

## **HC: "Brand Name" is an intangible asset that may be depreciated and is similar to trademarks**

*Kvantum Papers Ltd [TS-523-HC-2023(DEL)]*

*Sep 12, 2023*

**CA Om Rajpurohit & Adv. Sakshi Bhardwaj**  
**-AMRG & ASSOCIATES**



### ***Facts of the case***

- An application was filed on behalf of the appellant/revenue to condone a 50-day delay in filing the appeal, which was unopposed and granted.
- The appeal challenged an order of the Income Tax Appellate Tribunal (Tribunal) dated 11.05.2017.
- Two primary issues were raised: (i) Whether the respondent/assessee correctly claimed depreciation on the chemical recovery plant. (ii) Whether depreciation on brand names used in the paper manufacturing business qualified as an intangible asset under Section 32(1)(ii) of the Income Tax Act, 1961.

### ***Assessee's contention***

- The respondent/assessee argued for the depreciation claim on the chemical recovery plant, presenting additional documents to prove its use since 21.03.2008.
- The CIT(A) allowed depreciation after considering the additional evidence, verifying certificates by independent chartered engineers, and other supporting documents.
- Regarding depreciation on brand names, the CIT(A) ruled in favor of the respondent/assessee, categorizing them as intangible assets under Section 32(1)(ii) of the Act.

### ***Revenue's contention***

- The appellant/revenue contended that the CIT(A) should not have admitted the additional evidence without affording the Assessing Officer (AO) an opportunity to respond.

- It argued that brand names were not explicitly listed in Section 32(1)(ii) of the Act, suggesting that the respondent/assessee's depreciation claim was invalid.

**Held:**

The Tribunal upheld the CIT(A)'s decisions:

- It confirmed the admission of additional evidence after proper consideration and a remand report from the AO, ensuring sufficient opportunity for rebuttal.
- The Tribunal found that the depreciation claim for brand names was valid, aligning with the Supreme Court's judgment and the definition of "trademark" in the Trademarks Act, 1999.

## ***AMRG Take***

This case underscores the significance of adhering to statutory definitions and principles when assessing tax claims related to intangible assets. It reaffirms the broader interpretation of "trademark" as encompassing brand names, aligning with modern commercial practices. Moreover, it emphasizes procedural fairness in allowing parties, including the AO, to present their case and respond adequately to new evidence, ensuring a balanced and just tax assessment process.



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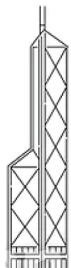


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