

Depreciation claimed under a State enactment ought not to be reduced while calculating WDV under a central enactment, especially when provisions of Central enactment are silent

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In brief

The Kerala High Court (HC) reversed¹ the Income-tax Appellate Tribunal's (Tribunal) decision and held that for the purpose of computing written down value (WDV), depreciation allowed under a State enactment not specifically covered by section 43(6) of the Income-tax Act, 1961 (the Act) should not be considered.

The prospective amendment in section 43(6) of the Act was made to ensure that no double deduction benefit of depreciation accrues to the taxpayer but was not applicable for the relevant assessment year (AY) thus, not applicable in the present case.

In detail

Facts

- The taxpayer was engaged in the business of manufacture and sale of latex and rubber and its income was assessed under Kerala Agriculture Income-tax Act, 1991 (KAIT Act).
- However, with the introduction of Rule 7A of the Income-tax Rules, 1962, the taxpayer's income was also assessed under the Act to the extent of 35% of such total income.
- The taxpayer claimed depreciation on the original cost of the asset to the extent of 35%.
- The Tax Officer (TO) referring to the provisions of sub-clause (a) and (b) of section 43(6) concluded that depreciation claimed under the KAIT Act falls within the ambit of the said section and reduced the depreciation claimed under the KAIT Act for the purpose of arriving at WDV under the Act.
- On appeal, both the Commissioner of Income-tax (Appeal) and the Tribunal upheld TO's order.

Issue before the High Court

Whether the Tribunal was justified in upholding the allowance of depreciation under the Act post reducing the amount of depreciation claimed under the KAIT Act?

Taxpayer's contention

- WDV of the asset under section 43(6) of the Act was the actual cost to the taxpayer less the depreciation already claimed/ allowed under the Act or any other Income-tax Act in force previously. Since, no depreciation had been allowed under the Act, the depreciation could

¹ ITA no. 29 of 2008 order dated 29 January 2018

be claimed on the original cost of the asset.

- The taxpayer relied on various judicial precedents² in support of its contention.

Revenue's contention

- The taxpayer was allowed depreciation under the KAIT and the same was not reduced for computing WDV under the Act would tantamount to double deduction.
- Revenue relied on Parry Agro Industries Limited³ and contended that there could be no claim for depreciation by the taxpayer over and above the WDV.

High Court's decision

- The HC observed that sub-clauses (a) and (b) of section 43(6) of the Act provides that depreciation allowed under the Act or any other Income-tax laws being in force could

only be reduced from the actual cost of the asset acquired by the taxpayer.

- The deeming provision does not provide to exclude the depreciation claimed under the KAIT Act from the actual cost of the asset. Hence, for the purpose of the Act, the depreciation claimed under the KAIT Act could not be excluded from the actual cost of the asset.
- HC also observed that Rule 7A was inserted with effect from 2002 to tax the income from manufacture of rubber under the Act.
- The Government was quite aware of the provision available in the Act specifically with reference to provisions specified in section 43(6)(b); amendments ought to have been brought in to ensure that no double benefit accrues to a taxpayer.

- Hence, the HC concluded that depreciation allowed under a State enactment shall not be reduced while calculating WDV under a Central enactment, especially when the provisions of the Act was silent on the same.

The takeaways

- In a pre-2010 scenario, the depreciation under the KAIT Act allowed to the taxpayer was not required to be reduced while calculating WDV as per the Act.
- Respective enactments ought to have been introduced to ensure that no double deduction benefit accrues on the taxpayer while introducing Rule 7A.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact your local PwC advisor

² CIT v. Doom Dooma India Limited 310 ITR 392 [2009] (SC); Madeva Upendra Sinai v. UOI [1975] 98 ITR 209 (SC)

³ CIT v. Parry Agro Industries Limited [2006] 206 CTR 36 (Kerala)

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