

**आयकर अपीलीय अधिकरण, "एस.एम.सी" न्यायपीठ, राँची**  
**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH, RANCHI**  
**श्री चन्द्र मोहन गर्ग, न्यायिक सदस्य के समक्ष ।**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER**

**आयकर अपील सं./ITA No.213/RAN/2018**

**(निर्धारण वर्ष / Assessment Year :2015-2016)**

Barhi Auto Station, Vill-Konra, G.T.Road, Barhi, Hazaribag-825301	Vs.	ACIT, Circle-1(1), Aayakar Bhawan, Hazaribag-825301
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : <b>AAMFB 6471 A</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

निर्धारिती की ओर से /Assessee by :Shri Dinesh Chandra Agarwal, Advocate

राजस्व की ओर से /Revenue by : Shri P.K.Mondal, DR

सुनवाई की तारीख / Date of Hearing : **20/05/2019**

घोषणा की तारीख/Date of Pronouncement **20/05/2019**

**आदेश / O R D E R**

This appeal has been filed by the assessee against the order of Commissioner of Income Tax (Appeals), Hazaribagh, Jharkhand, dated 26.04.2018 passed in First Appeal No.10323/HZB/2017-18 for the assessment year 2015-2016.

2. The assessee has raised the following grounds of appeal :-

1. *For shat the order of the learned Commissioner of Income Tax, (Appeals) is illegal, excessive and beyond the facts and circumstances of the case and as such is not maintainable.*
2. *For that the learned CIT(A) has erred in not considering the merit of the case and has also erred in not considering the written argument filed before him at the time of hearing. The only ground of dismissing the appeal given by the learned CIT (A) are technical in nature and he has not considered the merits of the case anywhere in his order.*
3. *For that the learned Commissioner of Income Tax (Appeals) has erred in considering the appeal as defective since the grounds of appeal were attached separated and it was mentioned in Form 35 that the grounds of appeal have been enclosed separately. To*

*enclose the grounds of appeal separately is a common practice and the appellant should not have been punished for filing of appeal in a way which is a common practice and which has been accepted by the predecessors of the learned CIT (A).*

4. *For that the learned officers below ought to have considered that the assets were used for the purpose of business and as such the appellant was entitled to depreciation under the provision of Section 32 of the IT, Tax, 1961.*
5. *For that the disallowance of expense was highly excessive and illegal considering the facts and circumstances of the case.*
6. *For that other grounds will be urged at the time of hearing.*

3. At the outset, Id. AR submitted that the CIT(A) has dismissed the appeal of the assessee as no grounds of appeal has been filed by the assessee in Form No.35. Ld.AR further submitted that the assessee has filed grounds of appeal separately and has mentioned in Form No.35 as "Grounds of Appeal has been enclosed separately". However, without considering the same, the CIT(A) has dismissed the appeal of the assessee. Therefore, the Id. AR prayed for an opportunity to represent its case before the CIT(A) with proper grounds.

4. On the other hand, Id. DR relied on the orders of lower authorities.

5. I have heard the rival submissions of both the parties and perused the relevant material placed in the record of the Tribunal. I find that the Id. CIT(A) while dealing with the appeal of the assessee has observed that the appeal of the assessee is not maintainable as there is no grounds of appeal as per Form No.35 which needs to be adjudicated and accordingly dismissed the appeal of the assessee. Considering the prayer of the Id. AR for the assessee and to render the substantial justice, there will be no loss to the Revenue if one more opportunity be granted to the assessee to

represent its case before the CIT(A). Accordingly, I restore the appeal of the assessee to the file of CIT(A) for fresh adjudication of the grounds of appeal to be raised by the assessee properly in Form No.35, after providing sufficient opportunity of hearing to the assessee. The assessee is also directed to cooperate with the CIT(A) in early disposal of the case.

**6. In the result, appeal of the assessee is allowed for statistical purposes.**

Order pronounced in the open court on 20/05/2019.

**Sd/-**  
**(CHANDRA MOHAN GARG)**  
न्यायिक सदस्य / JUDICIAL MEMBER

**राँची/Ranchi; दिनांक Dated 20/05/2019**

Prakash Kumar Mishra, Sr.P.S.

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant- .  
Barhi Auto Station,  
Vill-Konra, G.T.Road, Barhi,  
Hazaribag-825301
2. प्रत्यर्थी / The Respondent-  
ACIT, Circle-1(1), Aayakar Bhawan,  
Hazaribag-825301
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, राँची / DR, ITAT, Ranchi
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

**(Senior Private Secretary)**  
आयकर अपीलीय अधिकरण, राँची / ITAT, Ranchi