

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक
IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK
BEFORE SHRI C.M. GARG, JM & SHRI L.P. SAHU, AM
आयकर अपील सं./ITA No.280/CTK/2017

(निर्धारण वर्ष / Assessment Year :2013-2014)

GVV Construction Pvt. Ltd., Plot No.358, Saheed Nagar, Bhubaneswar-751007	Vs.	DCIT, Corporate Circle-1(1), Bhubaneswar
PAN No. : AACCG 3649 Q		

(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)
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निर्धारिती की ओर से /Assessee by	:	Shri P.K.Mishra, Advocate
राजस्व की ओर से /Revenue by	:	Shri M.K.Gautam, CIT-DR

सुनवाई की तारीख / Date of Hearing	:	11/08/2020
घोषणा की तारीख/Date of Pronouncement	:	18/08/2020

आदेश / ORDER

Per L.P.Sahu, AM:

This is an appeal filed by the assessee against the order of CIT(A)-1, Bhubaneswar dated 27.04.2017 for the assessment year 2013-2014, on the following grounds of appeal :-

1. That the order under section 143(3) dated 10.02.2016 passed by the Learned Assessing Officer for the assessment year 2013-14 is unjustified, arbitrary, hypo-technical and bad in law.
2. That the learned Assessing Officer has passed the order having all materials and evidences in his hand without application of judicious mind with a preconceived notion.
3. That the learned Assessing Officer has ignored the submissions made by the appellant during the course of hearing of the proceeding and more over have totally ignored the papers, documents, Case laws and statement submitted on various date of hearing of the case and thereby added the claim of depreciation to the tune of Rs. 33,42,185/- to the total income of the appellant. Although the appellant has furnished all the evidences and papers that has been asked for during the assessment proceedings. The Learned Assessing Officer has ignored that evidences and explanations of the appellant in totality with a reason and opinion on the body of the order that the explanation of the appellant are not acceptable in nature.

4. *That the submission made by the appellant in response to the show cause notice on dt. 15.01.2016 as regards the claim of depreciation with supportive evidences and legal pronouncements has not been accepted by the learned Assessing Officer on preconceived notion and without application of judicious mind.*
5. *That the appellant carves, leave to add or to amend the grounds before or at the time hearing of this appeal.*

2. Further the assessee vide letter dated 07.08.2020 has filed additional/revised grounds of appeal, which read as under :-

1. *For that, the learned C.I.T.(A) has committed gross error of fact in not accepting the explanation of the Assessee and in simply confirming the disallowance of depreciation of Rs.33,42,185.00 made by the learned A.O, particularly when, the findings of the learned A.O. is totally perverse and contrary to the statutory provisions of law and facts on record. Impugned addition thus, being not sustainable in the eye of law is liable to be deleted in the interest of justice.*
2. *That, the learned C.I.T.(A) has committed gross error of law in confirming the findings of the learned A.O that vehicles against which depreciation claimed @30% are not motor lorries and further the vehicles were not actually given on hire, particularly when, both findings are contrary to the statutory provisions of law and the Appellant is lawfully entitled for depreciation @30% on those vehicles. Impugned addition thus, being not sustainable in the eye of law is liable to be deleted in the interest of justice.*
3. *That, it may be respectfully submitted here that, these two grounds go to the root of the case, it needs to be admitted for hearing in the interest of justice. If these two grounds are not admitted and not adjudicated, then the Appellant Company will be highly prejudiced and will suffer from irreparable loss and injury, Hence the;*

PRA Y E R

*Under the facts and in the circumstances stated above, it is therefore respectfully prayed that, this Hon'ble Tribunal shall be graciously pleased to consider the genuine difficulties faced by the Appellant Company and be further pleased to accept these additional and revised grounds taken here in the revised grounds of Appeal for adjudication in the interest of justice.
And for this Act of kindness, the Appellant Company as in duty bound shall ever pray.*

3. In the same application dated 07.08.2020, the assessee has filed additional and revised grounds of appeal, which read as under :-

1. *For that, the learned C.I.T.(A) has committed gross error of fact in not accepting the explanation of the Assessee and in simply confirming the disallowance of depreciation of Rs.33,42,185.00*

made by the learned A.O, particularly when, the findings of the learned A.O. is totally perverse and contrary to the statutory provisions of law and facts on record. Impugned addition thus, being not sustainable in the eye of law is liable to be deleted in the interest of justice.

2. *That, the learned C.I.T.(A) has committed gross error of law in confirming the findings of the learned A.O that vehicles against which depreciation claimed @30% are not motor lorries and further the vehicles were not actually given on hire, particularly when, both findings are contrary to the statutory provisions of law and the Appellant is lawfully entitled for depreciation @30% on those vehicles. Impugned addition thus, being not sustainable in the eye of law is liable to be deleted in the interest of justice.*
3. *That, the order U/s. 143(3) dated 10.02.2016 passed by the learned Assessing Officer for the Assessment year 2013-14 is unjustified, arbitrary, hypo-technical and bad in law.*
4. *That, the learned Assessing officer has passed the order having all materials and evidences in his hand without application of judicious mind with a preconceived notion.*
5. *That, the learned Assessing Officer has ignored the submissions made by the Appellant during the course of hearing of the proceeding and more over, have totally ignored the papers, documents, case laws and statement submitted on various date of hearing of the case and thereby added the claim of depreciation to the tune of Rs.33,42,185.00 to the total income of the Appellant. Although the appellant has furnished all the evidences and papers that has been asked for during the Assessment proceedings. The learned Assessing officer has ignored that evidences and explanations of the appellant in totality with a reason and opinion on the body of the order that the explanation of the appellant is not acceptable in nature.*
6. *That, the submission made by the Appellant in response to the show cause notice on dated 15.01.2016 as regards the claim of depreciation with supportive evidences and legal pronouncements has not been accepted by the learned Assessing Officer on preconceived notion and without application of judicious mind.*
7. *That, the Appellant craves, leave to add or to amend the grounds before or at the time of hearing of this appeal.*

4. On perusal of the all the above grounds, we found that the grounds raised by the assessee in the form of additional/revised grounds are already exist in the grounds raised by the assessee in Form No.36, therefore, the grounds taken by the assessee in Form No.36 are taken into consideration and are being decided in the ensuing

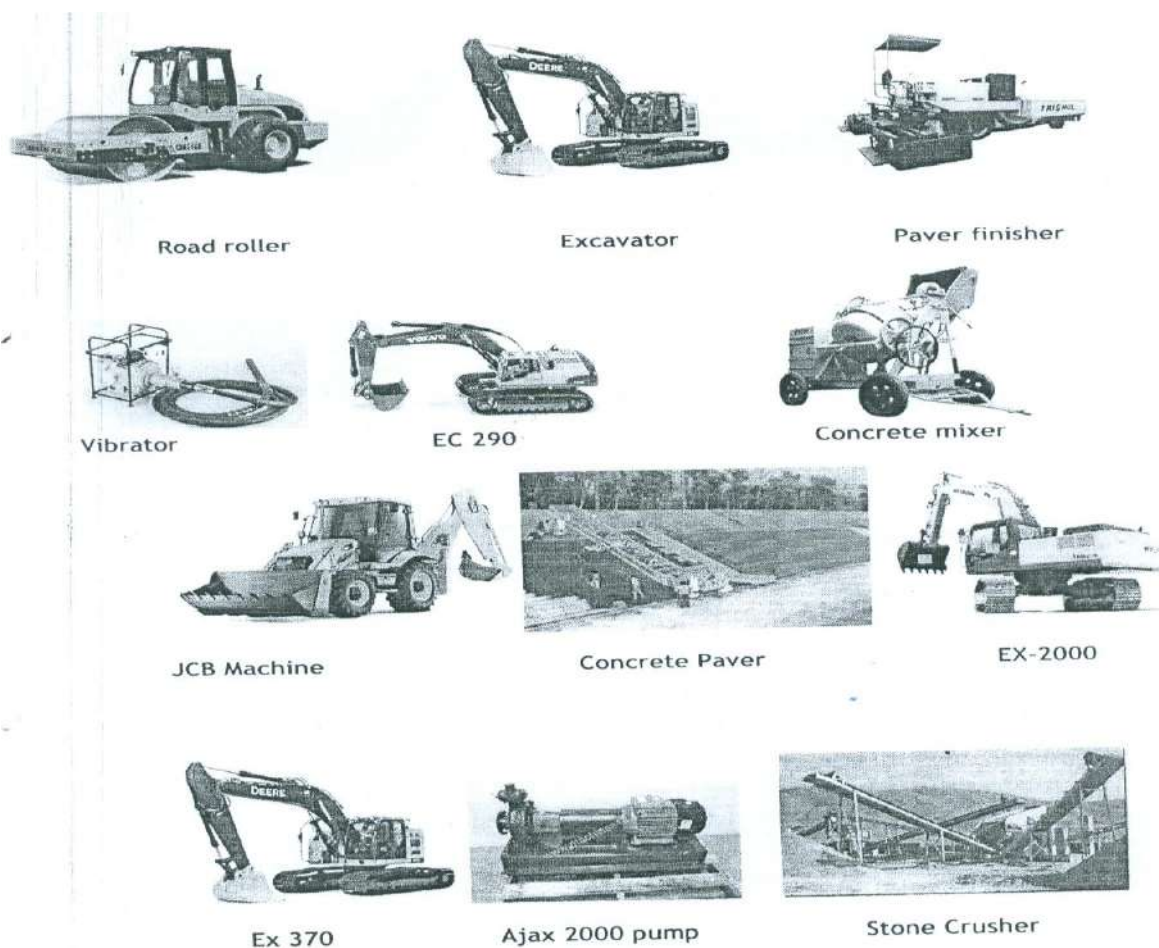
paragraphs. In all the above grounds i.e. either in the additional/revised grounds or in the grounds raised in Form No.36, the sole issue involved is regarding claim of additional depreciation on certain assets/machineries.

