

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI 'G' BENCH, NEW DELHI

BEFORE SHRI N.K. SAINI, ACCOUNTANT MEMBER, AND
SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER

I.T.A.No. 3579/Del/2012
Assessment Year : 2008-09

The D.C.I.T,
Circle -6(1)
New Delhi.

Vs.

M/s Minda Fiamm Acoustic Ltd
Now known as Minda Acoustic Ltd
B-64/1, Wazirpur Industrial Area
New Delhi 52.

(PAN: AADCM 9634 Q)

I.T.A.No.3620/Del/2012
Assessment Year : 2008-09

M/s Minda Fiamm Acoustic Ltd
Now known as Minda Acoustic Ltd
B-64/1, Wazirpur Industrial Area
New Delhi 52.

Vs.

The D.C.I.T
Circle - 6(1)
New Delhi

(PAN: AADCM 9634 Q)

(Appellant)

(Respondent)

Assessee by : Shri R.K. Kapoor, CA
Deparment by : Shri P. DAM Kanunjna, Sr-DR

Date of Hearing : 16.12.2015
Date of pronouncement : 31.12.2015

ORDER**PER CHANDRA MOHAN GARG, J.M.**

The above captioned cross appeals by the revenue as well as the assessee have been directed against the order of CIT(A)-IX, New Delhi dated 29.03.2012 in Appeal No. 59/10-11 for assessment year 2008-09.

REVENUE'S APPEAL IN ITA NO. 3579/DEL/2012

2. Ground no.1 and 4 of the revenue's appeal i.e. I.T.A. No. 3579/Del/2012 are general in nature, which require no adjudication.

3. Ground 2 of the Revenue's appeal read as under:-

"2. That on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs. 25 lakhs made by the AO disallowing the 50% of legal and professional fees u/s 40A(2)(a)(b) of the Act".

4. At the very outset of the opening of the arguments, the ld counsel for the assessee drew our attention to the order of the ITAT dated 16.01.2015 in assessee's case own case for A.Y 2007-08 wherein identical issue came up before the ITAT where the AO had disallowed

50% of expenses out of legal and professional u/s 40A(2)(b) of the Income-tax Act, 1961. The ld. AR contended that the Tribunal has discussed the issue at paras 17 to 21 of its order and dismissed the ground raised by the Revenue. Hence the ld. AR prayed that similar relief may be allowed to the assessee in this year also.

5. Per contra, the ld. DR relied on the orders of the authorities below and submitted that the ld. CIT(A) was not justified in allowing relief of Rs. 25 lakhs to the assessee.

6. We have heard the rival submissions and have perused the relevant material on record. We find that the similar issue came up before the Tribunal in assessee's own case for A.Y 2007-08 wherein the Tribunal dismissed the ground raised by the revenue vide order dated 16.01.2015. The ld. DR has not brought any material on record to contradict the same. Accordingly, respectfully following the same, we dismiss Ground No. 2 raised by the Revenue.

7. Ground No. 3 raised by the Revenue reads as under:

“3. That on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs. 1 lakh made by the AO out of foreign travelling expenses”.

8. Here also, we find that the issue is same and squarely covered in favour of the assessee by the order of the Tribunal [supra] wherein at paras 22 to 24 the action of the ld. CIT(A) was held as justified and Ground No. 3 was dismissed. Respectfully following the same, we dismiss Ground No. 3 of Revenue's appeal.

9. In the result, the appeal of the Revenue stands dismissed.

ASSESSEE'S APPEAL IN ITA NO. 3620/DEL/2012

10. In Ground No. 1 and 1.1, the assessee is aggrieved against the action of the ld. CIT(A) in confirming the addition made by the AO on account of depreciation on goodwill amounting to Rs. 2,70,025/.

11. This issue stands squarely covered in favour of the assessee by the order of the ITAT wherein vide para 6 of its order, the Tribunal has allowed relief to the assessee. The facts and circumstances being same and similar in this year also, respectfully following the order of the Tribunal [supra] we allow the ground No. 1 and 1.1 raised by the assessee.

12. Ground No. 2 is regarding depreciation on vehicle used for assessee's business but not registered in its name. We find that the ITAT has discussed this issue at page 5 onwards and following the judgment of the Hon'ble Supreme Court in the case of Mysore Minerals Ltd reported at 239 ITR 775 [SC] allowed relief to the assessee. Accordingly, facts and circumstances and basis being same and similar, respectfully following the same, we allow Ground No. 2 raised by the assessee in this A.Y also.

13. In the result, the appeal of the assessee is allowed and that of the Revenue is dismissed.

The decision is pronounced in the open court on 31.12.2015.

Sd/-

**(N.K. SAINI)
ACCOUNTANT MEMBER**

Sd/-

**(C.M. GARG)
JUDICIAL MEMBER**

Dated: 31st December, 2015

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar
ITAT, New Delhi