

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
MS. SUCHITRA KAMBLE, JUDICIAL MEMBER
(THROUGH VIDEO CONFERENCING)**

ITA No.7281 & 7282/Del/2018
Assessment Year: 2013-14 & 2014-15

ACIT Circle – 8 (1) New Delhi	Vs	Eltek SGS Pvt. Ltd. B-17, Maharani Bagh, New Delhi PAN No. AAACE2920L
(APPELLANT)		(RESPONDENT)

Appellant by	Dr. Maninder Kaur, Sr DR
Respondent by	Sh. Anil Bhalla, CA

Date of hearing:	08/09/2021
Date of Pronouncement:	08/09/2021

ORDER

PER N. K. BILLAIYA, AM:

ITA No.7281/Del/2018 and 7282/Del/2018 are two appeals by the Revenue preferred against two separate orders of the CIT(A)-3, Delhi dated 03.08.2018.

2. Both these appeals were heard together and are disposed of by this common order for the sake of convenience.

3. The common grievance in both these appeals relate to the deletion of addition made by the AO on account of disallowance of depreciation on goodwill.

4. Briefly stated the facts of the case are that the appellant company underwent amalgamation with M/s. Valere Power India Limited pursuant to the order of High Court dated 05.02.2014 by which the amalgamation was effected from 01.04.2011.

5. As per the scheme of amalgamation, where value of liabilities and amount of equity capital allotted /payment to the equity shareholders exceeds the value of assets of the transferor company taken over, such excess shall debited to the goodwill account. Accordingly, the assessee claimed on depreciation on goodwill which claim was denied by the AO.

6. Assessee assailed the addition before the CIT(A) and reiterated its claim of depreciation strongly contended that the goodwill has enumerated from the decision of the Hon'ble High Court and not out of accounting principles. It was brought to the notice of the CIT(A) that goodwill being a non tangible assets is eligible for depreciation u/s. 32 of the Act.

7. The CIT(A) was convinced with the claim and allowed the depreciation.

8. Before us the DR strongly supported the Assessment Order.

9. We find that this claim is no more res-integra as the issue has been settled in favour of the assessee and against the revenue by the decision of the Hon'ble Supreme Court in the case of Smifs Securities Ltd. 348 ITR 302. We do not find any error or infirmity in the findings of the CIT(A).

10. In the result, both the appeals filed by the revenue are dismissed.

11. Decision announced in the open court in the presence of both the representatives on 08.09.2021.

Sd/-
(SUCHITRA KAMBLE)
JUDICIAL MEMBER

NEHA

Date:-08.09.2021

Copy forwarded to:

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

Sd/-
(N. K. BILLAIYA)
ACCOUNTANT MEMBER

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	08.09.2021
Date on which the typed draft is placed before the dictating Member	08.09.2021
Date on which the typed draft is placed before the Other member	08.09.2021
Date on which the approved draft comes to the Sr.PS/PS	08.09.2021
Date on which the fair order is placed before the Dictating Member for Pronouncement	08.09.2021
Date on which the fair order comes back to the Sr. PS/ PS	08.09.2021
Date on which the final order is uploaded on the website of ITAT	08.09.2021
Date on which the file goes to the Bench Clerk	08.09.2021
Date on which file goes to the Head Clerk.	
The date on which file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	