

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'A' BENCH, CHENNAI

श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं

श्री डि.एस. सुन्दर सिंह, लेखा सदस्य केसमक्ष

BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No. 2280/Mds/2016

निर्धारण वर्ष / Assessment Year : 2013-14

Deputy Commissioner of Income
Tax,
Corporate Circle 2 (1),
Chennai – 600 034.

v. M/s.Farida Classic Shoes Pvt. Ltd.,
No.151/4, Mount Poonamallee
Road,
Ramapuram, Chennai – 600 089.

(अपीलार्थी/Appellant)

PAN : AAACF0451B

(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No. 2281/Mds/2016

निर्धारण वर्ष / Assessment Year : 2013-14

Deputy Commissioner of Income
Tax,
Corporate Circle 2 (1),
Chennai – 600 034.

v. M/s.Farida Shoes Pvt. Ltd.,
No.151/4, Mount Poonamallee
Road,
Ramapuram, Chennai – 600 089.

(अपीलार्थी/Appellant)

PAN : AAACF0496Q

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri B. Sahadevan, JCIT

प्रत्यर्थी की ओर से/Respondents by : Ms. S. Vidya, CA

सुनवाई की तारीख/Date of Hearing : 02.11.2016

घोषणा की तारीख/Date of Pronouncement : 31.01.2017

आदेश /O R D E R

PER N.R.S. GANESAN, JUDICIAL MEMBER:

Both the appeals of the Revenue are directed against the respective orders of the Commissioner of Income Tax (Appeals)-6, Chennai, dated 31.05.2016 for the assessment year 2013-14. Since common issue arises for consideration in both the appeals, we heard both the appeals together and disposing of the same by this common order.

2. The first issue arises for consideration in both the appeals is disallowance made by the Assessing Officer under Section 14A of the Income-tax Act, 1961 (in short 'the Act') read with Rule 8D of Income-tax Rules, 1962.

3. Shri B. Sahadevan, the Ld. Departmental Representative, submitted that on identical situation, this Tribunal for the assessment years 2011-12 and 2012-13 in I.T.A. Nos.2102 & 2103/Mds/2015 allowed an identical claim of the assessee by placing its reliance on the earlier order of this Tribunal in ACIT v. M/s Best & Crompton Engineering Ltd. in I.T.A. No.1603/Mds/2012 dated 16.07.2013. The Ld. D.R. further submitted that the Revenue

has already filed an appeal before the High Court against the order of this Tribunal.

4. We have heard Ms. S. Vidya, the Ld. representative of the assessee also. Admittedly, the issue of disallowance under Section 14A of the Act, on identical circumstances, was considered by the Tribunal in the assessee's own case for assessment years 2011-12 and 2012.13. An identical disallowance was deleted by this Tribunal by confirming the order of the CIT(Appeals). It is not in dispute that the facts are identical to that of assessment years 2011-12 and 2012-13. Therefore, this Tribunal do not find any reason to take a different view. By following the order of this Tribunal for assessment years 2011-12 and 2012-13 in the assessee's own case for the reasons stated therein, the order of the CIT(Appeals) is confirmed.

5. The next issue arises for consideration is with regard to disallowance of expenditure on impairment of molds.

6. Shri B. Sahadevan, the Ld. Departmental Representative, submitted that the Assessing Officer found that the assessee has debited an amount of ₹42,89,391/- on account of impairment of

molds. According to the Ld. D.R., molds are used for manufacture of shoes, therefore, it has to be considered as plant and machinery. Any write off or loss on sale of moulds is on capital account, therefore, it cannot be allowed as revenue expenditure. The assessee brought to the notice of the Assessing Officer the order of this Tribunal in M/s Farida Leatherware Pvt. Ltd. in I.T.A. No.2304/Mds/2013. However, the Assessing Officer found that an appeal has already been filed before the High Court and the same is pending.

7. On the contrary, Ms. S. Vidya, the Ld. representative for the assessee, submitted that on identical set of facts, this Tribunal in M/s Farida Leatherware Pvt. Ltd. (supra) found that the expenditure incurred on the impairment of molds has to be allowed as revenue expenditure. The CIT(Appeals), in fact, placed his reliance on the order of this Tribunal. The Ld. representative further submitted that mere pendency of appeal before the High Court cannot be a reason to take a different view.

8. We have considered the rival submissions on either side and perused the relevant material available on record. Admittedly, the expenditure on impairment of molds was considered by this Tribunal

in M/s Farida Leatherware Pvt. Ltd. (supra). This Tribunal found that it has to be allowed as revenue expenditure. Since facts are identical, this Tribunal is of the considered opinion that the CIT(Appeals) has rightly placed his reliance on the order of this Tribunal in M/s Farida Leatherware Pvt. Ltd. (supra) and allowed the claim of the assessee. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly the same is confirmed.

9. In the result, both the appeals filed by the Revenue are dismissed.

Order pronounced on 31st January, 2017 at Chennai.

sd/-

(डि.एस. सुन्दर सिंह)

(D.S. Sunder Singh)

लेखा सदस्य/Accountant Member

sd/-

(एन.आर.एस. गणेशन)

(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

चेन्नई/Chennai,

दिनांक/Dated, the 31st January, 2017

Kri.

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant

3. आयकर आयुक्त (अपील)/CIT(A)

5. विभागीय प्रतिनिधि/DR

2. प्रत्यर्थी/Respondent

4. आयकर आयुक्त/CIT

6. गार्ड फाईल/GF.