

(2010) 08 DEL CK 0305

Delhi High Court

Case No: ITA 1266 of 2010

Commissioner of Income Tax

APPELLANT

Vs

BSES Rajdhani Powers Ltd.

RESPONDENT

Date of Decision: Aug. 31, 2010

Acts Referred:

- Income Tax Act, 1961 - Section 260A

Hon'ble Judges: Dipak Misra, C.J; Manmohan, J

Bench: Division Bench

Advocate: Prem Lata Bansal, for the Appellant; None, for the Respondent

Final Decision: Dismissed

Judgement

Manmohan, J.

CM 15180/2010

1. For the reasons stated in the application, delay in re-filing the appeal is condoned.
2. Accordingly, application stands disposed of.

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3. The present appeal has been filed u/s 260A of the Income Tax Act, 1961 (hereinafter referred to as "Act, 1961") challenging the order dated 22nd April, 2009 passed by the Income Tax Appellate Tribunal (for brevity "Tribunal") in ITA No. 770/Del/2008 for the Assessment Year 2004-2005.

4. Ms. Prem Lata Bansal, learned Counsel for the Revenue submitted that the Tribunal had erred in law in allowing depreciation to the assessee at the higher rate of 60% on computer accessories and peripherals instead of the normal rate @ 25%. She further submitted that the computer peripherals and accessories could not be treated at par with computer and computer software.

5. However, upon a perusal of the file, we find that the higher rate of depreciation was allowed both by the Commissioner of Income Tax (Appeals) "CIT(A)" and the Tribunal. In fact, the Tribunal in its impugned order has observed as under:

The issue involved in this appeal is covered by the decision of Coordinate of the Tribunal as discussed below:

In the case of ITO v. Samiran Majumdar (2006) 98 ITD 119 (Kol.), ITAT Tata Bench "B", has taken a view that the printer and scanner are integral part of the computer system and are to be treated as computer for the purpose of allowing higher rate of depreciation, i.e., 60%.

3.2 The ITAT, Delhi "F" Bench in the case of Expeditors International (India) (P) Ltd. v. Ld. CIT reported in (2008) 118 TTJ 652 has held that peripherals such as printer, scanners, NT Server, etc. form integral part of the computer and the same, therefore, are eligible for depreciation at the rate of 60% as applicable to a computer.

4. Respectfully following the aforesaid decisions of the Coordinate Bench, we uphold the order of Id CIT(A) in allowing the depreciation at 60% on computer peripherals and accessories, and, thus, the ground raised by the revenue is rejected.

5. In the result, the appeal filed by the revenue is dismissed.

6. We are in agreement with the view of the Tribunal that computer accessories and peripherals such as, printers, scanners and server e form an integral part of the computer system. In fact, the computer accessories and peripherals cannot be used without the computer. Consequently, as they are the part of the computer system, they entitled to depreciation at the higher rate of 60%.

7. In view of aforesaid, present appeal is dismissed in limine.