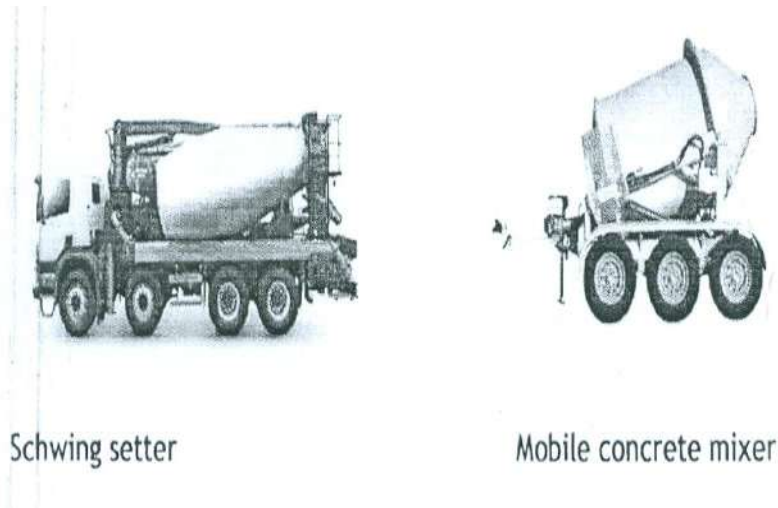
5. The assessee has taken total five grounds out of which ground No.1 is general in nature and ground No.4 is residuary ground. Therefore, these grounds are not required to be adjudicated.

6. Now, we proceed to decide the remaining grounds raised by the assessee in the present appeal.

7. Brief facts of the case are that the assessee filed return of income on 24.09.2013 declaring total income of Rs.3,29,07,929/-. The assessee is deriving income from civil contract business. The case of the assessee was selected for scrutiny and statutory notices were issued to the assessee. During the course of assessment proceedings, the AO noticed that the assessee has claimed depreciation at the rate of 30% on various items(14 nos.) under the head plant and machinery referring them as motor lorries used in a business of running them on hire. But on perusal of the profit and loss account, the assessee has not shown any income from hiring in respect of 14 items of plant and machinery in which the assessee claimed depreciation @30%. The AO also noted that the above items are not under the category of motor lorries as defined in the Income Tax Act regarding charging of

depreciation as per Section 32 of the Act. In this regard the AO issued show cause notice dated 04.01.2016 requesting the assessee to show cause as to why the following 14 items should not be treated as plant and machinery, on which admissible rate of depreciation as per I.T.Act, 1961 is 15%. Only, motor buses, motor lorries and motor taxis used in a business of running of them hire is eligible for depreciation @30%. It was also mentioned by the AO that none of the following 14 items are coming under motor buses, motor lorries and motor taxis. It was further mentioned by the AO that no income from hiring the 14 items are shown in the profit and loss account for the F.Y.2012-2013. The pictures of the machineries/assets are as under :-

