105 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

Date of decision : 22.07.2019

1. **ITA No.101 of 2018 (O&M)**

The Pr. Commissioner of Income Tax-2, Chandigarh

...... Appellant

versus

M/s Taj Travels Pvt. Ltd., F-77, 1^{st} Floor,
Civil Line, Bathinda.

...... Respondent

2. **ITA No.102 of 2018 (O&M)**

The Pr. Commissioner of Income Tax-2, Chandigarh

...... Appellant

versus

M/s Taj Travels Pvt. Ltd., F-77, 1^{st} Floor,
Civil Line, Bathinda.

...... Respondent

3. **ITA No.109 of 2018 (O&M)**

The Pr. Commissioner of Income Tax-2, Chandigarh

...... Appellant

versus

M/s Taj Travels Pvt. Ltd., F-77, 1^{st} Floor,
Civil Line, Bathinda.

...... Respondent

4. **ITA No.170 of 2018 (O&M)**

The Pr. Commissioner of Income Tax-2, Chandigarh

...... Appellant

versus

M/s Taj Travels Pvt. Ltd., F-77, 1st Floor,
Civil Line, Bathinda.

...... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE HARNARESH SINGH GILL

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Present : Mr. Vivek Sethi, Advocate
for the appellant.

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AJAY TEWARI, J. (Oral)

1. This order shall dispose of the above mentioned four appeals. Since common questions of law and facts are involved therein, they are being decided by this common order. For the sake of convenience the facts are being taken from ITA No.101 of 2018.

2. ***ITA No.101 of 2018*** has been filed under Section 260A of the Income Tax Act, 1961 (for short 'the Act') against the order of the Income Tax Appellate Tribunal Division Bench Amritsar, dated 23.08.2017 in ITA No.427(Asr)/2016 for the Assessment Year 2012-2013.

3. ***ITA No.102 of 2018*** has been filed under Section 260A of the Income Tax Act, 1961 (for short 'the Act') against the order of the Income Tax Appellate Tribunal Division Bench Amritsar, dated 18.09.2017 in ITA No.503(Asr)/2016 for the Assessment Year 2013-2014.

4. ***ITA No.170 of 2018*** has been filed under Section 260A of the Income Tax Act, 1961 (for short 'the Act') against the order of the Income Tax Appellate Tribunal Division Bench Amritsar, dated 23.08.2017 in ITA No.426(Asr)/2016 for the Assessment Year 2011-2012.

5. And ***ITA No.109 of 2018*** has been filed under Section 260A of the Income Tax Act, 1961 (for short 'the Act') against the order of the Income Tax Appellate Tribunal Division Bench Amritsar, dated 23.08.2017 in ITA No.425(Asr)/2016 for the Assessment Year 2010-2011.

6. These appeals have been filed against the orders of the Tribunal allowing 30% depreciation to the Assessee for the buses which were owned by it and were being run on hire.

7. The Assessee had claimed 30% depreciation in terms of New Appendix I (effective from assessment year 2006-2007 onwards), as per ***item No.III (3) (ii) Motor buses, motor lorries and motor taxis used in a business of running them on hire.***

8. The Assessing Officer disallowed the depreciation holding that this would be applicable only to such businesses who had taken the buses on hire. Thus the manner in which the Assessing Officer read the provision would be as follows :-

> ***'Motor buses, motor lorries and motor taxis <u>on hire</u> used in a business of running them.'***

9. The Assessee filed an appeal and the same having been allowed the Revenue approached the Tribunal. The Tribunal having dismissed the appeal of the Revenue, it is before us in these appeals. A

bare perusal of ***item No.III (3) (ii)*** quoted above makes it clear that the interpretation given by the Commissioner and the Tribunal is correct and natural while that sought to be given by the Assessing Officer is most unnatural and really makes the provision un-meaning because then it would imply that an Assessee is using the motor buses/ motor lorries and motor taxies in a business of running. We asked the learned counsel for the appellant what the business of running of buses, lorries and taxies would be? He is not in a position to deny that the business of running buses, lorries and taxies can only be for hire because in every other case such vehicles would be only utilized for use of assessee and not for a business. Thus the natural meaning of the phrase would apply in the present case and those Assessees who are running automobiles for hire would be liable to claim a higher depreciation than those whose automobiles are meant for their use.

10. In the circumstances of the case, we are not able to find any fault with the judgment and orders of the Tribunal. No other question of law arises.

11. Since the main cases have been dismissed, the pending C.M. Applications, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

July 22, 2019
pooja sharma-I

Whether speaking/reasoned Yes/No
Whether Reportable : Yes/No