

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "D" : MUMBAI**

**BEFORE SHRI D. MANMOHAN, HON'BLE VICE PRESIDENT,  
SHRI R.S. SYAL, ACCOUNTANT MEMBER  
AND  
SHRI J. SUDHAKAR REDDY, ACCOUNTANT MEMBER**

**ITA. No. 7462 & 754/Mum/2007  
Assessment Years 2003-2004 & 2002-2003**

DCIT 2 (1)  
Mumbai-020.

(Appellant)

Datacraft India Ltd.  
vs. Mumbai – 400 013  
**PAN AAACD-2145-G**  
(Respondent)

Appellant by : Shri R.N. Jha (DR)

Respondent by : S/Shri Vijay Mehta & Amit N. Patel

**ORDER**

**PER BENCH**

1. In exercise of the powers vested in the Hon'ble President, under section 255(3) of the Act, following question was referred to Special Bench and thus it was placed before us for consideration.

“Whether routers and switches can be classified as computer entitled to depreciation at 60% or have to be classified as general plant and machine entitled to depreciation only at 25%.”

2. Briefly stated the facts of the case are that the assessee is engaged in data communication, design, development, purchase and sale of networking products, their maintenance and installation

etc. In the previous year relevant to the assessment year 2002-2003, the assessee claimed depreciation amounting to Rs.3,27,67,150 at the rate of 60% under the head "Computers". On the perusal of the statement annexed to the return of income, the Assessing Officer found that the it had included Routers and Switches etc. in the block of computers. The assessee was called upon to explain the use of Routers and Switches. A detailed note vide letter dated 21-2-2005 was submitted by the assessee about the functioning of Routers and Switches wherein it was explained that message from one computer is received by another computer through Routers because these are the crucial devices that let messages flow between networks, rather than within networks. Router has two separate but related jobs, viz., (i) it ensures that information does not go where it is not needed; and (ii) it makes sure that information does make it to the intended destination. Switches and Routers take signals from computers or networks to pass on to other computers and networks. It was further stated that the Routers are specialized equipments used for connecting and networking of the branch offices whereas the Switches have the same use in internal networking of an office.

3. The Assessing Officer did not accept the assessee's viewpoint of including the Routers and switches in the block of Computers on which depreciation is allowable at the rate of 60% as per Appendix-I to the Income Tax Rules. The reason given by the A.O. was that these are the equipments which are networking tools

and thus do not fit in the definition of 'computers'. In reaching this conclusion, he also took assistance from the definition of computer, given in Oxford Dictionary. He, therefore, opined that Routers and Switches were entitled to depreciation at the general rate of 25% as applicable to machine and not as claimed by the assessee at 60%.

4. In the first appeal, it was contended on behalf of the assessee that Routers have no independent utility, except as an attachment to the computers. These being integral part of the computer, were claimed as eligible for depreciation at the rate of 60%. Assistance was taken from the judgment of the Hon'ble Delhi High Court in *CIT Vs. Delhi Airport Services 255 ITR 91* in which it was held that an air-conditioner fixed in a bus is an integral part of the bus and hence depreciation should be allowed on air-conditioner at the rate which is applicable to the bus.

5. The learned CIT(A) concurred with the submissions advanced on behalf of the assessee and took the view that the Routers and Switches fall under the block of "computers" as the computer includes an input device like keyboard or mouse etc. and also output device like printer along with main Central Processing Unit (CPU). In his view the Assessing Officer had unreasonably restricted the meaning of the computer to the CPU alone. He thus, accepted the assessee's claim.

6. The facts for assessment year 2003-04 are *mutatis mutandis* similar to those of the earlier year discussed above. In this year the assessee claimed depreciation amounting to Rs. 1.74 crores on routers and switches, which was reduced by the AO to Rs.66.81 lacs and the Id. CIT(A) rejected the view of the Assessing Officer.

