

Exp. on application software isn't revenue exp. even if it has very short shelf life and is prone to obsolescence

Summary – The Hyderabad ITAT in a recent case of Srinivasa Resorts, (the Assessee) held that where assessee-company purchased application software, expenditure incurred towards purchase of software could not be treated as revenue expenditure.

Facts

- The assessee-company was engaged in the business of hoteliering. During the year, it purchased application software and claimed the expenditure to be allowed as revenue expenditure. It submitted that the expenditure did not result in enduring benefit, as the life of software was invariably short and the same was bound to become technically obsolete very fast.
- The Assessing Officer rejected the claim of the assessee on the reasoning that from the assessment year 2003-04 computer software was also treated as a depreciable asset under the Income-tax Rules, 1962 with computer and higher depreciation at the rate of 60 per cent had been allowed thereon. He, therefore, treated the expenditure incurred towards purchase of application software as capital expenditure and allowed depreciation thereon at the rate of 60 per cent.
- On appeal, the Commissioner (Appeals) upheld the order of the Assessing Officer.
- On second appeal:

Held

- It is not disputed that the assessee has claimed the expenditure incurred towards purchase of application software as revenue expenditure by debiting it to the profit and loss account. There is an amendment to the old appendix I of the Rules by the IT (Twenty fourth Amdt.) Rules, 2002, with effect from 1-4-2003, as per which item (5) under the head Machinery and Plant reads as :
Computers including computer software. The rate of depreciation is provided at 60 per cent.
Note 7 to the aforesaid appendix defines computer software as:
'Computer software' means any computer programme recorded on any disk, tape, media or other information storage device.
- The aforesaid amendment under the old appendix I is applicable for the assessment year 2003-04 to 2005-06. Under the new appendix I which is applicable for the assessment year 2006-07 onwards, the same item (5) has been retained along with Note 7. Thus as per old appendix I and new appendix I, computer software along with computer has been treated as capital asset and depreciation at a higher rate of 60 per cent has been allowed considering the life and durability of the computer software. When the statute specifically provides for treating the computer software as a capital asset and allowing depreciation thereon, the expenditure incurred towards purchase of computer software cannot be treated as revenue expenditure. Since as per old appendix I as well as

new appendix I under the Rules computer software is a depreciable asset, the Commissioner (Appeals) as well as the Assessing Officer are correct in disallowing the assessee's claim of expenditure on purchase of such assets. In aforesaid view of the matter, the order passed by the Commissioner (Appeals) deserved to be upheld.