

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DLEHI**

BEFORE : SMT. DIVA SINGH, JUDICIAL MEMBER

**ITA No.2433/Del/2016
Assessment Year: 2011-12**

DCIT, Circle 10(1),
New Delhi.

vs.

G.S. Control Ltd.,
F-3/8A, Krishna Nagar,
New Delhi.

PAN : AACCG 0368G

(Appellant)

(Respondent)

Appellant by: Ms. Rinku Singh, Sr. DR

Respondent by: None.

Date of hearing : 04.02.2020

Date of Pronouncement : 06.02.2020

ORDER

The present appeal has been filed by the assessee, wherein correctness of the order dated 04.02.2016 of CIT(A)-4, New Delhi pertaining to 2011-12 assessment year is assailed on the following ground :

"1. That on the facts and in circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition made by AO on account of disallowance of 80% of depreciation of Rs.96,45,654/- without appreciating the fact that depreciation is allowable only if the assets were either used actively or passively for the purpose of business but in the instant case the assessee company did not carried out any business activity therefore, there cannot be any passive use of the assets."

2. At the time of hearing, no one was present on behalf of the assessee. However, Id. Sr. DR submitted that the tax effect involved in the present appeal is Rs.31,83,066/-. Accordingly, in terms of Circular No.17/2019 dated 08.08.2019, the appeal may be decided on the basis of low tax effect. In the said backdrop, I am of the view that the aforesaid CBDT circular puts an end to this litigation where relief granted by the CIT(A) is under challenge over the years. To quote from the order dated 14.08.2018 in ITA 1398/Ahd/2004 in the case of ITO Vs Dinesh Madhavlal Patel and 627 others, the ITAT addressing the backdrop of the aforesaid CBDT Circular dated 08.08.2019 was pleased to note *"...what it means, in plain words, is that when a Commissioner (Appeals) gives the taxpayer tax relief of upto Rs 50 lakhs in an appeal in an assessment year, the matter ends there and the relief so granted by the Commissioner (Appeals) cannot be challenged before this Tribunal..."* Accordingly, in the light of the aforesaid CBDT Circular and the aforesaid decision of the Ahmedabad Bench of the ITAT, the appeal of the Revenue is dismissed as not maintainable. Said order was pronounced in the Open Court at the time of hearing itself.

Sd/-
(DIVA SINGH)
JUDICIAL MEMBER

Dated: 06/02/2020
'aks'