं संजय गर्ग ,न्यायिक सदस्य

Before S/Shri Rajendra, A.M. and Sanjay Garg,J.M.

आयकर अपील सं./ITA No.7316/Mum/2014, **निर्धारण वर्ष /Assessment Year: 2010-11**

ACIT 15(1)(1) Room No.403, 4 <sup>th</sup> Floor, Aayakar Bhavan, MK Road Mumbai-400 020.	Vs.	M/s. Aar Aar Arts Pvt. Ltd. Shed No.2A, Hanuman Silk Mills Opp. Huma Adlabs Mumbai-400 078. <b>PAN: AAACA 7254 R</b>
--	-----	--

(अपीलार्थी /Appellant)

(प्रत्यर्थी / Respondent)

**Revenue by:** Shri Rajesh Kumar Yadav

**Assessee by:** None

सुनवाई की तारीख / **Date of Hearing: 24.01.2017**

घोषणा की तारीख / **Date of Pronouncement: 10.02.2017**

**आयकर अधिनियम,1961 की धारा 254(1)के अन्तर्गत आदेश**

**Order u/s.254(1)of the Income-tax Act,1961(Act)**

**लेखा सदस्य,राजेन्द्र के अनुसार -Per Rajendra,AM:**

Challenging the order,dated 26/09/2014,of the CIT (A)-22, Mumbai the Assessing Officer(AO) has filed the present appeal.Assessee, an individual,engaged in the business of offset and screen-printing, filed his return of income on 12/10/2010,declaring total income at Rs.38.04 lakhs.The AO completed the assessment u/s.143 (3) of the Act,on 14/02/ 2013, determining his income at Rs.85.02 lakhs.

2.Effective ground of appeal is about deleting the disallowance of bank processing charges of Rs.36.21 lakhs.During the assessment proceedings,the AO found that the assessee had debited a sum of Rs.36,21,006/-towards bank processing charges in the profit and loss account,that the amount pertained to the term loan availed from Abhayuday Cooperative Bank Ltd. He held that the bank charges were with regard to various term loans,that the same were not in the nature of revenue expenditure,that processing charges had to be treated as capital expenditure,that assessee was not entitled to claim amortisation of the expenditure u/s.35D of the Act.Finally, he added the said amount to the total income of the assessee.

3.Aggrieved by the order of the AO,the assessee preferred an appeal before the First Appellate Authority(FAA).Before him,the assessee made elaborate submissions. After considering the assessment order and the submissions of the assessee,the FAA directed it to file certain documents,including invoice for purchase of machinery,copies of the term loans

sanctioned, details of letters of credit. The assessee filed the necessary details before him. After considering the same, he observed that machineries were purchased in the earlier assessment years, that the letter of credit with the HDFC bank was opened on 30/08/2007, that same was subsequently closed by the assessee during the year under appeal, that the term loan was utilised for purchase of machinery only, that the perusal of the balance sheets for the AY.2009-10 indicated addition to fixed assets to the tune of Rs.93.26 lakhs, that the assessee had already put into use the purchased machinery, that any payment after machinery was put into use had to be allowed as revenue expenditure-whether it was termed as processing charge or interest expenditure in the books of accounts. He further observed that machinery had been capitalised in the year 2008 itself, that the claim made by the assessee was in order. Finally, he allowed the appeal filed by the assessee.

4. During the course of hearing before us, the Departmental Representative (DR) stated that matter could be decided on merits. As stated earlier None appeared on behalf of the assessee. We find that the FAA has given a categorical finding of fact of purchase of machinery in the earlier years and capitalisation of the machinery in that year, that the assessee had paid processing charges to the bank, that the expenditure incurred has not been doubted by the AO, that the AO has not given any reason for treating the expenditure as capital expenditure. Any expenditure incurred for running the business has to be treated and allowed as revenue expenditure and not capital expenditure. Considering the facts and circumstances of the case, we are of the opinion that the order of the FAA has to be confirmed. Upholding his order, we decide the effective ground of appeal against the AO.

As a result appeal filed by the AO stands dismissed.  
फलतः निर्धारिती अधिकारी द्वारा दाखिल की गई अपील नामंजूर की जाती है।

Order pronounced in the open court on 10<sup>th</sup> February, 2017.  
आदेश की घोषणा खुले न्यायालय में दिनांक 10 फरवरी, 2017 को की गई।

Sd/-

(संजय गर्ग / Sanjay Garg)

न्यायिक सदस्य / JUDICIAL MEMBER

मुंबई Mumbai; दिनांक/Dated : 10.02.2017.

Jv.Sr.PS.

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

1.Appellant /अपीलार्थी

Sd/-

(राजेन्द्र / RAJENDRA)

लेखा सदस्य / ACCOUNTANT MEMBER

2. Respondent /प्रत्यर्थी

- 3.The concerned CIT(A)/संबद्ध अपीलीय आयकर आयुक्त, 4.The concerned CIT /संबद्ध आयकर आयुक्त  
5.DR “ A ” Bench, ITAT, Mumbai /विभागीय प्रतिनिधि, खंडपीठ,आ.अ.न्याया.मुंबई  
6.Guard File/गार्ड फाईल

सत्यापित प्रति //True Copy//

आदेशानुसार/ **BY ORDER,**

उप/सहायक पंजीकार **Dy./Asst. Registrar**  
आयकर अपीलीय अधिकरण, मुंबई /**ITAT, Mumbai.**