

आयकर अपीलीय अधिकरण , 'ए' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"A" BENCH, CHENNAI**

श्री एन.आर.एस .गणेशन, न्यायिक सदस्य एवं  
श्री एस जयरामन, लेखा सदस्य के समक्ष

**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND**  
**SHRI S. JAYARAMAN, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 1232/Chny/2018

निर्धारण वर्ष/Assessment Year : 2009-10

Iljin Automotive Private Limited,  
Plot No. B1 & B2, SIPCOT, Industrial  
Park,  
Irungattukottai,  
Sriperumbudur,  
Kanchipuram, 602 105.

Deputy Commissioner of Income Tax,  
Vs. Company Circle – 2(3),  
Chennai – 600 034.

**[PAN: AAACI 2641E]**

**(अपीलार्थी/Appellant)**

**(प्रत्यर्थी/Respondent)**

Assessee by

: Shri. M N Rangamani, CA

Revenue by

: Shri. S. Bharath, CIT

सुनवाईकीतारीख/Date of Hearing

: 20.11.2018

घोषणाकीतारीख/Date of Pronouncement

: 27.11.2018

**आदेश/ O R D E R**

**PER S. JAYARAMAN, ACCOUNTANT MEMBER:**

The assessee filed this appeal against the order of Commissioner of Income Tax (Appeals)-13, Chennai in ITA No. 51/CIT(A)-13/09-10 dated 10.11.2017 for assessment year 2009-10.

2. M/s. Iljin Automotive Pvt. Ltd., the assessee, is engaged in the manufacture of automobile components. At the time of assessment, the assessee by its letter submitted that it is entitled to claim additional depreciation for the new plant and machinery added during the financial year 2008-09 and hence requested the AO to allow the additional depreciation u/s. 32(1)(ia). The AO rejected the assessee's claim stating that it is not supported by any revised return. Aggrieved, the assessee filed an appeal before the CIT(A). The CIT(A) dismissed the appeal.

3. Aggrieved the assessee filed this appeal with the following grounds of appeal:

*"2.1 The CIT(A) erred in law by rejecting the claim of additional depreciation on new Plant and machinery of Rs. 12,67,66,119 made during the course of assessment proceedings by stating that the claim was not supported by a revised return.*

*2.2 The CIT(A) failed to appreciate that the Appellant is eligible for additional depreciation in accordance with Explanation 5 to clause (1) of Section 32 of the Act irrespective of fact whether the Appellant has claimed the same in computing its income as per the return of income.*

*2.3 The CIT(A) failed to appreciate the fact that the pronouncements of Hon. (TAT and other Hon. Courts are in favour of the assessee and he ignored the case laws submitted before him."*

4. The AR submitted that during the financial year 2008-09, the assessee purchased plant and machinery for Rs. 12,67,66,119/-, they

were put to use in the manufacturing operations and the date of put to use were not disputed and the AO has allowed the depreciation as per section 32 also. However, he refused to allow the additional depreciation entitled to the assessee as per provisions of section 32(1)(iia) r.w. explanation 5 to section 32(1). The Ld. CIT(A) did not consider the merit of the contention of the assessee and also the legal position that the appellate authority has power to consider on merits. In spite of the facts that the assessee has brought the decisions of various Hon'ble courts and ITATs etc., to the Ld. CIT(A), he erred in not appreciating the facts & law and hence its appeal may be allowed. Per contra, the Ld. DR supported the orders of the lower authorities.

5. We heard the rival submissions. Though, it is a fact that the assessee has not claimed the additional depreciation in the computation of its income, however, during the course of assessment it has brought such facts to the notice of the Assessing Officer and pleaded to allow the claim. It is settled that the purpose of assessment proceedings before the taxing authorities is to assess correctly the tax liability of an assessee in accordance with law. Courts have held that to achieve this objective, there is no reason why a new grounds of appeal should not be allowed to be raised before the appellate authorities etc. Since, the facts on the basis of which the issues raised are on record at the

assessment proceedings itself, following the decision of the Supreme Court in the case of Goetze (India) Ltd. vs CIT (2006) 284 ITR 323 (SC), we deem it fit to remit this issue to the AO for a fresh examination. The AO is at full liberty to examine the claim and decide the issues in accordance with law. To this extent, the appeal is treated as partly allowed for statistical purposes.

6. In the result, the assessee's appeal is treated as partly allowed for statistical purposes.

Order pronounced on Tuesday, the 27<sup>th</sup> day of November, 2018 at Chennai.

**Sd/-**

(एन.आर.एस .गणेशन)

**(N.R.S. GANESAN)**

**न्यायिकसदस्य/Judicial Member**

**Sd/-**

(एसजयरामन)

**(S. JAYARAMAN)**

**लेखासदस्य/Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated: 27<sup>th</sup> November, 2018

**JPV**

आदेशकीप्रतिलिपिअग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त) अपील(/CIT(A)
4. आयकरआयुक्त/CIT
5. विभागीयप्रतिनिधि/DR
6. गार्डफाईल/GF