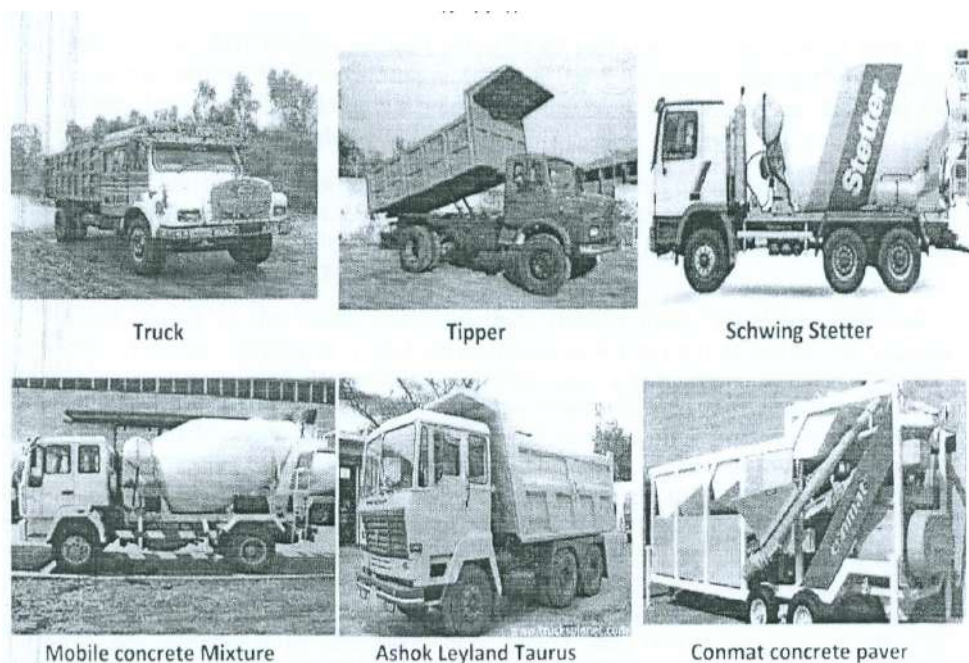




8. Against the show cause notice issued by the AO the assessee filed written submissions along with picture of the said impugned assets/machineries, which has been incorporated by the AO in the assessment order, are as under :-

"Dear Sir,

GVV Construction private limited is a private limited company registered with ROC Odisha, Cuttack. The accounts of the company has been drawn up as per the provision of the companies Act . Based on the audited account the depreciation schedule has been drawn up . Since the company is in activity of Civil construction the Trucks , Tippers , Schwing Stetter , Mobile concrete mixture , Ashok Leyland Taurus and Conmat concrete paver although are of the nature of Motor Buses , Motor lorries and Motor taxis have been considered as plant and machinery . On review of accounts it is seen that the company has charged depreciation on certain items wrongfully as excess then the rate allowed and in some cases the depreciation has been charged at a lower rate than the allowed rate. This is claim has been made by mistake with a presumption that the assessee company is entitled for a depreciation at a higher rate higher rate when the plant and equipment are given on hire , accordingly depreciation has been wrongly charged . We are enclosing here with correct computation of depreciation which is prescribed by the Act with the photograph of the Motor lorries and Motor taxis on the basis of which the depreciation may please be allowed as annexure-1 to the submission .The photographs of such motor lorries which are entitled for a higher depreciation is also given as under for your kind consideration.



