

**IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'A' BENCH, KOLKATA**

**Before Shri P.M. Jagtap, Accountant Member and
Shri N.V. Vasudevan, Judicial Member**

**I.T.A. No. 2624/KOL/ 2013
Assessment Year: 2001-2002**

Deputy Commissioner of Income Tax,.....Appellant
Circle-10, Kolkata,
P-7, Chowringhee Square,
Aayakar Bhawan, 3rd Floor,
Kolkata-700 069

-Vs.-

M/s. Vesuvius India Limited,.....Respondent
P-104, Taratala Road,
Kolkata-700 088
[PAN: AAACV 8995 Q]

Appearances by:

Shri Vijayendra Kumar, JCIT, D.R., for the Department
Shri Harish Agarwal, ACA, for the assessee

Date of concluding the hearing : November 24, 2016

Date of pronouncing the order : December 14, 2016

O R D E R

Per Shri P.M. Jagtap, A.M.:

This appeal is preferred by the Revenue against the order of Id. Commissioner of Income Tax (Appeals)-XII, Kolkata dated 27.08.2013 for the assessment year 2001-02.

2. In Ground No. 1, the Revenue has challenged the action of the Id. CIT(Appeals) in directing the Assessing Officer to allow the deduction claimed by the assessee on account of expenditure incurred on tooling in the year of purchase as the same was also consumed in that year.

3. The assessee in the present case is a Company, which is engaged in the business of manufacturing and trading of Refractories. The return of income for the year under consideration was filed by it on 30.10.2001 declaring total income of Rs.8,28,33,105/-. In the assessment completed under section 143(3) vide an order dated 31.03.2004, the claim of the assessee for deduction on account of expenditure incurred on purchase of tooling amounting to Rs.1,79,20,000/- was rejected by the Assessing Officer on the ground that such deduction should have been claimed by the assessee on the basis of amortization over a period of 36 months as per the method of accounting regularly followed in the earlier years. Thereafter the matter after certain round of litigation, came for consideration of the Id. CIT(Appeals) and while allowing the appeal of the assessee on this issue vide his impugned order, he directed the Assessing Officer to allow the deduction on account of expenditure incurred on tooling in the year of purchase as the same was consumed in that year.

4. We have heard the arguments of both the sides and also perused the relevant material available on record. The Id. counsel for the assessee has very fairly and frankly conceded that the impugned order of the Id. CIT(Appeals) on this issue has no merit and the Ground No. 1 raised by the Revenue in this appeal deserves to be allowed. Accordingly, we set aside the impugned order of the Id. CIT(Appeals) on this issue and restore that of the Assessing Officer. Ground No. 1 of the Revenue's appeal is accordingly allowed.

5. In Ground No. 2, the Revenue has challenged the action of the Id. CIT(Appeals) in deleting the disallowance of Rs.1,45,143/- made by the Assessing Officer out of Club expenses.

6. In its return of income, the deduction of Rs.1,56,376/- was claimed by the assessee on account of Club expenses, which was inclusive of entrance fee of Rs.11,233/- paid by the assessee. In the assessment order

originally completed under section 143(3), the entire amount of Club expenses claimed by the assessee was disallowed by the Assessing Officer.

7. On appeal, the Id. CIT(Appeals) vide his order dated 08.01.2008 deleted the said disallowance. While giving effect to the said order of the Id. CIT(Appeals), the Assessing Officer, however, allowed the Club expenses only to the extent of Rs.11,233/-. The assessee, therefore, again preferred an appeal before the Id. CIT(Appeals), who vide his impugned order directed the Assessing Officer to allow even the balance expenditure of Rs.1,45,143/- on the ground that the entire Club expenses of Rs.1,56,376/- had already been allowed by his predecessor vide his appellate order dated 08.01.2008.

8. We have heard the arguments of both the sides and also perused the relevant material available on record. As rightly pointed out by the Id. counsel for the assessee, the entire Club expenses of Rs.1,56,376/- were already allowed by the Id. CIT(Appeals) vide his appellate order dated 08.01.2008 and there was no justification on the part of the Assessing Officer to allow the claim of the assessee for such expenses only to the extent of Rs.11,233/- while giving effect to the said order of the Id. CIT(Appeals). We, therefore, find no infirmity in the order of the Id. CIT(Appeal) directing the Assessing Officer to allow the balance Club expenses of Rs.1,45,143/- and upholding the same on this issue, we dismiss Ground No. 2 of the Revenue's appeal.

9. In the result, the appeal of the Revenue is partly allowed.

Order pronounced in the open Court on December 14, 2016.

Sd/-
(N.V. Vasudevan)
Judicial Member

Sd/-
(P.M. Jagtap)
Accountant Member

Kolkata, the 14th day of December, 2016

Order pronounced by
Sd/- *Sd/-*
(S.S.V. Ravi) *(P.M. Jagtap)*
J.M. *A.M.*

Copies to : (1) **Deputy Commissioner of Income Tax,
Circle-10, Kolkata,
P-7, Chowringhee Square,
Aayakar Bhawan, 3rd Floor,
Kolkata-700 069**

(2) **M/s. Vesuvious India Limited,
P-104, Taratala Road,
Kolkata-700 088**

(3) *Commissioner of Income Tax (Appeals)-XII, Kolkata,*

(4) *Commissioner of Income Tax- , Kolkata;*

(5) *The Departmental Representative*

(6) *Guard File*

By order

*Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata*

Laha/Sr. P.S.