7. The learned Departmental Representative opened his arguments by submitting that higher rate of depreciation at 60% was provided in the Appendix I to Income-tax Rules only in respect of "Computers". He argued that the function of Router was only to transmit data from one computer to another or from one network to another. It was only a telecommunication device meant for transmitting data from one network to another or from one computer to another. Relying upon the definition of the expression "Computers", as given in the Oxford Dictionary, he submitted that the function of a computer is to perform the logic, arithmetic, data storage, retrievable, communication and control functions. Since none of these functions could be performed by routers, it was stated that Routers could not be included in the block of 'Computer', as the function of the former was only to transmit data from source to destination and there was no data processing involved in that. He stated that if one goes to market for purchasing a computer, no shopkeeper will supply router along with CPU, monitor, keyboard and mouse etc., which items are integral part of computer. In support of his contention that the assessee was not entitled to

depreciation on Routers at the rate applicable to the Computers, he relied on the order passed by the Mumbai Bench of the Tribunal in *Routhermania Technologies (P.) Ltd. Vs. ITO [(2007) 16 SOT 384 (Mum.)]*. It was pointed out that in certain cases, deciding the controversy in favour of assessee, the benches have adopted the definition of 'computer' contained in the Information Technology Act, 2000 as also that provided in *Explanation (a)* to section 36(1)(xi) of the Income Tax Act, 1961, which course was impermissible. He stated that higher depreciation at 60% was available only to "Computers" and not "Computer System", which was the subject matter of section 36(1)(xi). He further put forth that the definition of computer given in Information Technology Act also could not be considered for the purposes of granting depreciation inasmuch as the said definition has been given in the context of an altogether different enactment. The ld. DR referred to the judgment of the Hon'ble Calcutta High Court *Smt. Sunanda Devi Singhania Vs. CWT [(1993) 204 ITR 842 (Cal.)]* and that of the Madras High Court in *CIT Vs. Buhari Sons Pvt. Ltd. [(1983) 144 ITR 12 (Mad.)]* for contending that it was not permissible to pick up the meaning of a word from one statute to incorporate into another statute more specifically when both the Acts are not *pari materia*. In the light of these judgments it was submitted that the definition of "Computer" as given in the Information Technology Act could not be considered for the purpose of granting depreciation under the Income-tax Act for the reason that scheme of both the Acts was entirely different. He argued that since the function of routers or switches is that of

transmission of data and not that of performing any logic, arithmetic, data storage functions etc., the learned CIT(A) fell in error by allowing depreciation at the rate of 60% on Routers and switches which was applicable only to the computers.

8. The learned Counsel for the assessee, on the other hand, contended that the learned first appellate authority has rightly held that the routers and switches are part of computer. It was argued that the meaning of computer could not be restricted to the processing device alone but it also meant the essential input and output devices, which facilitate the operation of computer. It was put forth that Routers and Switches are nothing but input/output devices of computer as they have no independent utility and have to work necessarily with the Computers alone. In support of his contention, the learned A.R. relied on the following decisions :-

- (i) ITO Vs. Samiran Majumdar  
[(2006) 280 ITR (AT) 74 (Kol.)] ITAT, Kolkata Bench.
- (ii) Container Corporation of India Ltd. Vs. ACIT  
[(2009) 30 SOT 284 (Del.)] ITAT Delhi Bench.
- (iii) ACIT Vs. M/s.Cincom System India (P) Ltd.  
ITA No.1534/Del/2008 datad 13.4.2009  
ITAT, Delhi Bench.
- (iv) ITO Vs. M/s.Nirmal Datacom Leasing P.Ltd.  
ITA No.9392/Mum/2004 datad 3.5.2007  
ITAT, Mumbai Bench.
- (v) ITO Vs. M/s.Key Note Capital P. Ltd.  
ITA No.7049/Mum/2004 datad 22.11.2007  
ITAT, Mumbai Bench.

(vi) Expeditors International (India) Pvt. Ltd. Vs. Addl.CIT  
ITA No.4364(Del)/2006 dated 19.07.2007  
ITAT, Delhi Bench.