Since the Motor lorries and Motor taxies were used for running them on hire depreciation @30%, which is in line of the rate of depreciation as prescribed under the Income Tax Act, 1961 may please be allowed. The relevant schedule showing the rate of depreciation is attached here with for your reference as annexure-2 to this submission. Apart from the above, the following details which we are submitting here with for your kind consideration & records.

Based on the above discussion & supporting evidences the claim of the assessee may please be allowed.

9. On going through the above submissions of the assessee, the AO noticed that there was no any grievance made by the assessee for giving the vehicles on hire and no any bills and details of the hire charges payments were produced before the AO to substantiate the claim of the assessee. The AO also observed that the assessee claimed that instead of showing hire charges as income it had been credited to the accounting head 'hire charges' and furnished ledger copy of the same, but nowhere in the details it was mentioned that, only 'motor lorries' were given on hire. There is possibility that item forming part

of the plant and machinery other than 'motor vehicles/buses/lorries would have been given on hire. It was also observed by the AO that the onus lies on assessee to prove that only vehicles eligible for higher depreciation were given on hire. The assessee before the AO referred to the CBDT Circular No.609 dated 29.07.1991 and also cited many judgments by the assessee. The AO further noticed that for claiming higher rate of depreciation the assets must be fallen under the category of motor vehicles/buses/lorries as prescribed in the Income Tax Act. But here there is no such case. Accordingly, the AO recalculated the depreciation @15% as prescribed by the Income Tax Act under the plant and machinery on the 14 items totaling excess depreciation calculated Rs.33,42,185/- and added back to the total income of the assessee. In addition to the above various other disallowances, the AO assessed the total income of the assessee at Rs.4,16,88,061/-.

10. Feeling aggrieved from the order of the Assessing Officer, the assessee filed appeal before the CIT(A) and the CIT(A) after considering the submissions of the assessee and findings recorded by the AO, dismissed the appeal of the assessee.

11. Aggrieved from the order of CIT(A), the assessee is in appeal before the Income Tax Appellate Tribunal.

12. Ld.AR submitted that the assessee is engaged in the business of civil construction works and all the necessary documents were

submitted before the AO. The books of accounts have been examined by the qualified Chartered Accountant and no any adverse remarks have been pointed out by him regarding additional claim of depreciation. Further he has submitted that the trucks, tippers, schwing stetter, mobile concrete mixture, ashok Leyland Taurus, conmat concrete paver are in the nature of motor buses, motor lorries and motor taxies and registered as per the Motor Vehicles Act, 1988. The assets were given on hire and the income from which have been credited under the head hire charges. Ld. AR filed paper book containing pages 1 to 18 and in support of his arguments, ld. AR relied on CBDT Circular No.609, dated 29.07.1991. He also relied on the decision of coordinate bench of the Tribunal in the case of M/s Sainik Mining and Allied Services Limited, I.T.Appeal No.30008(Del) of 2007, order dated 29.01.2010 and in the case of M/s Bothra Shipping Services ITA No.586/Kol/2010, order dated 16.07.2010.

13. On the other hand, ld. CITDR strongly opposed the claim of the assessee that the assets were given on hire or can it be given on hire on certain assets which are clearly as per the pictures of the machineries mentioned in the assessment order. The assessee should have been separately disclosed in his financial statement and details on which type of impugned machineries had been given on hire. The assessee furnished only a ledger copy of the hire charges before the AO and it is

also not clear that as to whether the hire charges were received from the impugned machineries or from any other machineries owned by the assessee. He also referred to Section 32 of the Act regarding provision for depreciation and additional rate of depreciation. He further submitted that the additional depreciation can be claimed by the assessee as prescribed in the Income Tax Act read with Rule but the assessee is unable to demonstrate himself that how and why he is entitled for claim of additional depreciation and he also distinguished the case laws relied on by the assessee and Circular No.609, dated 29.07.1991. In support of his arguments, Id. CITDR relied on the following judgments :-

- i) *Kailash Chand Bagaria [2002] 120 Taxman 201/249 ITR 720 (Madhya Pradesh):*
- ii) *Varindra Construction Company [2012] 19 taxmann.com 244 (Punj & Har);*
- iii) *Pradip N. Desai [2012] 21 taxmann.com 151 (Gujarat); and*
- iv) *Rural Communication and Marketing (P.) Ltd. [2020] 113 taxmann.com 121 (Delhi-Trib)*

