

IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'G' BENCH,  
NEW DELHI

BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No. 5771/DEL/2016  
[Assessment Year: 2012-13]

M/s VRS Foods  
D - 55, East of Kailash  
New Delhi

Vs.

The Dy. C.I.T.  
Central Circle - 14  
New Delhi

PAN: AACCV 4731 A

[Appellant]

[Respondent]

Date of Hearing : 10.02.2020  
Date of Pronouncement : 17.02.2020

Assessee by : Shri Salil Agarwal, Adv  
Shri Shailesh Gupta, Adv

Revenue by : Shri Saras Kumar, Sr. DR

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER,**

This appeal by the assessee is preferred against the order of the  
CIT(A) - XXVI, New Delhi dated 24.08.2016 pertaining to assessment  
year 2012-13.

2. The solitary grievance of the assessee is that the Id. CIT(A) erred in confirming the disallowance of depreciation of Rs. 17,89,550/-.

3. Briefly stated, the facts of the case are that during the course of scrutiny assessment proceedings, the Assessing Officer asked the assessee to explain and show cause as to why depreciation on plant and machinery of Rs. 5,11,300/- be not disallowed because on the bill of purchase, GRN is dated 23.04.2012, which relates to Assessment Year 2013-14.

4. In its reply, the assessee explained that the said machines were received in May 2011 and due to some inadvertent error, the accountant has mentioned GRN date as 23.04.2012.

5. The explanation of the assessee did not find any favour with the Assessing Officer who was of the opinion that the assessee could not give any evidence for receipt of machinery in May 2011. The Assessing Officer further noticed that the assessee could not explain as to which transaction GRN date 23.04.2012 relates to. Accordingly, the Assessing Officer disallowed depreciation of Rs. 17,89,550/-.

6. The assessee carried the matter before the ld. CIT(A but without any success.

7. Before us, the ld. counsel for the assessee vehemently submitted that the Assessing Officer did not make any enquiry from the seller of the machineries and based his decision merely on the notings on the invoice which was made by the Accountant. The ld. counsel for the assessee further stated that plant and machinery were part of Fixed Asset Schedule on which depreciation has been allowed in subsequent year on the written down value of the plant and machinery for the year under consideration.

8. The ld. counsel for the assessee further submitted that in subsequent Assessment Year i.e. 2013-14, assessment was framed u/s 143(3) of the Act and the Assessing Officer has allowed depreciation on the written down value as on 01.04.2013, which included plant and machinery purchased in May 2011.

9. Per contra, the ld. DR strongly supported the findings of the Assessing Officer.

10. We have given thoughtful consideration to the orders of the authorities below. Copy of Fixed Asset Register placed at page 14 of the paper book clearly mentions machineries purchased in May 2011. Fixed Asset Schedule as on 31.03.2012, which is placed at page 36 of the paper book shows written down value as on 31.03.2012 and Fixed Asset Schedule as on 31.03.2013, which is exhibited at page 68 of the paper book shows written down value as on 01.04.2013, same as on 31.03.2012. This shows that in Assessment Year 2013-14, the Assessing Officer himself has allowed depreciation on written down value on the plant and machinery, which were purchased in May 2011.

11. We also find that except for notings on the invoice of the purchase of machineries, there is nothing on record to suggest that machineries were never purchased by the assessee during the year under consideration whereas the Fixed Asset Schedule, Fixed Asset Register and subsequent year's assessment order clearly reveal that the Assessing Officer has allowed depreciation on the written down value of assets. Considering the facts in totality, we do not find any merit in the addition. We, accordingly, direct the Assessing Officer to delete the addition of Rs. 17,89,550/-.

12. In the result, the appeal of the assessee in ITA No. 5771/DEL/2016 is allowed.

The order is pronounced in the open court on 17.02.2020.

Sd/-  
[SUCHITRA KAMBLE]  
JUDICIAL MEMBER

Sd/-  
[N.K. BILLAIYA]  
ACCOUNTANT MEMBER

Dated: 17<sup>th</sup> February, 2020.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar  
ITAT, New Delhi