(vii) Poonawala Finvest & Agro (P) Ltd. Vs. ACIT  
[(2008) 118 TTJ (Pune) 68]

9. Deriving support from the reasoning and the *ratio decidendi* of these orders, it was argued that routers and switches have been rightly held to be eligible for higher rate of depreciation as applicable to the Computers.

10. The next proposition of the Id. AR was that since Routers and Switches are attached to the main computer, they become an integral part of the computer. To buttress this submission, he relied upon the judgment in the case of *Gujco Carriers Vs. CIT [(2002) 256 ITR 50 (Guj.)]* wherein it was held that a crane mounted on truck becomes a truck crane and is eligible for depreciation at the rate applicable to motor lorry. He also referred to the judgment of the *Hon'ble Madras High Court in CIT Vs. Engine Valves Ltd. [(1980) 126 ITR 347 (Mad.)]* in which it was held that building used as canteen for factory workers becomes factory building eligible for higher rate of depreciation. In view of these judgments it was contended that when Routers are attached to the computer, they become part and parcel of computer itself. He also pressed into service the functional test for submitting that the functioning of Routers without computer was impossible and hence the Routers be held as part of computer. He relied on the judgment

of the *Hon'ble Supreme court in the case of Scientific Engineering House P. Ltd. Vs. CIT [(1986) 157 ITR 86 (SC)]* for this proposition. The sum and substance of his arguments was that the routers and switches are input/output devices to the computer and since they cannot function without computer they qualify to be granted depreciation at the same rate as is applicable to computers.

11. We have considered the rival submissions at length in the light of material placed before us and precedents relied upon. The chief question which falls for our adjudication is whether routers and switches are part of computer or not for the purposes of depreciation. Section 32(1) provides that where assets are owned wholly or partly by the assessee and used for the purpose of business or profession, deduction shall be allowed. Clause (ii) of sub-section (1) provides that in case of any block of asset, the deduction shall be allowed at such percentage on the written down value thereof as may be prescribed. Rule 5 (1) stipulates that depreciation in respect of any block of asset shall be calculated at the percentages specified in the second column of the Table in the Appendix I of these Rules on the written down value of such block of asset as are used for the purpose of business or profession of the assessee at any time during the previous year. Appendix-I, as applicable to assessment year 2002-2003 under consideration, has different blocks of assets. We are concerned with the block of assets of Machine and plant. General rate of depreciation provided is 25% against item 1 in respect of machine and plant other than those covered by specific sub-items. Sub-item (2B) is "Computers" and



the rate of depreciation prescribed is 60%. Similarly for the assessment year 2003-2004, which is also under consideration, the general rate of depreciation on Machine and plant, other than those covered by specific sub-items, is 25%. Sub-item 5 is “Computers including computer software” on which rate of depreciation has been prescribed as 60%. It is only with effect from assessment year 2003-2004 that computer software has also been included in the category of computers for the purposes of allowing depreciation at the higher rate of 60%. Thus, whereas up to assessment year 2002-2003 only computers were eligible for depreciation at the rate of 60% from assessment year 2003-2004, the benefit of such enhanced depreciation rate has been extended also to computer software. Note No. 7 to the Appendix I, as applicable from A.Y. 2003-04, defines “Computer software” to mean any computer program recorded on any disc, tape, perforated media or other information storage device’. No definition of ‘Computers’ has been given in the Appendix, unlike that of Computer Software. It is nobody’s case that the routers or switches are computer software. Thus we shall restrict ourselves in understanding the meaning of the expression ‘Computers’, in the facts and circumstances of the case.

12. Section 32, which grants depreciation allowance, does not define the word ‘Computer’. It is an admitted position that the word ‘Computer’ has not been defined in the Income Tax Act or Income Tax Rules. We find that the term “Computer system” has been defined in Explanation below section 36(1) (xi) as follows :-

*“(a) “Computer system” means a device or collection of devices including input and output support device and excluding calculators which are not programmable and capable of being used in conjunction with external files, or more of which contain computer programmes, electronic instructions, input data and output data, that performs functions including, but not limited to, logic, arithmetic, data storage and retrieval, communication and control;*

13. At this juncture it will be relevant to note that clause (xi) of section 36(1) was inserted by the Finance Act, 1999 with effect from 1.4.2000 with a view to allowing relief in overcoming the immediate problem of Y2K likely to come up at the close of the calendar year 1999. From the Budget Speech of the Finance Minister in 1999 (236 ITR (St.) 26) it can be seen that the Government assisted business sector in overcoming the Y2K problem by proposing that the expenditure incurred in making the computer system Y2K complaint, be allowed as revenue expenditure. It was with this intention that clause (xi) of section 36 (1) was inserted which is relevant only for financial year 1999-2000 providing for deduction of any expenditure incurred by the assessee on or before the 1<sup>st</sup> day of April, 1999 but before the first day of April, 2000, wholly and exclusively in respect of a non-Y2K complaint computer system, owned by the assessee and used for the purposes of his business or profession. It was in this context that phrase ‘Computer system’ came to be defined solely for the purpose of clause (xi) of section 36 (1).

14. From the above discussion it is seen that the Explanation (a) defines 'computer system' and not 'computer' and that too only for the purposes of clause (xi) of section 36 (1), which has force only for one year. As such we are not inclined to adopt this definition of 'computer system' for the purposes of granting depreciation u/s 32 of the Act on 'computers'. Recently the Hon'ble Supreme Court, vide its judgment dated 07.05.2010, has held in JCIT vs. Saheli Leasing & Industries Ltd. that : 'A particular word occurring in one Section of the Act, having a particular object cannot carry the same meaning when used in different Section of the same Act, which is enacted for different object. In other words, one word occurring in different Sections of the Act can have different meaning, if the object of the two Sections are different and when both operate in different fields'. In view of the fact that the object of section 36(1)(xi) is quite distinct from that of section 32, we are of the considered opinion that the definition of the term 'computer system' given in the Explanation to section 36 (1) (xi) cannot be applied as such (for giving meaning to 'computer') in the context of section 32.

15. In some of the cases decided by the Tribunal, reliance has been placed on the definition of "computer" given by the Information Technology Act, 2000, section 2 (i), which is as under :-

*"(i) "computer" means any electronic, magnetic, optical or other high speed data processing device or system which performs logical, arithmetic and memory functions by manipulations of electronic, magnetic or optical impulses,*

*and includes all input, output, processing, storage, computer software or communication facilities which are connected or related to the computer in a computer system or computer network.”*

16. Before we go on to apply this definition in the context of section 32, the scheme of the Information Technology Act, 2000, needs to be examined. Its preamble indicates that it is an Act to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as “electronic commerce”, which involves the use of alternatives to paper-based methods of communication and storage of information, to facilitate electronic filing of documents with the Government agencies and further to amend the Indian Penal Code, the Indian Evidence Act, 1872, the Bankers’ Books Evidence Act, 1891 and the Reserve Bank of India Act, 1934 and for matters connected therewith or incidental thereto. The statement of Objects and Reasons of this Act divulges that new communication systems and digital technology have made dramatic changes in the way we live. A revolution is occurring in the way people transact business. Business and consumers are increasingly using computers to create, transmit and store information in the electronic form instead of traditional paper documents. Information stored in electronic form has many advantages. Paras 3 and 4 of the Statement of Objects and Reasons, which are relevant for our purpose, read as under :-

“3. There is a need for bringing in suitable amendments in the existing law in our country to facilitate e-commerce. It is, therefore, proposed to provide for legal recognition of electronic records and digital signatures. This will enable the conclusion of contracts and the creation of rights and obligations through the electronic medium. It is also proposed to provide for a regulatory regime to supervise the Certifying Authorities issuing Digital Signature Certificates. To prevent the possible misuse arising out of transactions and other dealings concluded over the electronic medium, it is also proposed to create civil and criminal liabilities for contravention of the provisions of the proposed legislation.

4. With a view to facilitate Electronic Governance, it is proposed to provide for the use and acceptance of electronic records and digital signatures in the Government Offices and its agencies. This will make the citizens interaction with the Governmental Offices hassle free.”

17. Having seen the object of the Information Technology Act, 2000, the question which arises for consideration is that can we import the definition of ‘computer’, as given in it, in the Income Tax Act, 1961 for the purposes of section 32 ? It has been held by the Hon’ble Supreme Court in *CIT vs. Venkateswara Hatcheries* (1999) 237 ITR 174 (SC) that the meaning assigned to a particular word in

a particular statute cannot be imported to a word used in a different statute. Similar view has been expressed by the *Hon'ble Rajasthan High Court in Arihant Tiles & Marbles (P) Ltd. vs. ITO (2007) 295 ITR 148 (Raj.)* holding that the interpretation of any expression used in the context of one statute is not be automatically imported while interpreting similar expression in another statute. This judgment has been approved by the *Hon'ble Supreme Court in ITO vs. Arihant Tiles & Marbles (P) Ltd. (2010) 320 ITR 79 (SC)*.

18. From the afore stated portion of the Statement of objects and reasons and the preamble of the Act, it is evident that the rationale behind the Information Technology Act, 2000 is quite distinct from that of the Income-tax Act, as can be seen from its preamble, which is 'An Act to consolidate and amend the law relating to income-tax and super tax' Thus it is palpable that both these Acts are not in *pari materia*. There is significant difference in the scope, purpose and substance of these two statutes. *Ex consequenti* the definition of 'computer' as given in the Information Technology Act, 2000, cannot be applied in the context of section 32 of the Income-tax Act. However, though the learned Authorised Representative also agreed that the definition in the Information Technology Act cannot be imported, we are of the opinion that a perusal of the objects of that enactment and a perusal of the definition of the term 'computer' given in the Information Technology Act, 2000 are nothing but common parlance definition

which can be of some use in the definition of a Computer. Thus in our considered view, aid can be taken of the definition of the term 'computer' given in Information Technology Act, 2000.

19. As per the General Clauses Act, 1897, if a particular word is not defined in the Central statute then meaning given to such expression under General Clauses Act may be considered for guidance and adoption in the former enactment. However, it is noticed that the word 'Computer' has not been defined therein. Under such circumstances meaning of an expression has to be understood by applying the principles of statutory interpretation i.e, in this context we have to give a meaning to the expression 'computer' not merely going by the dictionary meaning but by applying common parlance and commercial parlance tests as well as by analysing the intendment of providing for higher rate of depreciation. We may refer to several case law to analyse as to which formula would aptly suit the situation in the given case.

20. In *Indian Hotels Co. Ltd. & Ors. Vs. ITO & Ors.* (2000) 245 ITR 538 (SC), the issue was about the granting of deduction u/s. 80J to an industrial undertaking. It was noticed that Section 80J provides for grant of deduction to an assessee who derives income from an industrial undertaking or a ship or the business of a hotel to which the section applies and the section applies to any industrial undertaking, any ship or business of any hotel if the conditions prescribed under sub-sections (4), (5) and (6) respectively, are satisfied. It was noticed that the words 'industrial

undertaking' have not been defined in the Act. In this background of facts, the Hon'ble Court posed the question to itself as to whether the assessee has derived profits and gains from an "industrial undertaking" or from the "business of a hotel". After discussing the issue threadbare, it was held that : 'Industrial undertaking is not given any meaning under the Act, hence it is to be understood as per common parlance language. Taking into this account, apparently, the business of the assessee is that of a hotel, which is a trading activity and not that of an industrial undertaking.' Resultantly the benefit of deduction was denied.

