

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES 'G', NEW DELHI**

Before Sh. Amit Shukla, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 1892/Del/2015 : Asstt. Year : 2005-06

DCIT, Circle-24(1), New Delhi	Vs	Spectris Technologies (P) Ltd., 611, 6 th Floor, Ambadeep Building, K.G. Marg, New Delhi
(APPELLANT)		(RESPONDENT)
PAN No. AAGCS6645R		

Assessee by : Sh. Tarandip Singh, Adv.

Revenue by : Sh. N. K. Bansal, Sr. DR

Date of Hearing: 18.09.2019

Date of Pronouncement: 18.09.2019

ORDER

Per Amit Shukla, Judicial Member:

The present appeal has been filed by the revenue against the order of the Id. CIT(A)-8, New Delhi dated 27.01.2015.

2. Following grounds have been raised by the assessee:

"1. The Id. CIT (A) has erred in law and on facts in holding that the AO has wrongly assumed jurisdiction to reopen the case u/s 147 of the I.T. Act, New Delhi.

2. The Id. CIT (A) has erred in law and on facts in deleting addition of made on account of disallowance of depreciation on goodwill and non-competing fee amounting to Rs.2,19,90,102/-."

3. The case has been reopened u/s 147 of the Income Tax Act, 1961 to tax the depreciation claimed by the assessee on the goodwill and non-compete fee. The Assessing Officer held that Section 32 of the Act provides that from 1st April 1999

depreciation would allowed on intangible asset which include copy right, patents, technical know-how, franchise charges and any other commercial rights. Intangible assets, therefore, cannot include goodwill, stock exchange membership fees, intellectual property rights or investment in shares. The Assessing Officer held that as per accounting standards-26, goodwill cannot be considered as an intangible asset for the purpose of amortization. The Assessing Officer further held that though acquisition of the business is capital in nature, the payment for goodwill and non-compete fee does not result in the acquisition of any patents, copyrights, trade mark are know-how and hence, made addition of Rs.2.19 crores.

4. The Id. CIT (A) deleted the addition based on the judgment of Hon'ble Supreme Court in the case of CIT Vs Smifs Securities Ltd. 348 ITR 302. Since, the order of the Id. CIT (A) is based on the judgment of the Apex Court, we hereby decline to interfere with the order of the Id. CIT (A).

5. In the result, the appeal of the Revenue is dismissed.
(Order Pronounced in the Open Court on 18/09/2019).

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

Dated: 18/09/2019

Subodh

Copy forwarded to:

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

Sd/-

(Amit Shukla)
Judicial Member

ASSISTANT REGISTRAR