

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH '1-2', NEW DELHI**

**Before Sh. N. K. Saini, AM and Sh. Kuldip Singh, JM**

**ITA No. 5816/Del/2011 : Asstt. Year : 2007-08**

**ITA No. 6282/Del/2012 : Asstt. Year : 2008-09**

GE Money Financial Services Pvt. Ltd., 401, 402, 4 <sup>th</sup> Floor, Aggarwal Millenium Tower, E-1, 2, 3, Netaji Subhash Place, Pitampura, New Delhi-110034	Vs	Asstt. Commissioner of Income Tax, Circle-12(1), New Delhi
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAACC0642F</b>		

**Assessee by : Sh. Rahul Satija, Adv.**

**Revenue by : Sh. H. K. Chaudhary, Sr. DR**

<b>Date of Hearing : 04.10.2017</b>	<b>Date of Pronouncement : 06.10.2017</b>
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**ORDER**

**Per N. K. Saini, AM:**

These two appeals by the assessee are directed against the separate orders dated 28.10.2011 and 31.10.2012 for the assessment years 2007-08 and 2008-09 respectively passed by the AO u/s 143(3) r.w.s. 144C of the Income Tax Act, 1961 (hereinafter referred to as the Act).

2. Earlier these appeals were decided vide order dated 02.05.2016. Against the said order, the assessee filed Miscellaneous Applications No. 320 & 321/Del/2016 for the assessment years 2007-08 and 2008-09 respectively stating therein that the additional grounds raised by the

assessee were not disposed off while deciding the appeals vide order dated 02.05.2016. The said applications were disposed off vide order dated 02.02.2017 observing therein as under:

*“01. These two miscellaneous applications are filed by the assessee for assessment year 2008-09 and 2007-08 in ITA No. 5816/Del/2011 for assessment year 2007-08 and ITA No. 6282/Del/2012 for assessment year 2008-09 submitting that the additional ground was raised during the course of hearing of these appeals vide letter dated 22.05.2015 for both the years regarding short granting credit of tax deduction at source of Rs.1,57,32,249/- for assessment year 2007-08 and Rs.5,66,12,318/- for assessment year 2008-09 remains under adjudicated. Therefore, there is an apparent error on the face of the record in the order of the tribunal as admission of additional ground and thereafter these grounds are not adjudicated.*

*02. The Ld. authorized representative reiterated whatever is stated in his miscellaneous application. Ld. departmental representative.*

*03. We have carefully considered the rival contentions and noted that the assessee has submitted an application for admission of additional ground with respect to short grant of tax credit for both the years. In view of this, there is an error in the order of the coordinate bench, which needs to be rectified. In view of this, we recall the order dated 02.05.2016 passed in above appeals to decide on the admission of the above grounds and then decision on the merit. To that extent the order passed the coordinate bench in both these appeals are recalled.*

*04. In the result both the miscellaneous applications filed by the assessee for assessment year 2007-08 and ITA No. 5816/Del/2011 and ITA No. 6282/Del/2012 for assessment year 2008-09 are allowed.*

*05. The order was pronounced in the open court on 02.02.2017.”*

3. Since, the additional grounds raised by the assessee had not been disposed off, as such there was an apparent error on the face of the record in the aforesaid referred to order dated 02.05.2016. Accordingly, these appeals were fixed for hearing.

4. During the course of assessment hearing, the ld. Counsel for the assessee pointed out that an identical issue having similar facts has been decided by the ITAT Delhi Bench -I-20, New Delhi in Cross Appeals No. 2897 & 2807/Del/2007 for the assessment year 2000-01 vide order dated 10.06.2015 wherein the similar additional grounds were raised by the assessee and the ITAT after admitting the additional grounds, remanded the issue back to the file of the AO.

5. In his rival submissions the ld. DR could not controvert the aforesaid contention of the ld. Counsel for the assessee.

6. After considering the submissions of both the parties and the material available on the record, it is noticed that in the assessment year 2000-01 wherein both the parties were in Cross appeals before the ITAT

Delhi Bench -Cø, New Delhi, similar additional grounds as are involved in the appeals under consideration were raised which were admitted and the issue was restored back to the file of the AO for verification of the claim of the assessee in respect of tax credit and allow the same as per law. The relevant findings have been given in paras 5 & 6 at page pages no. 16 & 17 of the aforesaid referred to order dated 10.06.2015 which read as under:

*“5. At the outset, Ld. A.R. invited our attention to a copy of application filed for permission to file additional grounds of appeal and submitted that A.O. had not given full tax credits out of total tax credit claimed by appellant in its return of income. He requested that A.O. should be directed to refer to the tax credit claimed by the assessee and should accordingly allow the same. Ld. A.R. submitted that vide order dated 06.05.2015 passed on the application itself, the Hon'ble ITAT had admitted the application for additional ground relying on the case law of NTPC, 229 ITR 383. However, we find that one of the members had not signed on order passed by senior member and, therefore, it cannot be said that the order was passed on 06.05.2015. However, keeping in view the entirety of facts, we allow the admission of additional ground of appeal as the non admission of additional ground will cause irreparable harm and injury to the assessee whereas, it will not create any inconvenience to the Department, Moreover, we find that this ground is based on record and the claim of tax credit was made through income tax return of the assessee.*

*6. Ld. D.R. had no objection to the acceptance of additional ground of appeal, therefore, we admit the additional ground of appeal and direct the A.O. to verify the claim of assessee*

*in respect of tax credit and allow the same as per law. In view of above, additional ground of appeal is allowed for statistical purposes.”*

7. So, respectfully following the aforesaid referred to order, the issue raised by the assessee in the additional grounds relating to tax credit is restored to the AO as has been done for the assessment year 2000-01 in Cross Appeals No. 2897 & 2807/Del/2007, vide order dated 10.06.2015.

8. In the result, the appeals of the assessee are partly allowed for statistical purposes.

(Order Pronounced in the Court on 06/10/2017)

**Sd/-**  
**(Kuldip Singh)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(N. K. Saini)**  
**ACCOUNTANT MEMBER**

**Dated: 06/10/2017**

\*Subodh\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR**