

## **Rate of depreciation on computer accessories and peripherals**

### **Introduction**

The rate of depreciation on computers and computer software is 40%. That means while calculating taxable business income, assessee can claim deduction of depreciation @ 40% on computers and computer software.

In order to claim depreciation @40%, the equipment should fall within the expression “computer”.

If the equipment in question do not fall within the expression “computer” then such equipment would be eligible for depreciation @15% i.e. the rate applicable to plant and machinery.

Now the issue under consideration is that what are the equipments that are eligible to be regarded as computer for the purpose of claiming depreciation @40%.

### **Meaning of Computer**

To analyze the aforesaid issue, it becomes essential to construe the meaning of computer.

#### **What do you mean by computer?**

The term “computer” has not been defined in the Income Tax Act, 1961 or Income Tax Rules or General Clauses Act, 1987. The

meaning of the term “computer” has to be understood by applying the principles of statutory interpretation i.e. one has to give the meaning to the expression ‘computer’ not merely by going to dictionary meaning but by applying common parlance or commercial parlance test as well as by analyzing the intendment of legislature in providing higher rate of depreciation.

In *Ushodaya Enterprises Ltd. v. Assistant Commissioner of Income Tax, Circle-16 (2), Hyderabad [2014] 41 taxmann.com 304 (Hyderabad – Trib.)*, it was held that the meaning of the expression “computer” cannot be restricted only to Central Processing Unit (CPU). The Hon’ble Special Bench further went on to hold that though the functions of the computer as one composite unit is for performing logical, arithmetical or memory function etc., but the CPU is not the only equipment which performs such functions that can be called as ‘computer’. All the input and output devices such as keyboard, mouse, printer, scanner, modem, switches, hubs, cables/cards which in fact support the receipt of input and outflow of the output are also part of the ‘computer’.

Therefore, it was held that peripherals such as keyboard, mouse, printer, scanner, modem, switches, hubs, cables/cards etc. comes within the ambit of the expression ‘computer’ because these devices are used along with computer and their functions

are integrated with computer. These devices are eligible for depreciation @40% i.e. the rate applicable to computer.

In this case law, the Special Bench proposed a test in respect of whether a particular equipment can be regarded as computer or not for the purpose of claiming depreciation @40%. The test is as follows:

When “computer hardware” is used as a component of the computer, it becomes part and parcel of the computer, as in the case of operating software in the computer. In such a situation, hardware in question can be considered as a part of the computer and hence a ‘computer’ for the purpose of claiming of depreciation @40%.

*Per contra*, when the machine is not used as a necessary assessor or in combination with a computer, it cannot be called a ‘computer component’.

Further in *CIT v. BSES Yamuna Powers Ltd. (2013) 358 ITR 47 (Delhi HC)*, the High Court observed that computer accessories and peripherals such as printers, scanners, NT server, UPS etc. form an integral part of the computer system and they cannot be used without the computer. It was held that these peripherals would be eligible for depreciation at higher rate of 40% i.e. the rate applicable to computers.

## **Router and Switches**

Now the issue under consideration is that whether 'router' and 'switches' can be classified as a computer hardware for the purpose of claiming higher rate of depreciation @40%.

This issue is resolved in the case law of *Deputy Commissioner of Income Tax, 2(1), Mumbai v. Datacraft India Ltd. [2010] 40 SOT 295 (MUM.) (SB)* (ITAT – Mumbai Bench)

The Mumbai Bench of ITAT endeavored to construe the meaning of router and switches and explain their essential functions.

The Bench clarified that a router means a special device that routes data from one computer to another or from one network to another. The function of router is to receive data from one computer and make it available to another computer for viewing or further processing. The essential function of the router in a commercial organization is to facilitate the flow of data from one computer to another for its processing or storage. Switches are shorter version of routers, which perform similar functions as that of routers but within a limited sphere.

In short, a router acts like a coin sorting machine, allowing only authorized machines to connect to other computer systems. Thus, a router may not be itself be called a computer.

Now the issue under consideration is that whether this router can be used independent of computer. If yes, then it cannot be called 'computer hardware' in all circumstances.

The Mumbai Bench of ITAT concluded that router and switches can be classified as a computer hardware when they are used along with a computer and when their functions are integrated with a computer.

Therefore, the Special Bench answered the question in affirmative by holding that the router and switches are to be included in the block of Computer if such router and switches are used along with a computer and their functions are integrated with a computer. In such case, the router and switches are entitled to higher rate of depreciation @40%.

### **Media Resource Boards (MRB)**

Another critical issue under consideration is that whether Media Resource Boards (MRB) would fall within the expression “computer” for the purpose of claiming higher rate of depreciation @40%.

In order to resolve this issue, first of all it is better to understand the functions and utility of MRB.

The MRBs provide port capabilities as to support a variety of functions like voice play/record, tone detection/generation, echo cancellation and voice compression, as well as trunking, fax, conferencing and VOIP functions in a single PCI, compact PCI or PCI Express Slot. The MRBs can be used only in computer servers and do not have any alternate use. The MRBs form part of the computer servers, similar to modems and help in

interpreting calls and conversion of calls from digital form to voice and vice-versa.

The question of whether the MRBs would fall within the expression “computer”, was answered by Bangalore Bench of ITAT in *OnMobile Global Ltd. v. Additional Commissioner of Income Tax, Range-12, Bangalore [2014] 45 taxmann.com 346*.

In this case law, the Bench held that the MRBs operate along with the servers and computers and are a necessary component of the computer system. The MRB cannot function without the computers and the computers cannot perform the necessary functions required in the case on hand without the presence of the MRBs. Accordingly, the MRBs are to be classified as “computers” for the purposes of the claim of depreciation @40%.

### **Automated Teller Machines (ATM)**

The issue under consideration is that whether ATMs are to be treated as computers for the purpose of entitlement to higher rate of depreciation @40%.

In *Commissioner of Income Tax-III, Bangalore v. NCR Corporation (P.) Ltd. [2020] 117 taxmann.com 252 (Karnataka)*, the High Court of Karnataka held that so long as functions of the computers are performed with other functions and other functions are dependant on the functions of the computer, ATMs are to be treated as computers and are entitled to higher

rate of depreciation @40%. It has been further held that computer is integral part of ATM machine and on the basis of information processed by the computer in ATM machine only, the mechanical function of the dispensation of cash or deposit of cash is done. Therefore, it was held that ATMs are computers and are entitled to higher rate of depreciation.

### **Optical Fibres**

In *Principal Commissioner of Income Tax v. GVK Jaipur Expressway Ltd.* [2018] 100 taxmann.com 96 (SC), the Supreme Court of India held that optical fibres used exclusively for computer configuration were part of computer system and thus eligible for higher rate of depreciation @40%.

### **EPABX, mobile phones and iPad**

The issue under consideration is that whether EPABX, mobile phones and iPad can be classified as computer for the purpose of claiming higher rate of depreciation @40%.

First of all it is essential to understand the meaning and utility of EPABX.

EPABX is an abbreviation that stands for Electronic Private Automatic Branch Exchange. It is an office equipment of immense use for telephonic connectivity with extensions of a single phone line. Multi-line connections can be made through a

single telephonic connection. Large organizations use EPABX for faster communication among employees. The system can also be useful for external communication with clients.

*In Federal Bank Ltd. v. Assistant Commissioner of Income Tax [2012] 20 taxmann.com 707 (Kerala)*, the High Court of Kerala held that EPABX and mobile phones are in the nature of communication equipment. They cannot be treated as computers. Accordingly, EPABX and mobile phones are not entitled to higher rate of depreciation @40%.

What about iPad?

iPad is a high-speed data processing device. It is capable of processing, assimilating and collating information. It can be used as a means of communication for audio and video calls, email, whats up, facebook, youtube. It can also be used for storage of data, accounting, automation, surveillance, gaming etc.

There is a recent judgment regarding allowability of depreciation @40% on iPad.

*In Kohinoor Indian (P.) Ltd. v. Assistant Commissioner of Income Tax, Circle-1, Jalandhar [2021] 129 taxmann.com 396 (Amritsar-Trib.)*, the Tribunal held that the predominant purpose of iPad is a communication and not a computing device, as its main feature



are email, whats app, facetime calls, calls, music, films etc. Though iPad may discharge some of the functions of computers, but iPad is not a substitution of computer/laptop which has various utilities/functions, though some functions may be common with iPad. In common parlance also, iPad is considered as communicating device with some additional features of computer and Apple store do not sell iPad as computer device rather it is selling it as communicating/entertainment device.

Accordingly it was held that iPad cannot be classified as computer and is not eligible for higher rate of depreciation @40%.