

## **Any device usable in integration with computer comes within expression 'Computer'**

**Summary – The Hyderabad ITAT in a recent case of Ushodaya Enterprises Ltd., (the Assessee) held that Any device used along with computer with an integrated function comes within ambit of expression 'computer' and, hence, entitled to claim of depreciation at rate of 60 per cent**

### **Facts**

- The assessee in its return of income, claimed depreciation at 60 per cent on 'computers' and computer accessories. It was submitted that all items being integral part of computer without which the computer cannot work and therefore to be held as part of computer system.
- The Assessing Officer held that every equipment which runs with the help of computer cannot be held to be a computer. He, therefore, held all these items were to be allowed depreciation at the normal rate of 25 per cent as is applicable to 'plant and machinery'. The Assessing Officer further held that software added to the fixed assets are licensed software and any software in the nature of know-how, patents, copy rights, trade marks, licenses, machines or any other business or commercial rights of similar nature are to be treated as intangible assets. He, therefore, held that the software purchased by the assessee are versions and depreciation on the software is allowable at 25 per cent only which is applicable for the block 'plant and machinery'.
- The Assessing Officer accordingly completed the assessment by disallowing the excess depreciation of 35 per cent claimed by the assessee amounting to Rs.11,95,58,702 and completed the assessment accordingly.
- On appeal to the Commissioner (Appeals), the Commissioner (Appeals) upheld the view of the Assessing Officer in restricting the depreciation on those components to 25 per cent.
- On further appeal:

### **Held**

- The items on which there was a dispute regarding claim of depreciation were editing equipments, edit control unit, charter generator V-Sat equipments etc., and several types of software and various parts and components. It was the contention of the assessee that all these equipments form integral part of the computer system and they cannot function independently except in conjunction with a computer system. As could be seen from the assessment order, the primary basis on which the Assessing Officer concluded that depreciation claimed by the assessee was not allowable at 60 per cent as according to him computer means a CPU which is also called as mother board along with its memory. Monitor, key board, mouse are essential to run computer as an independent entity. The aforesaid finding of the Assessing Officer was upheld by the Commissioner (Appeals) who also held that every peripheral device connected to the computer does not form part of the computer.

- In *Dy.CIT v. Datacraft India Ltd.* [\[2010\] 40 SOT 295 \(MUM.\) \(SB\)](#), it was held that the meaning of expression 'computer' cannot be restricted only to the CPU of the computer by pulling out the import and output devices from the ambit of 'computer'.
- The Special Bench further went on to hold that though functions of the computer as one composite unit is for performing logical, arithmetical or memory functions etc., but it is not the only equipment which performs such functions that can be called as 'computer'. All the input and output devices which in fact support in the receipt of input and outflow of the output are also part of the 'computer'.
- The ratio which could be culled out from the aforesaid decision is when a particular hardware or software is used along with a computer and when their functions are integrated with a computer or in other words when the device is used as part of the computer in its functions, even though it may be having user on standalone basis, but still then such hardware or software would be termed as a 'computer'.
- In the present case the revenue authorities had not disputed the fact that the items on which the assessee had claimed depreciation at the rate of 60 per cent by treating them as 'computer' were being used as input or output device of the computers. However, the departmental authorities negated the claim of the assessee solely on the reasoning that every peripheral device connected to the computer cannot form part of the computer. However, such view of the revenue authorities cannot be the correct proposition of law in view of the ratio laid down by the Hon'ble Special Bench in case of *Datacraft India Ltd. (supra)* by holding that any device when they are used along with computer and when their functions are integrated with the computer comes within the ambit of the expression 'computer'. It may be further observed that in the assessee's own case for the assessment year 2006-07, the Tribunal, allowed depreciation at the rate of 60 per cent by treating the screen, key board, mouse, UPS, net working, router as part of the computer system and thereby eligible for depreciation at the rate of 60 per cent as available to computer. In the aforesaid view of the matter, it is to be held that the assessee was entitled to avail depreciation at the rate of 60 per cent on those items as was applicable to 'computer' was accepted.