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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **ITA 771/2015**

**THE PRINCIPAL COMMISSIONER OF
INCOME-TAX-08**

..... Appellant

Through: Mr. Dileep Shivpuri, Senior Standing
counsel with Mr. Joheb Hussain, Junior Standing
counsel.

versus

M/S XEROX INDIA LTD

..... Respondent

Through: Mr. Ajay Vohra, Senior Advocate with
Ms. Kavita Jha, Mr. Vaibhav Kulkari, Advocates

**CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU**

ORDER

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18.01.2016

1. This appeal by the Revenue under Section 260A of the Income Tax Act, 1961 ('Act') is directed against the order dated 12th December 2014 passed by the Income Tax Appellate Tribunal ('ITAT') in ITA No. 5389/Del/2011 for the Assessment Year (AY) 2007-08.

2. The first issue projected by the Revenue concerns the acceptance by the ITAT of the Assessee's case for allowing depreciation on the de-capitalized assets on the written down value ('WDV') basis on the block of assets in terms of Section 43(6) (c) of the Act notwithstanding that some of the assets had been converted into stock-in-trade at nominal value.

3. As noted in the impugned order of the ITAT, the case of the Assessee is that there are certain fixed assets which were not capable of use for captive consumption and had to be discarded from the block of assets for conversion into stock-in-trade. As and when the de-capitalized assets, i.e., stock-in-trade are sold, the profit is accounted for in the profit and loss account. An example that has been cited by the ITAT is where the asset whose WDV is valued at Rs.100 is de-capitalized and valued at Rs.1, depreciation on the remaining Rs. 99 shall continue to be allowed even though the asset does not physically exist in the block of assets.

4. The case of the Revenue is that none of the conditions envisioned under Section 43(6) (c), i.e., reduction of the block of assets on account of some portion thereof being sold, discarded, demolished or destroyed is fulfilled in the instant case and therefore the question of continuing to avail of depreciation on the WDV basis on the block of assets, notwithstanding transfer of some portion thereof to stock-in-trade, ought not to be permitted.

5. The case of the Assessee is that it has adopted a consistent practice of de-capitalizing assets which are of no use to it. Upon their transfer at nominal value to its stock-in-trade, and subsequent sale, the profit earned thereby is offered to tax.

6. As noted by the ITAT this method of de-capitalising assets which have ceased to be of utility has been consistently followed by the Assessee. The Revenue has been unable to demonstrate how the Revenue's interest is adversely affected thereby or if there is any escapement of income from assessment. On the other hand if indeed the profit as a result of subsequent

sale of the asset is offered to tax, there cannot be any prejudice to the Revenue. Consequently, this Court finds no reason to disagree with the reasoning or conclusion of the ITAT in this regard and therefore is not inclined to frame question on this issue.

7. The second question arises in the specific context of 'revenue recognition' in respect of certain types of sales made by the Assessee of its products. In the notes to the financial statements appended to the balance sheet for the relevant previous year under the heading 'summary of significant accounting policies', the Assessee has sought to explain 'revenue recognition' as under:

“Revenue from sale of goods is recognized as goods are despatched to the customers and upon endorsement of title to the goods. Revenue from sale of goods with a conditional clause on installation is recognized on completion of installation and acknowledgement by the customer. Sales are recorded at invoice value, net of trade discount, sales taxes, returns, but including excise duties.

Revenue from maintenance services is recognized as and when the services are actually rendered.

Revenue from rental of machines is recognized on a time related basis.

Revenue from sale of machines under hire purchase is recognized on execution of the agreement. Revenue from associated finance income is recognized on an accrual basis over the period of the lease taking 'Month' as a unit. The assets under a finance lease are disclosed as a receivable under loans and advances at an amount equal to the net investment in the lease.”

8. Further the change in the accounting policy during the relevant year has been explained as under:

“During the year the company changed its policy on revenue recognition on sale of goods. The company now recognises revenue as per note 2(iii) of Schedule T, which was hitherto being recognized on delivery. As a consequence, had the company carried on with the earlier policy, sales would have been Rs. 51,306.57 lakhs (as against the reported figure of Rs.50,686.41 lakhs), material and manufacturing expenses would have been Rs. 33,103.71 lakhs (as against the reported figure of Rs. 33,583.93 lakhs) and net profit for the year would have been Rs. 1,532.55 lakhs (as against the reported figure of Rs. 1,392.61 lakhs)”.

9. The Court has been shown the instance of supply of photocopier machines by the Ministry of Finance where it is noted that after installation of machines, bills are to be submitted for payment. In addition, it is pointed out by Mr. Ajay Vohra, learned counsel for the Assessee, that the effect of the change in accounting policy on the profit worked out to Rs. 1.39 crores and this was sought to be added by the Assessing Officer (‘AO’).

10. The change in the accounting policy is required to be satisfactorily explained by the Assessee and there has to be a consistency in adopting such a change. It is not the Revenue’s case that the above change of accounting policy is not a *bona fide*. It is consistent with Accounting Standard 9 issued by the Institute of Chartered Accountants of India. The explanation for the change has been furnished by the Assessee as part of its audited accounts. It is pointed out that in subsequent AY the change was recognized and accepted by the Revenue.

11. In these circumstances, the Court finds no reason to differ with the view expressed by the ITAT in the impugned order. Consequently, no substantial

question of law arises in the present case.

12. The appeal is dismissed.

S.MURALIDHAR, J

VIBHU BAKHRU, J

JANUARY 18, 2016
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