

IN THE INCOME TAX APPELLATE TRIBUNAL
'B' BENCH, CHENNAI

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

ITA Nos.937, 938, 939, 940, 941 & 942/Mds/2016

Assessment Years : 2007-08 to 2012-13

M/s Tristar Container Services
(Asia) Pvt. Ltd.,
No.18, Swamy Sivananda Salai,
Chepauk, Chennai - 600 005.

v. The Assistant Commissioner of
Income Tax,
Company Circle III(1),
Chennai - 600 034.

PAN : AAAC 4043 K

Appellant

Respondent

Appellant by :

Shri V.S. Jayakumar, Advocate

Respondent by :

Shri B. Koteswara Rao, CIT

Date of Hearing : 28.02.2017

Date of Pronouncement : 29.03.2017

ORDER

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

All the appeals of the assessee are directed against the respective orders of the Commissioner of Income Tax (Appeals) – 11, Chennai, pertaining to assessment years 2007-08 to 2012-13. Since common issues arise for consideration, we heard all these appeals together and disposing of the same by this common order.

2. The first issue arises for consideration in all the appeals is with regard to reopening of assessment.
3. During the course of hearing, the Ld.counsel for the assessee very fairly submitted that he is not pressing this ground. Accordingly, the issue raised by the assessee for reopening of assessment under Section 147 of the Income-tax Act, 1961 (in short 'the Act') is dismissed as not pressed.
4. The only other issue remains to be adjudicated is in respect of lease rentals.
5. Shri V.S. Jayakumar, the Ld.counsel for the assessee, submitted that the assessee has taken containers on lease. In the books of account, the containers were taken as assets. The assessee also claimed depreciation on the containers in the income-tax computation. According to the Ld. counsel, the assessee added back the book depreciation and claimed containers lease rental as revenue expenditure. However, the Assessing Officer disallowed the claim of the assessee. The Assessing Officer allowed the depreciation. According to the Ld. counsel, the entire amount has to be allowed as revenue expenditure.

6. On the contrary, Shri B. Koteswara Rao, the Ld. Departmental Representative, submitted that the assessee has treated the containers as capital asset in the books. Since it was treated as capital asset, according to the Ld. D.R., the CIT(Appeals) disallowed the claim of the assessee towards payment of lease rental, however, he allowed the depreciation as claimed.

7. We have considered the rival submissions on either side and perused the relevant material available on record. The assessee claims that the containers were taken as lease. A copy of the agreement available at paper-book shows that it is a lease-cum-purchase of containers. It is not clear from the agreement whether it is a finance lease or operating lease. The fact remains that the assessee treated the containers as capital asset and alternatively claimed depreciation also. The alternative claim of depreciation was allowed by the Assessing Officer. 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, all the appeals of the assessee stand dismissed.

Order pronounced on 29th March, 2017 at Chennai.

sd/-

(D.S. Sunder Singh)
Accountant Member

sd/-

(N.R.S. Ganesan)
Judicial Member

Chennai,

Dated, the 29th March, 2017.

Copy to:

1. Appellant
2. Respondent
3. CIT(A)-11, Chennai-34
4. Prc.CIT-3, Chennai
5. DR
6. GF.