21. In *Aspinwall & Co. Ltd. vs. CIT (2001) 251 ITR 323 (SC)*, their Lordships were concerned with the question of granting investment allowance, for which one of the pre-requisite conditions as per section 32A was that the industrial undertaking should be engaged *inter alia* in the manufacturing. It was noticed that the word "manufacture" was not defined in the Income-tax Act. In such circumstances it was held that : 'In the absence of a definition, the word "manufacture" has to be given a meaning as is understood in common parlance. It is to be understood as meaning the production of articles for use from raw or prepared materials by giving such materials new forms, qualities or combinations whether by hand labour or machines. If the change made in the article results in a new and different article then it would amount to manufacturing activity.'



22. Similar view has been taken by the *Hon'ble Supreme Court in Mangulu Sahu Ramahari vs. The State Tax Officer 1974 CTR (SC) 14* by holding that in the absence of specific definition, the meaning as understood in common parlance has to be adopted. From the legal position as enunciated in the above judgments, it is crystal clear that where a word has not been defined in the Act, it is desirable to comprehend its meaning as is understood in its natural sense.

23. A computer, in common sense and as popularly understood, refers to any electronic or other high speed data processing device which performs 'logical, arithmetic and memory functions on data' (hereinafter called the 'computer functions') and includes all input and output devices which are connected to or related to it. Para 24 of the assessment order indicates that the Assessing Officer was also of the opinion that the meaning of the word "computer", as understood in the common parlance is 'an electronic device for storing and processing data and making calculating and controlling machine which also includes input device like keyboards or mouse and the output devices like the printer or monitor.'

24 We would like to clarify here that the meaning of computer cannot be extended to a device or set of devices which are meant to perform some independent function(s) even though in achieving such desired independent function(s), some sort of 'computer functions' are also involved. Today is an electronic age.

Most of the products used by us involve some sort of mechanism, which may be loosely called as computer functions. Take the instance of Television set, Mobile phone and cars etc., all of which, *inter alia*, involve one form or the other of computer functions. Simply because some 'computer functions' are involved in these equipments or the assistance of computers is taken as such at one stage or the other in their operation, these will not become Computer. The meaning of computer cannot be extended to another machine that operates with the assistance of computer. Conversely an item, which is an integral part of the computer, cannot be defined by it's operations which it is capable of performing, for eg : A wire and plug are electrical items in general but cost of a wire, integrally connected to television, may be added to cost of TV whereas a wire and plug attached to the computer system has to be treated as computer.

25. Thus in order to determine whether a particular machine can be classified as a computer or not, the predominant function, usage and common parlance understanding, would have to be taken into account. To analyse further, let us take the case of a Television, the principal task of which is to deliver visuals accompanied with audio. The signals are received through the relevant networks such as Dish TV, Tata Sky etc. But TV does not become computer for the reason that its principal function cannot be done only with the aid of 'computer functions' notwithstanding the fact that in the entire process of networking or receiving the

output from different channels and making it available to the viewers, some sort of computer functions are necessarily involved. Similarly take the case of mobile phone. Its principal task is to receive and send calls. It is not a standalone apparatus which can operate without the relevant network, such as Airtel, BSNL, Reliance. It, therefore, follows that any machine or equipment cannot be described as computer, if its principal output or function is the result of some sort of 'computer functions' in conjunction with some non-computer functions. In order to be called as computer, it is *sine qua non* that the principal output/object/function of such machine should be achievable only through 'computer functions'.

