

Depreciation being statutory allowance cannot be restricted on basis of Personal use: ITAT

FACT OF THE CASE

1. The assessee, Bhagchand Jain is engaged in the business of trading of old iron material and e-filed his return of income declaring total income of Rs.5,59,530/-. The AO after discussing all the facts and circumstances passed assessment order under section 143(3) of the Income Tax Act, 1961 determining total income of assessee at Rs. 2,48,63,340/- by making various additions.
2. As per the assessee has maintained complete Books of account and other subsidiary record and all the expenses are fully supported by vouchers. All the expenses were fully supported by vouchers which were even produced before the AO during the remand proceeding and the same were admitted by him. The Freight, Telephone expenses, Petrol & Diesel Expenses and Vehicle Expenses were duly supported by Bills and vouchers etc. In these expenses there was no possibility of personal use. A businessman is the best judge to take care of its own interest & to take decisions and the AO is not supposed to intervene therein. All these expenses were incurred exclusively for business purposes and are under the provisions of the Act.

DECISION OF THE CASE

1. The Coram headed by Vice President, N,K, Saini and Judicial Member, Sandeep Gosain has held that disallowance of depreciation on vehicles is also not warranted with the facts and merits of the case as depreciation being a statutory allowance and hence cannot be restricted on the basis of personal use.
2. “Considering the totality of the facts and circumstances as well as case laws, we found merit in the contentions raised by the assessee, therefore, we direct to delete the additions confirmed by the CIT(A) with regard to various expenses,” the ITAT ruled.

The Jaipur Bench of Income Tax Appellate Tribunal (ITAT) has held that the depreciation being statutory allowance cannot be restricted on the basis of personal use.