

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

**Before Sh. BHAVNESH SAINI, Judicial Member**

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

**ITA No. 2170/Del/2016 : Asstt. Year : 2012-13**

Hydel Construction (P) Ltd. C-287, Defence Colony, New Delhi.	Vs	DCIT Circle 11(2) New Delhi.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAACH3012Q</b>		

**Assessee by : Sh. Alok Periwal**

**Revenue by : Sh. Deepak Garg, Sr. DR**

**Date of Hearing: 16.10.2019**

**Date of Pronouncement: 07.11.2019**

**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the Revenue against the order dated 01.04.2016 passed by the Ld. CIT(Appeals)-4, New Delhi relating to AY 2012-13 on the following grounds of appeal:

- 1. "Action of the Ld. CIT(Appeals) in upholding the action of Deputy Commissioner of Income Tax in not allowing the claim made by the Appellant Company on account of adjustment of Revaluation not being taxable and thereby not allowing claim of Rs. 70,40,684/- is unjust, illegal arbitrary and against the facts and circumstances of the case."*

2. The Assessing Officer has disallowed the amount claimed by the assessee on account of adjustment to revaluation reserve. The Assessing Officer held that the assessee was required to explain as to whether this fact of revaluation was reported by the auditor in the audit report or not shown accounts. It was held by the Assessing Officer that the claim of the assessee is after thought as this fact was not reported by the auditor. Further, it was held that the loss should have been claimed by filling of revised return for the AY 2012-13 and simply filing a statement no deduction or claim can be entertainment as held by the Hon'ble Supreme Court in the case of Goetz India Ltd. vs. CIT 284 ITR 323.

3. The Ld. CIT(A) confirmed the disallowance on the grounds that the claim of Rs. 70,40,684/- made by the assessee on account of adjustment to Revaluation Reserve not being taxable. It was held that the assessee was required to explain whether the revaluation was reported by the auditor in the audit report or shown in the accounts. The assessee admitted before the Assessing Officer that this fact was not reported in the audit report. The Ld. CIT(A) held that there is no harm in making a claim by the assessee during the course of assessment proceedings but at the same time this claim should have been audited.

4. Heard the arguments of both the parties and perused the material available on record. We find that the only reason the Ld. CIT(A) confirmed the disallowance was that the accounts have not been audited with regard to the claim of loss on account of revaluation reserve. It was not disputed by the Revenue that the claim is not tenable. Hence, keeping in view the facts of the case and relying on the judgment of Hon'ble Apex Court in the case of Goetz India Ltd. vs. CIT 284 ITR 323, we hereby remand the matter to the file of the Assessing Officer to allow the claim of the assessee after due verification.

5. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 07/11/2019.

Sd/-

**(BHAVNESH SAINI)**  
**Judicial Member**

**Dated: 07/11/2019**

\*Kavita Arora\*

Copy forwarded to:

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

Sd/-

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

**ASSISTANT REGISTRAR**