26. Having analysed the meaning of 'computer' in common parlance, let us proceed to ascertain the concept, meaning and functions of 'router'. Again we find that the term 'router' has not been defined in the Income-tax Act, 1961. Accordingly it also needs to be assigned the meaning as it is understood in common parlance. The learned Departmental Representative has placed some literature from the internet explaining the meaning of 'Router' as a device in computer networking that forwards data packets to their destinations, based on their addresses. As per this literature the working of router has been explained by which data packets are transmitted over a net work (say the internet), they move from many routers (because they pass through many networks) in their journey from the source machine to be destination machine. Routers work

with IP packets, meaning that they work at the level of the IP protocol. Every router keeps information about its neighbors (other routers in the same or other networks). When a packet of data arrives at a router, its header information is scrutinized by the router. Based on the destination and source IP addresses of the packet, the router decides which neighbor it will forward it to.

27. The assessee vide its letter dated 21-2-2005, addressed to the Assessing Officer, submitted a note on use of routers/switches by explaining that the routers are crucial device that let the messages flow from one computer to another. It was further explained that the router has two separate but related jobs, viz., (a) to ensure that the information does not go where it is not needed and (b) it makes sure that the information does make it to the intended destination.

28. A router is a networking device whose software and hardware are customized to the tasks of routing and forwarding information. A router has two or more network interfaces, which may be to different physical types of network (such as copper cables, fiber or wireless) or different network standards. Each network interface is a small computer specialized to convert electric signals from one form to another. Routers connect two or more logical subnets, which do not share a common network address. The subnets in the router do not necessarily map one-to-one to the physical interfaces of the router. The term “layer 3 switching” is used often interchangeably with the term “routing”. The term

switching is generally used to refer to data forwarding between two network devices that share a common network address.

29. In simple words, a router means a device that routes data from one computer to another or from one network to another. Routers provide connectivity inside enterprises, between enterprises and the internet, and inside internet providers. From the above discussion it transpires that the function of a router is to receive the data from one computer and make it available to another computer for viewing or further processing. Apart from facilitating the flow of data between two computers, the routers also help in the transfer of data from network to computer. Thus 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.

30. On functioning of a 'Router' we find that there is no dispute on the fact that a "Router" does not perform any logical, arithmetic and intermediary functions on data nor it manipulates or processes data, the way a computer would do. A "ROUTER" does not have a "C.P.U." It only enables transmission of data and data packages, in a sophisticated manner, to intended places. A data cable also carries data from one place to another, but it does not selectively interchange packets of data between places. The difference between a "CABLE" and a "ROUTER" is that in a

“ROUTRE” data is “Routed” as per the specification. Thus a “Router” may not by itself be called a computer.

31. Now we have to consider whether a ‘router’ can be considered as “computer hardware” or a “computer component”. Computer hardware refers to the physical parts of a computer and related devices. Internal hardware devices include motherboards, hard drives, and RAM. External hardware devices include monitors, keyboards, mouse, printers, and scanners. The internal hardware parts of a computer are often referred to as ‘components’, while external hardware devices are usually called ‘peripherals’. Together, they all fall under the category of computer hardware. ‘Software’, on the other hand, consist of the programs and applications that run on computers. Because software runs on computer hardware, software programs often have ‘system requirements’, that list the minimum hardware required for the software to run.

31.1. In short, “Router” is a hardware device that routes data (hence the name) from a local area network (LAN) to another network connection. A router acts like a coin sorting machine, allowing only authorized machines to connect to other computer systems. Most routers also keep log files about the local network activity. Now the question is whether this “machine” can be used independent of Computer. If yes, then it cannot be called “Computer Hardware” in all circumstances.

31.2. 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 a computer and hence a ‘computer’. Per contra, when the machine is not used as a necessary accessory or in combination with a Computer, it cannot be called a ‘Computer component.’

31.3. Coming to the Routers, it is seen that these can also be used with a Television and in such use, no computer is required. These are also called T.V. routers. Similarly, “Internet Service Providers”, give connectivity, by installing a router in the premises of the persons/institutions availing the internet connection. In these cases the router is not used along with a computer. In such a situation, it would be a “Stand alone” equipment. In such cases this cannot be considered a component of a computer or computer Hardware. Giving another example, a computer software can be used in many devices including washing machine, televisions, telephone equipment etc. When such software is used in those devices, it integrates with that particular devices. The predominant function of the device determines its classification. Only if the Computer software, resides in a computer, then it become a part and parcel of a computer and, as long as it is as integral part of a computer, it is classified as a ‘Computer’.