14. After hearing both the sides and perusing the entire material available on record and case laws cited by both the sides, we noticed that the assessee is engaged in the civil construction business and has claimed depreciation at a higher rate on 14 impugned machineries which is not prescribed as per the New Appendix I Part-A III(ii) appended to the Income Tax Rules, 1962, as amended from time to time. After going through the assessment order, we found that the

assessee has himself accepted that there was a mistake in calculating the depreciation and he submitted correct depreciation chart as per Income Tax Act as Annexure-1 but it was not produced before us for our ready reference. The AO has also observed that the assessee has received hire charges which should have been separately shown in the financial statement but credited to the hire charges account, therefore, it is not clear that how the assessee has received hire charges from which machineries/motor cars. The assessee has also submitted that reply of the assessee dated 15.01.2016 to the show cause notice issued by the AO has not been considered. However, on perusal of the assessment order at page 12, the AO has already gone through the submissions made by the assessee and after considering the same has observed that the assessee failed to establish that the vehicles were used on hire basis on the following reasons :-

- i) *No agreement was made for giving the vehicles on hire.*
- ii) *As claimed by the assessee vehicles were given on hire, to the subcontractors, but no bills and details of hire charge payments were produced to substantiate the claim of the assessee.*
- iii) *Assessee claimed that instead of showing hire charges as income it had been credited to the accounting head 'hire charges' and furnished ledger copy of the same, but nowhere in the details it was mentioned that, only 'motor lorries' were given on hire. There is possibility that item forming part of the plant and machinery other than 'motor vehicles/buses/lorries' would have been given on hire. The onus lies on assessee to prove that only vehicles eligible for higher depreciation were given on hire.*
- iv) *Referring to CBDT circular no. 609 dated 29-07-1991 assessee has claimed that it is using the vehicles for transporting of goods of the third person that is the executing agency for whom it is doing the work by virtue of a contract but as discussed the assessee failed to establish the same.*

- v) Assessee has cited several judgments in support of its claim, but failed to appreciate the fact that all of them are referring the same thing, "that the items/vehicles claimed for higher depreciation should be used in a business of running them on hire and the assessee was failed to establish the same in its case.

Even coming to the second condition that, claimed items for higher depreciation should fall under the category of 'motor lorries/buses/taxis' was not fulfilled by the assessee and was fairly admitted also. However assessee had made a pray in its submission that few items out of 14 items as discussed above and few others on which depreciation @15% was being claimed, falls under the category of 'Motor Lorries' may be allowed for higher depreciation. Here pray of the assessee cannot be entertained because of the reason that the first condition (should be used on hire basis) is not fulfilled in any case. Also for any change in claim of depreciation, the assessee should have filed revise return of income for the said assessment year, which was not done by the assessee company.

15. From the above discussion, it is clear that the AO has disallowed depreciation only on 14 items/machines/assets out of 20 items/assets and calculated the excess depreciation claimed by the assessee on 14 items only which reads as under :-

Assets	Rate of depreciation	Depreciation claimed (in Rs.)	Depreciation actual allowable under I. T. Act, 1961 (in Rs.)	Excess claimed (in Rs.)
Excavators	15%	2107286	1505432	601854
Concrete Mixture	15%	157247	115929	41318
Vibrator	15%	61813	43312	18501
Road Roller	15%	318894	180240	138654
Paver Finisher	15%	82152	60566	21586
Stone Crusher	15%	4844691	3418032	1426659
Mobile concrete Mixture	30%	1456832	1075750.52	381081.48
Ajax-2000	15%	220408	162495	57913
EC- 290(Engine)	15%	127715	94157	33558
Conmat Concrete Paver	30%	1004299	761203.68	243095.32
Ex-200	15%	84158	96920	-12762
Schwing Stetter	30%	497066	366459.09	130606.91
Hyundai EX-370	15%	1024590	755374	269216
JCB Machine	15%	97296	106392	-9096
TOTAL		12084447	8742262.29	3342184.71

The CIT(A) has rightly dealt with the issue and dismissed the appeal of the assessee holding as under :-

*"3.2 I have considered the matter with reference to the facts on record and perused the assessment order and the written submission of the assessee. The fact remains, as admitted by the assessee before the AO, that all the 14 items on which higher rate of depreciation has been claimed cannot be classified as motor buses or motor lorries or motor taxis. This is evident from the revised depreciation schedule filed by the assessee before the AO which has not been acted upon by the AO. Moreover, the assessee has failed to show that the machineries in question have been actually given on hire and the hire charges are included in the income disclosed in the accounts. The assessee's plea that since it is executing contracts of various contractees, all the machineries could be treated as hired out to the contractees is not at all acceptable. Such argument is too far-fetched and clearly unacceptable. This being so, the conditions for claim of higher rate of depreciation are not satisfied so far as the H items of plant & machineries in question are concerned. This being so, the action of the AO is quite justified. **Hence, the disallowance of depreciation of Rs.33,42,185/- is confirmed.**"*

It is necessary to refer to the definition of the motor car, motor lorries as per the Motor Vehicle Act, 1988, which reads as under :-

"16. "heavy goods vehicle" means any goods carriage the gross vehicle weight of which, or a tractor or a road-roller the unladen weight of either of which, exceeds 12,000 kilograms;

x x x

21. (21) "light motor vehicle" means a transport vehicle or omnibus the gross vehicle weight of either of which or a motor car or tractor or road-roller the unladen weight of any of which, does not exceed 7,500 kilograms;

22. "maxicab" means any motor vehicle constructed or adapted to carry more than six passengers, but not more than twelve passengers, excluding the driver, for hire or reward;

23. "medium goods vehicle" means any goods carriage other than a light motor vehicle or a heavy goods vehicle;

24. "medium passenger motor vehicle" means any public service vehicle or private service vehicle, or educational institution bus other than a motor cycle, invalid carriage, light motor vehicle or heavy passenger motor vehicle;

25. "motorcab" means any motor vehicle constructed or adapted to carry not more than six passengers excluding the driver for hire or reward;

26. "motor car" means any motor vehicle other than a transport vehicle, omnibus, road-roller, tractor, motor cycle or invalid carriage;

x x x

28. "motor vehicle" or "vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of 1 Subs. & ins. by Act. propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises or a vehicle having less than four wheels fitted with engine capacity of not exceeding thirty-five cubic centimetres;"

16. From the above provisions of the Motor Vehicles Act, the assessee was required to obtain registration from some assets as is clear from the picture of the assets showing in the assessment order but the assessee also did not produce any registration certificate before us as to whether the assets are registered as a commercial vehicle or private vehicles/assets. It is also clear from the Appendix Part-A(III) regarding depreciation the assessee is eligible for additional depreciation on the motor cars, motor lorries but the AO has disallowed higher depreciation claimed by the assessee on other assets which are not covered under the motor car, motor vehicles as defined above as per the Motor Vehicles Act as amended. He is entitled for additional depreciation only on those vehicles which were used for running them on hire but the assessee also unable to demonstrate that the which assets were used in the hire completely. The assessee is engaged in the civil construction business and he has achieved huge turnover but without using of these heavy/light machineries/vehicles huge turnover cannot be achieved. If the assessee uses partly for own use and for hire charges he is not entitled to claim excess depreciation as per the provisions of the Income Tax Act. The rule for charging higher depreciation has been prescribed only for the vehicles which are running on hire. Our above view is supported by the judgment of Hon'ble Madhya Pradesh High Court in the case of CIT Vs. Anupchand

and Co., [1999] 239 ITR 466 (Madhya Pradesh). The relevant observation of the Hon'ble High Court reads as under :-

