IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITA-296-2014
Date of decision:- 20.07.2015

M/s Vishal Coater Ltd.
...Appellant

Versus

Commissioner of Income Tax, Patiala
...Respondent

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. Rajiv Sharma, Advocate,
for the appellant.

Ms. Savita Saxena, Advocate,
for the respondent.

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S.J. VAZIFDAR, A.C.J. (ORAL)

This is an appeal against the order of the Tribunal dated 28.06.2013 allowing the revenue's appeal against the order of the CIT (Appeals) in part.

2. The question is whether the appellant was entitled to claim expenses on the current account in respect of certain repairs. The Assessing Officer held that the expenditure was incurred on capital account. The CIT (Appeals) over-ruled the Assessing Officer holding the same to be on revenue account. The Tribunal held that though various items were in the nature of repairs and maintenance, the assessee had also purchased certain items which were capital in nature such as magnetic flow meter, dosing pump model, printex and a pump.

3. The CIT (Appeals) affirmed that certain other items mentioned in the order did not have independent existence and could not perform independently. It was further held that 34 items were worn out due to wear and tear during the regular course of business. From the evidence on record,

it is difficult to say that the view taken by the Tribunal in this case was not possible at all. The necessary evidence to determine the question does not appear to have been brought on record. Inferences, therefore, had to be drawn by the authorities. This would be a pure question of fact.

Further, as noted by the Assessing Officer, the assessee had deducted similar expenses in the capital account in the past. The matter, therefore, essentially raises questions of fact.

4. It is, however, clarified that this would not prejudice the appellant in assessment proceedings for any other year if it is otherwise able to adduce relevant evidence to establish its claim.

5. The appeal is accordingly disposed of.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(G.S. SANDHAWALIA)
JUDGE

20.07.2015
Amodh