31.4. In view of the above discussion, we are of the considered view 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' In other words, when a device is used as part of the computer in its functions, then it would be termed as a computer.

32. Now we will advert to the decisions relied on by the rival parties. We have set out above the cases decided by various Benches of the Tribunal in favour of the assessee. The lead order is in the case of Samiran Majumdar (supra) which has been followed, directly or indirectly, in most of the subsequent cases. We will take up this case for discussion, in which the question was whether printer and scanner could be allowed a higher rate of depreciation as applicable to computers. The Bench noticed that the printer and scanner cannot be used without computer. It was on this appreciation of the factual position that the printer and scanners were held to be part of computer qualifying for depreciation at the rate applicable to computer. In the opposition the orders taking view in favour of the Revenue are led by the case of routhermania Technologies (supra). In this case it was observed that the router is a device which links or connects the computers for the exchange of relevant data. In reaching the conclusion that router is not eligible for depreciation at the rate applicable to computer, the Bench noticed that the router at its own does not perform any logical, arithmetical or memory functions by manipulations of electronic, magnetic or optical impulses.



33. We prefer the view taken in the case of Samiran Majumdar (supra) over that in the case of Routermania Technologies (supra) ; With utmost respect, the Mumbai Bench had taken a narrow view on this issue, by holding that only a device which can perform logical, arithmetical or memory functions by manipulations of electronic impulses etc. is computer. It has restricted the meaning of computer only to the CPU of the computer and pulled out the input and output devices from the ambit of computer. No doubt the function of the computer, as one composite unit, is to perform logical, arithmetical or memory functions etc., but it is not only the equipment which performs such functions that can be called as computer ; All the input and output devices, as discussed above, which support in the receipt of input and outflow of the output are also part of computer. CPU alone, in our opinion, cannot be considered as synonymous to the expression 'Computer'. The function of CPU is akin to the brain playing a pivotal role in the conduct of the body. As we do not call the brain alone as the body, similarly the CPU alone cannot be described as computer. Thus the computer has to necessarily include the input and output devices within its scope, subject to their exclusive user with the computer, as discussed above. If we constrict the definition of computer only to processing unit, as has been held in the case of Routermania (supra), then even the keyboard and mouse etc. will not qualify to be called as computer because these equipments also do not perform logical, arithmetical or memory functions. In the light of the meaning of 'computer' discussed in earlier paras, we are inclined to

agree with the view taken by the Kolkata Bench in Samiran Majumdar (supra).

34. We therefore answer the question referred to this Special Bench in affirmative by holding that the routers and switches in the circumstances of the case, are to be included in the block of 'Computer' entitled to depreciation at the rate of 60%.

35. In the result, both the appeals stands dismissed.

Order pronounced on this 09<sup>th</sup> day of July, 2010.

Sd/-  
**(J.SUDHAKAR REDDY)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(R.S. SYAL)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(D.MANMOHAN)**  
**VICE PRESIDENT**

Mumai, Date 09<sup>th</sup> July, 2010

VBP/-

Copy to

1. DCIT, Circle 2 (1), Aayakar Bhavan, R.No. 575, 5 <sup>th</sup> Floor, M.K. Road, Mumbai.
2. Datacraft India Ltd., Unit No. 204/206, 2 <sup>nd</sup> Floor, Welspun House, Kamla Mills Compound, S. Bapat Marg, Lower Parel, Mumbai - 400 013 <b>PAN AAACD-2145-G</b>
3. CIT (A)-II, Mumbai.
4. CIT, Mumbai City-II, Mumbai.
5. D.R. 'D' Bench
6. Guard File.

(True copy)

By Order

Asst. Registrar, ITAT, Mumbai Benches  
MUMBAI.