

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH, CHENNAI

श्री चंद्र पूजारी, लेखा सदस्य एवं
श्री वी. दुर्गा राव, न्यायिक सदस्य के समक्ष
BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER &
SHRI V. DURGA RAO, JUDICIAL MEMBER
आयकर अपील सं./ **I.T.A. Nos.467, 468 & 469/Mds/2015**
(निर्धारण वर्ष / Assessment Years : 2002-03, 2004-05 & 2005-06)

The Deputy Commissioner of Income Tax,
Corporate Circle I (2),
Chennai 600 034.

Vs

M/s. Citadel Aurobindo Bitotech
Ltd,
No.43, Main Road,
Velachery,
Chennai 600 042.

(अपीलार्थी/Appellant) [PAN:AABCC 7824N]
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से / Appellant by : Shri. Rengaraj, IRS, CIT.
प्रत्यर्थी की ओर से / Respondent by : Shri. S. Venkatram, C.A.

सुनवाई की तारीख/Date of hearing : 08.04.2015
घोषणा की तारीख /Date of Pronouncement : 08.04.2015

आदेश / ORDER

PER CHANDRA POOJARI, ACCOUNTANT MEMBER

These three appeals by Revenue are directed against different orders of Commissioner of Income Tax (Appeals)-I, Chennai, for the assessment years 2002-2003, 2004-2005 and 2005-2006. Since the

issue involved in these appeals are common in nature, these appeals are clubbed, heard together and disposed of by a common order for the sake of convenience.

2. The common ground in these appeal is with regard to allowing 25% depreciation on Non-compete fee. At the time of completion of assessment the Assessing Officer disallowed depreciation as non compete fee does not fall in such category. Aggrieved, the assessee preferred an appeal before the Commissioner of Income Tax (Appeals). On appeal, the Commissioner of Income Tax (Appeals) relied on the order of the Jurisdictional High Court in the case of *Pentasoft Technologies Ltd (2014) (41 taxmann.com 120)* and allowed the appeal of the assessee. Against this, the Revenue is in appeal before us.

3. We have heard both the parties and perused the material on record. A similar issue was considered by Jurisdictional High Court in the case of *Pentasoft Technologies Ltd vs. DCIT 222 Taxman 2009 (Mad)*, wherein it was held that assets like trademark, patents and other rights are similar in nature are intangible assets, which in terms of section 32(1) (ii) of the Act would be a capital assets entitled to depreciation. In view of the order of the jurisdictional High Court, we

are inclined to confirm the order of the Commissioner of Income Tax (Appeals).

4. In the result, appeals filed by the Department in the ITA Nos.467, 468 & 469/Mds/2015 are dismissed.

Order pronounced on Wednesday, the 8th of April, 2015, at Chennai.

Sd/-
(वी. दुर्गा राव)
V. DURGA RAO
न्यायिक सदस्य / **JUDICIAL MEMBER**

Sd/-
(चंद्र पूजारी)
(CHANDRA POOJARI)
लेखा सदस्य/ **ACCOUNTANT MEMBER**

चेन्नई/Chennai.

दिनांक/Dated: 08.04.2015.

KV

आदेश की प्रतिलिपि अग्रेषित/Copy to: 1. अपीलार्थी/Appellant 2. प्रत्यर्थी/ Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF.