IN THE INCOME TAX APPELLATE TRIBUNAL,
KOLKATA 'C' BENCH, KOLKATA

Before Shri P.M. Jagtap, Accountant Member and
Shri S.S. Viswanethra Ravi, Judicial Member

I.T.A. No. 257 /KOL/ 2016
Assessment Year: 2011-2012

M/s. Bartaman Pvt. Limited,...Appellant
6, J.B.S. Haldone Avenue, By Pass,
Kolkata-700 105
[PAN : AABCB 2117 R]

-Vs.-

Deputy Commissioner of Income Tax,...................................Respondent
Circle-7(1), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700 069

Appearances by:
Shri Sunil Surana, FCA, for the assessee
Shri G. Mallikarjuna, CIT, D.R., for the Department

Date of concluding the hearing : June 15, 2016
Date of pronouncing the order : August 10, 2016

O R D E R

Per Shri P.M. Jagtap, A.M.:

This appeal filed by the assessee is directed against the order of ld. Principal Commissioner of Income Tax, Kolkata-3, Kolkata dated 14.12.2015 passed under section 263 of the Income Tax Act, 1961.

2. The assessee in the present case is a Company, which is engaged in the business of publication of daily Newspaper, Weekly and Monthly Magazine and Puja Annual Number. The return of income for the year under consideration was filed by it on 30.09.2011 declaring total income of Rs.17,97,25,065/-. In the assessment completed under section 143(3) vide an order dated 24.02.2014, the total income of the asseessee was determined by the Assessing Officer at Rs.17,97,44,065/- after making

some small additions. The record of the said assessment came to be examined by the ld. CIT and on such examination, he found that the claim of the assessee for additional depreciation as per section 32(1)(iia) was allowed by the Assessing Officer. According to him, such additional depreciation under section 32(1)(iia) was allowable on addition to plant and machinery, which has been acquired by the assessee, who is engaged in the business of manufacture or production of any article or thing and the assessee-company, which was engaged in the business of publication of newspapers, was not eligible to claim the same. The ld. CIT, therefore, was of the view that the assessment order passed by the Assessing Officer under section 143(3) allowing the claim of the assessee for additional depreciation under section 32(1)(iia) was erroneous as well as prejudicial to the interest of the revenue and the notice under section 263 was issued by him to the assessee-company requiring show-cause as to why the said assessment order should not be revised on this issue.

3. In reply, it was submitted by the assesese by relying on the various judicial pronouncements including the decision of the Hon'ble Supreme Court in the case of Ujagar Prints [179 ITR 317] that the job of printing was in the nature of manufacturing and, therefore, it was entitled for additional depreciation under section 32(1)(iia) on the addition made to plant and machinery. It was contended that the order of the Assessing Officer allowing the claim of the assessee for such depreciation, therefore, was neither erroneous nor prejudicial to the interest of the Revenue calling for revision under section 263. The ld. CIT did not dispute or controvert the explanation offered by the assessee, which was duly supported by the various judicial pronouncements. He, however, held that the issue as to whether job of printing is manufacturing or not so as to be eligible for additional depreciation as per section 32(1)(iia), had not been considered or examined by the Assessing Officer and the order of the Assessing Officer passed under section 143(3), therefore, was erroneous and prejudicial to the interest of the revenue. Accordingly, he set aside the said order passed by the Assessing Officer with a

direction to the Assessing Officer to complete the assessment afresh after examining the claim of the assessee for additional depreciation under section 32(1)(iia). Aggrieved by the order of the ld. CIT(Appeals) passed under section 263, the assessee has preferred this appeal before the Tribunal.

4. We have heard the arguments of both the sides and also perused the relevant material available on record. As agreed by the ld. representatives of both the sides, the issue on which the order passed by the Assessing Officer under section 143(3) has been set aside by the ld. CIT by exercising the powers conferred upon him under section 263 by treating the same as erroneous and prejudicial to the interest of the Revenue is squarely covered on merit by the various judicial pronouncements. As further agreed by them, the CBDT also has accepted this position in Circular No. 15/2016 issued on 19th May, 2016 clarifying that it is settled that the business of printing or printing and publishing amounts to manufacture or production of an article or thing and is accordingly eligible for additional depreciation under section 32(1)(iia) of the Act. We find that the order of the Assessing Officer passed under section 143(3) allowing the claim of the assessee for additional depreciation as per the provisions of section 32(1)(iia) thus was neither erroneous nor prejudicial to the interest of the revenue justifying interference by the ld. CIT under section 263. The impugned order passed by the ld. CIT under section 263 is accordingly set aside and that of the Assessing Officer passed under section 143(3) is restored.

5. In the result, the appeal of the assessee is allowed.

Order pronounced in the open Court on August 10, 2016.

Sd/- **Sd/-**

(S.S. Vishwanethra Ravi) **(P.M. Jagtap)**
Judicial Member **Accountant Member**

Kolkata, the 10th day of August, 2016

Copies to : (1) ***M/s. Bartaman Pvt. Limited,***
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Kolkata-700 105

(2) Deputy Commissioner of Income Tax,
Circle-7(1), Kolkata,
Aayakar Bhawan,
P-7, Chowringhee Square,
Kolkata-700 069

(3) Principal Commissioner of Income Tax, Kolkata-3;
(4) Jt. Commissioner of Income Tax, Range-7, Kolkata,
(5) The Departmental Representative
(6) Guard File

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata

Laha/Sr. P.S.