

आयकर अपीलिय अधिकरण, 'बी' न्यायपीठ, चेन्नई

IN THE INCOME TAX APPELLATE TRIBUNAL

'B' BENCH, CHENNAI

श्रीएन.आर.एस. गणेशन, न्यायिकसदस्य 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**

ITA Nos. 576 & 577/ Mds/2016

Assessment Years: 2006-07 & 2012-13

The Deputy Commissioner of
Income Tax,
Corporate Circle 6(1),
Aayakar Bhavan,
New Block, 121, M.G.Road,
7th Floor, Chennai – 600 034.

v. M/s.Savera Industries Ltd.,
146, Radhakrishnan Road,
Chennai – 600 004.

PAN: AA ECS9541D

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by

: Shri Supriyo Pal, JCIT

प्रत्यर्थीकीओरसे/Respondent by

: Shri G.Seetharaman, C.A.

सुनवाईकीतारीख/Date of Hearing

: 17.10.2016

घोषणाकीतारीख/Date of Pronouncement

: 23.11.2016

आदेश / O R D E R

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

Both the appeals of the assessee are directed against the respective orders of the CIT(A) dated 14.12.2015 for the Assessment Years 2006-07 & 2012-13.

2. Shri Supriyo Pal, the learned department representative submitted that the assessee-company is engaged in the business of running a four star hotel. In the course of its business activity for the assessment year 2006-07, the assessee claimed that a sum of Rs.58,40,450/- towards 'renovation expenditure'. According to the learned representative, the assessee has replaced existing mosaic floors into marble floors.

3. According to the learned representative, the expenditure incurred by the assessee was to improve the property beyond its original condition. Therefore, it has to be treated as 'capital in nature'. Accordingly, the assessing officer treated the expenditure as 'capital in nature' and allowed depreciation at the rate of 10%. However, the CIT(A) found that the expenditure incurred by the assessee is revenue in nature. According to the learned representative, the expenditure incurred for replacing the mosaic floor into a marble floor would definitely be in the capital field. Therefore, the CIT(A) is not justified in allowing the claim of the assessee.

4. We have considered the rival submissions on either side and perused the relevant material available on record. The assessee company is running a four star hotel in the city. In the course of its

business activity, admittedly, the assessee incurred expenditure for replacing the mosaic flooring into marble flooring. By replacing the mosaic flooring, the capacity of the hotel building remains the same. The profit earning apparatus of the assessee continues to be the same. Being a star hotel, the assessee has to improve its ambiance to attract more customers. The assessee has to necessarily replace the existing mosaic floor into marble floor in order to maintain the business asset. Therefore, the expenditure incurred by the assessee in replacing the mosaic floor by marble floor has to be treated as revenue in nature. Therefore, this Tribunal is do not find any reason to interfere with the order of the CIT(A) and accordingly, the same is confirmed.

5. Now coming to the assessment year 2012-13, Shri Supriyo Pal, the learned department representative submitted that the assessee has purchased Air Conditioner Machine, Dishwash Machine, Resto Pub Audio Video for Rs.59,50,665/- and claimed the same as 'revenue expenditure'. According to the learned representative, Air Conditioner Machine, Dishwash Machine, Resto Pub Audio Video are all capital in nature. Therefore, it cannot be allowed as revenue expenditure. On a query from the bench, whether the assessee has replaced the existing Air Conditioner Machine, Dishwash Machine and Resto Pub Audio Video,

the learned representative submitted that the fact is not coming out from the assessment order.

6. On the contrary, Shri G.Seetharaman, the learned representative for the assessee submitted that the assessee is a star hotel and is having Air Conditioner Machine, Dishwash Machine, Resto Pub Audio Video. The assessee has to replace the existing air conditioner in the lobby and resto pub. The assessee has also needs to replace the audio and video in the resto pub. It is not a case of installation of air conditioner for the first time. It is maintenance of the hotel in the course of its business activity. Therefore, the CIT(A) has rightly found that the expenditure has to be allowed as revenue in nature.

7. We have considered the rival submissions on either side and perused the relevant material available on record. From the order of the lower authorities, it appears that the hotel run by the assessee was classified as four star hotel since 1971. Therefore, the assessee has to necessarily have Air Conditioner Machine, Dishwash Machine and Audio Video in Resto Pub. This Tribunal is of the considered opinion that in the absence of any material to suggest that the assessee has purchased any new machinery, it has to be considered only as replacement of the existing machinery. When we consider the hotel as a single unit,

replacement of Air Conditioner Machine, Dishwash Machine and Audio Video in Resto Pub has to be considered as maintenance of the building for the purpose of running the business of hotel. Therefore, the CIT(A) has rightly found that the expenditure was revenue in nature. Therefore, this Tribunal do not find any reason to interfere with the order of the lower authority and accordingly, the same is confirmed.

8. In the result, both the appeals filed by the revenue in ITA Nos.576 & 577/Mds/2016 stands dismissed.

Order pronounced on 23rd November, 2016 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 23rd November, 2016.

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आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त (अपील)/CIT(A)
4. आयकर आयुक्त/CIT,
5. विभागीय प्रतिनिधि/DR
6. गार्ड फाईल/GF.