"A plain reading of this provision shows that the assessee is only entitled to a depreciation at the rate of 40 per cent. on vehicles used for business of hire, i.e., if the assessee gives on hire his vehicles for transportation of goods of other persons as a business of transporter, then he is entitled to the benefit of 40 per cent. depreciation allowance ; but whenever the vehicles are used for his own business of transporting his goods then he is not entitled to 40 per cent. depreciation allowance and only 30 per cent. depreciation is admissible. Learned counsel invited our attention to a decision of the Rajasthan High Court in the case of CIT v. Sardar Stones [1995] 215 ITR 350, where almost in an identical situation, the assessee was a trader in stones and owned two trucks which were used for transportation of stones from the site of the mines to the depot of the assessee as well as to the customers' premises, The claim of the assessee therein was that the trucks were occasionally, used for hiring but to its sister concern when not in use by the assessee. The assessee claimed depreciation at 40 per cent. on the trucks which was allowed by the Income-tax Officer, but subsequently the Commissioner of income-tax exercising his power under section 263 of the Income-tax Act came to the conclusion that the rate of depreciation at 40 per cent. is allowable only when the assessee was carrying on the business of running trucks on hire, accordingly, the reference was answered by the court in favour of the Revenue and against the assessee. Similar view was taken in another decision of the Rajasthan High Court in the case of CIT v. Manjeet Stone Co. [1991] 190 ITR 183.

The Karnataka High Court has also taken the same view in the case of Veeneer Mills v. CIT [1993] 201 ITR 764, wherein the assessee was a manufacturer of plywood and used to transport the timber which is the raw material in the manufacture of plywood through its own lorries. The dominant purpose of these lorries was the transportation of the material belonging to the assessee in connection with its manufacturing work. However, on some occasions, when the lorries were idle, they were given on hire. In this case, their Lordships observed that the facts speak for themselves. The provision is only attracted in the case of motor buses, motor lorries and motor taxis used in a business of running them on hire. The assessee should be engaged in the business of running the vehicles on hire. Therefore, the question was answered in favour of the Revenue and against the assessee.

Learned counsel for the assessee invited our attention to a decision of the Kerala High Court in the case of CIT v. Dr. K.R. Jayachandran [1995] 212 ITR 637. There the ambulance was used on hire. It was observed by their Lordships that the Tribunal had found that the plying of the ambulance van on hire itself constituted the business of the assessee though it may be incidental to the running of the hospital. The hire charges received were assessed under the head "Business". The Tribunal

held that the assessee is entitled to depreciation on the ambulance at the higher rate of 40 per cent. Their Lordships held that depreciation of 40 per cent. is allowable. That may be so in the peculiar facts and circumstances of that case. In our opinion, the aforesaid Entry No. III(ii)E(1A) of Part I of Appendix I has been rightly interpreted by the Rajasthan High Court and Karnataka High Court in the aforesaid two cases that depreciation is only applicable to the extent of 40 per cent. if the vehicles are used by the assessee for hire purposes. If any assessee uses a fleet of vehicles for transportation on hire business, then he is entitled to depreciation of 40 per cent. but in case he uses the vehicles for transporting the goods for his own business, then he will not be entitled to depreciation at the rate of 40 per cent. Thus, we are of the opinion that the assessee who uses his vehicles on hire, is entitled to 40 per cent. depreciation allowance and if the vehicles are used for running his own business then he is not entitled to 40 per cent. depreciation allowance. Therefore, question No. (1) is answered in favour of the Revenue and against the assessee."

17. Respectfully following the above judgment of the Hon'ble High Court, the assessee is not eligible/entitled for the claim of excess depreciation on impugned 14 items as mentioned by the AO in his order. In the peculiar facts and circumstances of the case, the case laws and circular relied on by the Id. AR of the assessee are not applicable in the present case in hand but the case laws cited by the Id. CITDR support the case to the extent of their applicability in the present case. The Id. AR could not controvert the case laws relied on by the Id. CITDR. Accordingly, we dismiss the grounds raised by the assessee and consequently, the appeal of the assessee is dismissed.

18. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on 18/08/ 2020.

Sd/-
(C.M.GARG)

न्यायिक सदस्य / JUDICIAL MEMBER

Sd/-
(L.P.SAHU)

लेखा सदस्य / ACCOUNTANT MEMBER

कटक Cuttack; दिनांक Dated 18/08/2020

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
GVV Construction Pvt. Ltd.,
Plot No.358, Saheed Nagar,
Bhubaneswar-751007
2. प्रत्यर्थी / The Respondent-
DCIT, Corporate Circle-1(1), Bhubaneswar
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR, ITAT,
Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Senior Private Secretary)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack