आयकरअपीलीयअधिकरण, विशाखापटणमपीठ, विशाखापटणम

IN THE INCOME TAX APPELLATE TRIBUNAL,
VISAKHAPATNAM BENCH, VISAKHAPATNAM
(through web-based video conferencing platform)

श्री वी. दुर्गा राव,न्यायिक सदस्य एवं श्री डि.एस. सुन्दर सिंह, लेखा सदस्य के समक्ष

BEFORE SHRI V. DURGA RAO, JUDICIAL MEMBER&
SHRI D.S. SUNDER SINGH, ACCOUNTANT MEMBER

S.A.No.49 /Viz/2020
(Arising out of I.T.A. No.228/Viz/2020)
(निर्धारण वर्ष/Assessment Year:2013-14)

Instrument Technologies D.No.50-63-03, Gayatri Nilayam Rajendra Nagar Seethammapeta Visakhapatnam **[PAN : AAAFI9931J]**	Vs.	Asst.Commissioner of Income Tax Circle-3(1) Visakhapatnam
(अपीलार्थी/ Appellant)		**(प्रत्यर्थी/ Respondent)**

I.T.A. No.228/Viz/2020)
(निर्धारण वर्ष/Assessment Year:2013-14)

Instrument Technologies D.No.50-63-03, Gayatri Nilayam Rajendra Nagar Seethammapeta Visakhapatnam **[PAN : AAAFI9931J]**	Asst.Commissioner of Income Tax Circle-3(1) Visakhapatnam

अपीलार्थी की ओर से/ Appellant by	:	Shri G.V.N.Hari, AR
प्रत्यार्थी की ओर से / Respondent by	:	Shri B.Rama Krishna, DR
सुनवाई की तारीख / Date of Hearing	:	27.11.2020
घोषणा की तारीख/Date of Pronouncement	:	06.01.2021

आदेश /O R D E R

Per Shri D.S.Sunder Singh, Accountant Member :

The assessee filed appeal with the delay of 195 days and filed petition for condonation stating that the delay was due to lockdown and corona pandemic. After hearing both the parties, the delay is condoned and the appeal is admitted. Since the appeal is taken up for hearing, the stay application of the assessee becomes infructuos, hence dismissed.

2. The only issue in this appeal is with regard to sustaining the addition of Rs.1,27,80,000/- made by the Assessing Officer (AO) restricting the depreciation on bio metric devices to 15% as against 60% claimed by the assessee. During the assessment proceedings, the AO found that the assessee has purchased biometric devices for Rs.5,68,00,000/- and claimed the depreciation @60%. Before the AO the assessee submitted that the assessee has purchased the bio metric devices which are computer accessories and they are not useful unless the y are attached to the computer or laptop and hence, the same is to be treated on par with computer and hence, claimed the depreciation at higher rate.

3. The AO not being convinced with the explanation of the assessee held that biometric devices are capable of functioning independently and need not necessarily attach to the computer for its working. The AO further viewed

that they are not the integral part of the computers. Relying on the decisions of ITAT Mumbai in the case of Venture Infotek Global Ltd. V.DCIT (2008-TIOL-526-ITAT-MUM) the AO rejected the contention of the assessee that it is computer and hence, treated the same as plant and machinery and allowed the depreciation @15% as against the claim of 60% and accordingly disallowed the sum of Rs.1,27,80,000/-.

4. Against which the assessee went on appeal before the CIT(A) and the Ld.CIT(A) held that the AO has demonstrated that the input devices can function independently without computers, therefore, confirmed the addition made by the AO and dismissed the appeals of the assessee.

5. Against which the assessee filed appeal before this Tribunal and relied on the following case laws.

i) Data Craft India Ltd. [133 ITJ 0377 (Mum Tribunal)]

ii) Jokai India Ltd. [251 ITR 39]

iii) Cactus Imaging India (P) Ltd. [2018) 406 ITR 406 (Madras)]

iv) Sesa Resources Ltd. [404 ITR 707]

v) Saraswat Infotech [ITA No.3606/Mum/2011/A.Y.2008-09]

6. We have heard both the parties and perused the material placed on record. The assessee has purchased biometric devices for Aadhar enrolment, finger print cum iris enrolment used to enroll large groups of people for

certain schemes mostly promoted by Government and NGOs. They are widely used for enrolling citizens by local or central government organizations , UID Aadhar, NPR, National ID projects, World bank and UNESCO schemes.

6.1. In the instant case, the Ld.DR submitted that biometric devices can independently function and are not integral part of computers, therefore, argued that higher depreciation is not allowable. Whereas, the Ld.AR submitted that unless the bio metric devices are attached to the computer, the same cannot function independently and the output cannot be taken. The AO in his order elaborated the Biometrics as under:

> *3.2. Biometrics is the identification of a person by the measurement of their biological features. When compared to a password, this type of system is much more difficult to fake since it is unique to the person. A biometric input device measures a unique physical characteristic of a person. The most common biometric devices are used to input a persons fingerprint into a computer. More sophisticated devices use a camera to inland description of a person's iris (the coloured part of eye).*
>
> *3.3. Biometric devices are usually used for security purposes A record of a person's fingerprint or iris pattern is stored in a database. Later on the identity of a person can be determined by rescanning the finger or eye and looking up the results of the scan in the database. Biometric devices provide a very reliable way of identifying people. A Biometric Kit usually contains a Live scan for Ten Fingerprint Capture, a high Speed Dual Iris Scanner and in addition a Web Camera for capturing Photographs. The components of a biometric device usually include an input device, a database containing potential matches, and a control program to determine the action based on authentication results.*
>
> *3.4 AADHAR Enrollment Kits (Fingerprint cum Iris Enrollrnent Kit) are generally used to enroll large groups of people for certain schemes mostly promoted by Government &NGOs. They are used widely for enrolling citizens by local or central government organizations, UID Aadhar.*

6.2. The assessee submitted the detailed write up before the Ld.CIT(A) with regard to biometric usage as under:

1. ***3MTm CIS 202 High Speed Dual Iris Scanner***

The above machine is a high speed leis image capture device that can simultaneously capture both eye rises in less than 2 second. Compliant with NIST SAP level 40% CIS 202 gas near infrared illuminator, led lighting and built in spectral imaging sensitivity control to capture light in the range of 700 to 900 Nino meters. CIS 202 image output meet industry interchange format specification by supporting ANSI NIST Type 47 records, with raw images conformant to ISO 9794-6 rectilinear image standards.

*2.****3M rm CS500e Live scan system****:*

This is a co print live scan device is a light weight scanner capable of performing rold and flat fingerprint images.

3. ***Biometric Input Devices****:*

A biometric input device measures a unique physical characteristic of a person. The most common biometric devices are used to input a person's fingerprint into a computer. More sophisticated devices use a camera to input a description of a person's iris (the colored part of the eye). Biometric devices are usually used for security purposes. A record of a person's fingerprint or iris pattern is stored in a database. Later on the identity of a person can be determined by re-scanning the finger or eye and looking up the results of the scan in the database. Biometric devices provide a very reliable way of identifying people.

There are many kinds of biometric input devices that you can use with your computer, and these biometric securities Input devices are all designed with a single purpose in mind security.

The way a biometric mouse, fingerprint input keyboard, biometrics, scanner, biometric software, and biometrics input reader works to enhance your computer security is by locking everything on the computer down tightly. The world of computers, the interest, and digital information is much less secure than it once was, as more and more computer hackers and data thieves are finding the digital world is much easier to steal from than the real world. More and more people are being forced to upgrade their computer input security devices, and biometrics is, one of the best ways to do it easily.

> *Biometric input Devices: The reason that biometrics input systems are such a good choke for upgrading your security is that they are much more difficult to crack than a password or alphanumerical key. Seeing as each person around the world has a unique biometric signature that no one in the world can match, there is little risk that anyone else will be able to dupe the System.*
> *In order to crack an input biometric security system, the actual biometrics input signature of the parson will used to be copied and duplicated in order to gain access. Unless you are a millionaire or someone who keeps incredibly sensitive personal information on your computer, it is highly unlikely that a thief will' be interested enough in stealing your data* if *you use a biometrics computer security system of some sort.*
>
> *Biometric input security devices are an excellent backup to have for your computer, as they help to protect your computer against intrusion and data theft from the outside. While there is little that biometrics security can do to prevent viruses or spent ware from taking over your computer, you will find that the system will be more than enough to keep thieves from physically getting on your computer and stealing personal information and sensitive data. Biometric input security devices such as the biometrics keyboard or biometrics mouse are designed to enhance your computer's security by providing extra layer of protection. While you may have a complex password that no one will ever think to crack, having an extra layer of biometric input security on top of your safety precautions can't hurt.*
>
> *Once you have plugged in your USB fingerprint keyboard or mouse, the computer is locked until your fingerprint is scanned once more and you are authorized by the biometric software running the security program. It won't matter if your biometric devices are unplugged: the biometric software in the computer will keep the computer locked until you have scanned your fingers and gained access to the software. In the end, the biometric input-devices are some of the most practical input systems that you can use to keep your computer safe. The fact of the matter is that a fingerprint input keyboard or biometrics mouse connected to your computer can do far more than anti 34 character pass word, as there is only one person that will ever be able to gain access to your computer when you are using these input devices with biometrics integrated for security."*

6.3. We find from above that the biometric system functions independently and captures the information, however, it needs to be attached to the computer with software to take the output. Aadhaar enrolment project is to provide unique identification to every citizen of India and to issue identification cards to all the citizens. Without the output the project does not serve the purpose for which it is intended. Thus, without computer system, Aadhar enrolment kit is not useful.

6.4. Hon'ble Madras High Court in the case of CIT Vs. Cactus Imaging India (P) Ltd. [2018) 406 ITR 406 (Madras)] held that the computer printers being part of computer is eligible for higher rate of depreciation @60%. While dealing with the issue, the Hon'ble Madras High Court applying the rule of interpretation observed that entry in Appendix I Clause III(5) states computers including computer software and the notes under the Appendix defines the computer software in Clause7 to mean any computer program recorded on disc, tape, perforated media or other information storage device. The computer was not defined in the Act. Therefore, Hon'ble High Court viewed that if a particular article falls within the description by the force of words used, it is impermissible to ignore the word description. Thus, the Hon'ble High Court held that the printer is integral part of the computer and accordingly held that it is eligible for depreciation @60%. Following the decision of Hon'ble Madras High Court, in the instant case, thought the biometric kit is capable of capturing the data, it needs the computer for taking output.

6.5. Hon'ble Mumbai Special Bench in the case of Data Craft India Ltd. (2010) 40 SOT 295 considered the issues of computer and the computer systems and held that router is a networking device, whose software and hardware are customized to the task of routing and forwarding information and held that the switches can be classified as computer hardware when they are used along with the computer and when their functions are integrated with the computer. In simple words, when device used as the part of computer in its functions, then it would be termed as computer. If we apply the reasoning given by the Hon'ble Madras High Court and the decision of Hon'ble Special Bench of Mumbai Tribunal, biometric device is used along with the computer and fits also into the definition of computer.

6.6. If the biometric system is detached from the computer, the same does not serve the purpose for which it is intended. Even in the biometric system also, wear and tear is very high like computer. As per the interpretation of Hon'ble Madras High court in the case supra the functioning of biometric device fits into the computer and eligible for higher rate of depreciation. Therefore, we hold that bio metric system is a computer and the depreciation required to be allowed at higher rate. Accordingly, we set aside the orders of the Ld.CIT(A) and allow the appeal of the assessee.

7. In the result, stay application of the assessee is dismissed and the appeal of the assessee is allowed.

Order pronounced in the open court on 6th January, 2021.

Sd/-	Sd/-
(वी.दुर्गा राव)	**(डि.एस. सुन्दर सिंह)**
(V. DURGA RAO)	**(D.S. SUNDER SINGH)**
न्यायिक सदस्य/JUDICIAL MEMBER	**लेखा सदस्य/ACCOUNTANT MEMBER**

दिनांक /Dated : 06.01.2021
L.Rama, SPS

आदेश की प्रतिलिपि अग्रेषित/Copy of the order forwarded to:-

1. निर्धारिती/ The Assessee– Instrument Technologies, D.No.50-63-03, Gayatri Nilayam, Rajendra Nagar, Seethammapeta, Visakhapatnam
2. राजस्व/The Revenue – Asst.Commissioner of Income Tax, Circle-3(1) Visakhapatnam
3. The Pr.Commissioner of Income Tax-1, Visakhapatnam
4. The Commissioner of Income Tax (Appeals)-1, Visakhapatnam
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम/DR, ITAT, Visakhapatnam
6.गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

// True Copy //

Sr. Private Secretary
ITAT, Visakhapatnam