

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'F' NEW DELHI**

**BEFORE SHRI R. K. PANDA ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

**I.T.A. No. 5395/DEL/2016 (A.Y 2012-13)
(THROUGH VIDEO CONFERENCING)**

Paramount Communications Ltd. C-125, Paramount House, Naraina Industrial Area, Phase- 1 New Delhi AAACP0969Q (APPELLANT)	Vs	DCIT Circle-19(2) New Delhi (RESPONDENT)
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Appellant by	Sh. Satyam Sethi, Adv & Sh. A. T Panda, Adv
Respondent by	Sh. Shiv Swaroop Singh, Sr. DR

Date of Hearing	29.07.2021
Date of Pronouncement	18.08.2021

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 26/09/2016 passed by CIT(A)-12, New Delhi for assessment year 2012-13.

2. The grounds of appeal are as under:-

“1. That on the facts and circumstances of the case and in law, the Commissioner of Income-tax (Appeals)-12, New Delhi [briefly “the CIT(A)”] has erred in disallowing depreciation of Rs. 1,15,65,043/- attributable to capitalization of exchange rate fluctuations loss in respect of indigenous assets purchased in India.

1.1. That on the facts and circumstances of the case and In law, the CIT(A) has erred in not appreciating the fact that the assessee has taken consistent stand In all assessment years in case of exchange rate fluctuation loss or

gain. In case of exchange gain written down value of indigenous assets was reduced and in case of exchange loss written down value was increased.

1.2 That on the facts and circumstances of the case and in law, the Assessing Officer has erred in not appreciating that the adverse finding recorded in the earlier years on this issue has not been accepted by the Appellant and that the revised working of depreciation was filed because the same was required by the Assessing Officer.”

3. The assessee is in the business of manufacturing of cables. The return of income in this case was filed by the assessee on 24/9/2012, declaring loss of Rs. 43,75,44,247/- and subsequently return of income was revised at a loss of Rs. 29,79,17,511/-. The Assessing Officer made addition/disallowance of excessive depreciation to the extent of Rs. 1,15,65,043/- and disallowance on account of PF/ESI u/s 2(24) (10) read with Section 36(1)(v) to the extent of 13,07,549/- vide order dated 11/2/2016.

4. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The Ld. AR submitted the Tribunal in assessee's own case for the Assessment Year 2009-10 and 2010-11 has allowed depreciation on enhanced liability on exchange rate fluctuations vide order dated 15/6/2021 in ITA No. 767/Del/2014 and ITA No. 1378 & 2288/Del/2017.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A).

7. We have heard both the parties and perused the material available on record. The Tribunal in assessee's own case in Assessment Year 2009-10 & 2010-11 has held as under:-

“24. Since, the assessee in the instant case has attributed the increased liability of Rs.12,65,54,992/- to the cost of the assets and the depreciation was allowed, therefore, although the assessee has a good case to argue that exchange fluctuation loss attributable to depreciable assets acquired in India is an allowable revenue expenditure, however, it would require tedious exercise of modifying assessments for number of

year. Therefore, we hold that the assessee is entitled to depreciation on exchange loss and the additional grounds raised by the assessee for AY 2009-10 becomes in-fructuous. It is held in the case of CIT v. Industrial Finance Corp of India Ltd. (2009) 185 Taxman 296, that revenue expenditure (loss) is allowable in the year in which it is incurred but where the assessee has spread it over, the Court would allow the benefit. We find merit in the argument of the learned counsel for the assessee that it cannot be held that neither depreciation on enhanced cost due to exchange fluctuation is to be allowed nor the loss itself was to be allowed more so because claim to this effect was raised both before the Assessing Officer as well as the CIT(A). Accordingly, ground no.3 raised by the assessee is allowed and additional ground being infructuous is dismissed.”

The facts in the present Assessment Year i.e. 2012-13 are also identical and no distinguishing facts were pointed out by the Ld. DR. The assessee has attributed the liability in the present Assessment Year to the fixed assets which were acquired in India out of foreign currency loan. Since the fixed asset was acquired by utilizing foreign currency loan and on account of currency fluctuation, the loan liability was added to the fixed assets. Thus, the assessee is entitled to depreciation on exchange loss. Therefore, we direct the Assessing Officer to allow the depreciation attributable to capitalization of exchange rate fluctuation loss. Thus, the appeal of the assessee is allowed.

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

Order pronounced in the Open Court on this 18th Day of August, 2021.

Sd/-

**(R. K. PANDA)
ACCOUNTANT MEMBER**

Sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated : 18/08/2021

*R. Naheed **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT

4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI