आयकर अपीलीय अधिकरण, मुंबई न्यायपीठ मुंबई ।

IN THE INCOME TAX APPELLATE TRIBUNAL " A " BENCH, MUMBAI

सर्वश्री आई.पी.बंसल, न्यायिक सदस्य.एवं श्री संजय अरोड़ा, लेखा सदस्य के समक्ष

BEFORE SHRI I.P. BANSAL, JM AND SHRI SANJAY ARORA, AM

आयकर अपील सं./I.T.A. No. 153/MUM/2012

(**निर्धारण वर्ष /** Assessment Years : 2008-09

The DCIT 4(1), 6th Floor, Room No.640, Aaykar Bhavan, Mumbai 400 020	बनाम/ Vs.	M/s. Arya Ship Breaking co. Ltd., 51-53A, Mittal Court, A.Wing, Nariman Point, Mumbai 400 021.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAACA 3767D		
(अपीलार्थी **/Appellant**)	..	(प्रत्यर्थी / **Respondent**)

अपीलार्थी ओर से/ **Appellant by:**	Shri Manoj Kumar
प्रत्यर्थी की ओर से/**Respondent by :**	Shri Om Prakash Sharma , Accountant

सुनवाई की तारीख **/ Date of Hearing : 13/06/2013**

घोषणा की तारीख /**Date of Pronouncement : 13/06/2013**

आदेश / O R D E R

PER I.P.BANSAL,J.M:

This is an appeal filed by the revenue. It is directed against the order passed by Ld. CIT(A) -8, Mumbai dated 17/10/2011 for assessment year 2007-08. The grounds of appeal read as under:

1. "On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in allowing the disallowance of loss of Rs.24,86,355/- made by the Assessing Officer on account of Foreign Exchange difference."

2. On the facts and in the circumstances of the case, the impugned order of the Ld.CIT(A) is contrary to law to be set aside and that of the Assessing Officer be restored."

3. "The appellant craves leave to amend or alter any ground or add a new ground which may be necessary."

2. A sum of Rs.24,86,355/- was claimed by the assessee on account of revaluation of foreign exchange receivable/payable at the prevailing rate. The AO asked the assessee to explain the same. It was submitted that during the year under consideration there is a net loss of Rs.24,86,355/- on valuation of foreign exchange liabilities. It was submitted that during the financial year ended 31/3/2010 there was a profit of Rs.5,80,82,458/- on account of exchange rate fluctuation which was offered to tax in A.Y 2010-11. Such accounting policy was consistently followed by the assessee, therefore, loss should be allowed. The AO did not accept such submission. According to AO such liability is only contingent/notional liability which does not crystallize till payment. The assessee did not incur such expenditure, therefore, the same is not allowable. Accordingly, the addition is made. Ld. CIT(A) has deleted the disallowance following the decision of Hon'ble Supreme Court in the case of Woodward Governor India Pvt. Ltd. 312 ITR 254(SC), wherein it has been held that loss suffered by the assessee in respect of revenue liability on account of exchange difference as on the date of the balance sheet is an item of expenditure allowable under section 37(1) of the Income Tax Act, 1961(the Act) in the year of accrual.

3. The accountant of the assessee firm had submitted an adjournment application on the ground that Counsel of the assessee is out of station. However, it was found that the issue is covered by the aforementioned decision of Hon'ble Supreme Court. Therefore, the Accountant of the assessee firm has withdrawn the application for adjournment. In this manner we proceed to decide the present appeal.

4. Ld. D.R relied upon the order passed by A.O.

5. We have carefully gone through the assessment order as well as order passed by Ld. CIT(A). The facts have already been narrated. Ld. CIT(A) has decided the issue in accordance with the aforementioned decision of Hon'ble Supreme Court. Therefore, we find no infirmity in the order passed by Ld. CIT(A)

and we decline to interfere. The appeal filed by the revenue being devoid of merits is dismissed.

6. In the result, the appeal filed by the revenue is dismissed.

Order pronounced in the open court on 13/06/2013 .
आदेश की धोषणा खुले न्यायालय में दिनांकः 13/06//2013 को की गई ।

Sd/-	Sd/-
(SANJAY ARORA)	(I.P.BANSAL)
न्यायिक सदस्य /ACCOUNTANT MEMBER	लेखा सदस्य /JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated 13/06/2013

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार
(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai

व.नि.स.Vm , Sr. PS

		Date	Initials	
1.	Draft dictated on:	13/06//2013		Sr. PS/PS
2.	Draft placed before author:	32/06/.2013		Sr. PS/PS
3.	Draft proposed & placed before the second member:			JM/AM
4.	Draft discussed/approved by Second Member:			JM/AM
5.	Approved Draft comes to the Sr. PS/PS:			Sr. PS/PS
6.	Order pronounced on:			Sr. PS/PS
7.	File sent to the Bench Clerk:			
8.	Date on which file goes to the Head Clerk:			Sr. PS/PS
9.	Date on which file goes to AR			
10.	Date of dispatch of Order:			