

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

**BEFORE MS SUCHITRA KAMBLE, JUDICIAL MEMBER
AND
SH. PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

I.T.A. No. 5337/DEL/2016 (A.Y 2012-13)

(THROUGH VIDEO CONFERENCING)

Hyderabad Ring Road Projects Pvt. Ltd. C-56/41, Sector-62, Noida AABCH8962Q (APPELLANT)	Vs	DCIT Circle-11(2) New Delhi (RESPONDENT)
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Appellant by	Ms. Chinu Bhasin, CA, Sh. Himanshu Sharma, CA
Respondent by	Ms. Sunita Singh, CIT DR

Date of Hearing	04.10.2021
Date of Pronouncement	17.11.2021

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 11/08/2016 passed by CIT (A)-35, 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, the learned C.I.T.(A) erred in upholding the order of A.O. in disallowing entire depreciation of Rs. 21,17,57,310/- on the Ring Road Project in the Hyderabad disbelieving the date of completion of the project arbitrarily.

2. That on the facts & circumstances of the case, the both the lower Authorities assessed the income from the project on accrual basis and disallowed depreciation holding that the project was not ready on 30th March

2012, and hence Orders passed by the learned C.I.T.(A) and A.O. are illegal & deserves to be quashed.

3. The assessee is a Special Purpose Vehicle (SPV) formed for the purpose of Road Project, in the city at Hyderabad and awarded civil construction contracts for construction, development and maintenance of Outer Ring Road to Hyderabad city in the state of Andhra Pradesh, India. The assessment in this case was completed u/s 143(3) of the I.T. Act, 1961 vide order dated 09.03.2015 at total income of Rs. 7,88,030/- as against returned loss of Rs. 21,09,70,403/- i.e. by making additions of Rs. 21,17,58,435/- to the return income declared by the assessee. While framing the assessment, the AO has made additions of Rs. 21,17,58,435/- by disallowing amount of depreciation of Rs. 21,17,57,310/- claimed by the assessee and disallowed interest for delayed payment of TDS to the extent of Rs. 1,125/-.

4. Being aggrieved by the penalty order, the assessee filed appeal before the CIT(A). The CIT (A) dismissed the appeal of the assessee.

5. The Ld. AR submitted that the assessee has filed application under Rule 29 of the Income Tax Appellate Rules, 1963 and filed certain additional evidences. The Ld. AR submitted that the additional evidence may be admitted and the claim of the assessee regarding depreciation for the year under consideration as the project has been operational on the said date may be allowed.

6. The Ld. DR relied upon the assessment order and the order of the CIT(A). The Ld. DR further submitted that the order of the CIT(A) is ex-parte order, as the assessee has not appeared before the CIT(A).

7. We have heard both the parties and perused all the relevant materials available on record. It is pertinent to note that the assessee has not placed the

additional evidence before the CIT (A) and has not appeared before the CIT (A). Therefore, we are admitting the additional evidence and remanding back the matter to the file of the CIT (A) for taking cognizance of the additional evidence and after taking the same decide the issue on merit. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice. The appeal of the assessee is partly allowed for statistical purpose.

8. In result, the appeal of the assessee is partly allowed for statistical purpose.

Order pronounced in the Open Court in presence of both the parties on this 17th Day of November, 2021.

sd/-

**(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

sd/-

**(SUCHITRA KAMBLE)
JUDICIAL MEMBER**

Dated: 17/11/2021

*R. Naheed **

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT NEW DELHI

