

Sum incurred on floor repairing and replacement of tiles of building deemed as current repairs

Summary – The High Court of Allahabad in a recent case of Manohar Lal Hira Lal Ltd., (the Assessee) held that Where assessee incurred certain expenses on repairs of building and machinery such as repair of workshop floor, replacement of tools and dies of plant and machinery etc. in view of fact that by incurring said expenditure neither building was extended nor machinery did undergo any substantial change, expenses so incurred were to be allowed as deduction being in nature of 'current repairs'.

The Commissioner of Income-tax, Ghaziabad has proposed the following two questions said to be substantial questions of law arising out of the order of the Tribunal.

- "(1) Whether the ITAT order holding that the expenditure was not in the nature of capital expenditure, but was the nature of revenue expenditure correct?
- (2) Whether on the facts and circumstances of the case the Hon'ble ITAT is justified in deleting the addition of Rs.11,87,696/- accepting the same as current repairs when the specific expenditure included purchases of new material viz. ceramic tiles, fire and insulation bricks, AC sheets etc. when went to enhance the profitability and turnover of the assessee and the company drew benefit of enduring and permanent nature?"

The Assessing Officer was of the opinion that the expenses incurred are capital in nature and the assessee cannot claim deduction of the same as revenue expenditure. He accordingly disallowed. Feeling aggrieved the assessee preferred an appeal before the Commissioner of Income Tax (Appeals), Ghaziabad, who vide order dated 28th September, 2007 partly allowed the appeal and allowed the expenditure made on this account. The Revenue feeling aggrieved preferred an appeal before the Tribunal and the Tribunal had upheld the order of the Commissioner of Income Tax (Appeals) and dismissed the appeal.

Learned counsel for the Revenue submitted that all the expenses were capital in nature as they resulted in enduring benefit of permanent nature, therefore, they cannot be claimed as revenue expenditure and the view taken by the Commissioner of Income Tax (Appeals) as also by the Tribunal is erroneous.

The Tribunal held that the expenditure so incurred was essentially for repair of building/machinery and by incurring these expenditure neither capacity nor building was extended nor the machinery did undergo any change. In our considered opinion the findings recorded by the Tribunal are pure findings

of fact based on appreciation of evidence and material on record and do not suffer from any legal infirmity.

The HC held that the order of the Tribunal does not give rise to any substantial question of law. The appeal fails and is dismissed.