

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

**BEFORE SH. N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
SH. YOGESH KUMAR US, JUDICIAL MEMBER
(THROUGH VIDEO CONFERENCING)**

ITA No.5098/Del/2018)
Assessment Year: 2008-09

Ferrite Alloys Pvt. Ltd. C-304, Sarv Satyam Apartments, Sector-04, Block No.12, Dwarka, Delhi-110075 PAN No.AAACF9886A	Vs	ITO Ward- 9 (1) New Delhi
(APPELLANT)		(RESPONDENT)

Appellant by	Sh. Navin Gupta, Advocate
Respondent by	Sh. Kumar Parnav, SR. DR

Date of hearing:	15/02/2022
Date of Pronouncement:	15/02/2022

ORDER

PER N. K. BILLAIYA, AM:

This appeal by the assessee is preferred against the order of the CIT(A)-34, New Delhi dated 28.07.2017 pertaining to A.Y.2008-09.

2. The only grievance of the assessee is that the CIT(A) erred in dismissing the appeal by holding that there are two appeals pending of the appellant of the same year and ignored the fact

that both the appeals were on separate issues and both the appeals needs to be decided separately.

3. It would be pertinent to refer to the findings of the CIT(A) which read as under :-

4.1. Identical to the present appeal filed by the appellant, yet another appeal of the appellant is also pending for disposal in this office in appeal no. 216/16-17. That appeal no. 216/16017 is (i) for the same A.Y. 2008-09, (ii) against the same order of the AO (ITO, Ward 9(1), New Delhi), assessment order dated 29.03.2016 passed u/s 143(3)/147 and (iii) involving identical grounds of appeal, as the present appeal. Both these appeals, ie the present appeal no. 76/16-17 and appeal no. 216/16-17 were received on transfer from the charge of CIT(A)-3, Delhi in pursuance to order of Pr. CCIT, New Delhi circulated vide F. No. Addl. CIT/(Hqr)(Coord.)/CAP/Rationa./CIT(A)/2016-17/220 dated 07.04.2017.

4.2. In view of the above-mentioned facts that two identical appeals are lying in the case of appellant, this present appeal (appeal no. 76/16-17) is



AY 2008-09; 143(3)/147

treated as infructuous and hence dismissed for statistical purposes. As on date, another appeal of the appellant in appeal no. 216/16-17 is pending for disposal. The submissions made by the appellant so far, if any, in respect of hearings conducted in present appeal no. 76/16-17 till date, will be considered as submissions made in appellant's appeal no. 216/16-17.

4. Facts on record show that the assessee preferred appeal against the assessment order framed u/s. 143 (3) / 147 of the Act which was subsequently rectified u/s.154 of the Act against which order the assessee preferred appeal before the CIT(A). It is not a case where two appeals have been preferred by the assessee

against the same order but two different appeals have been filed by the assessee preferred against two different orders.

5. Therefore, in the interest of justice we restore this appeal to the files of the CIT(A). The CIT(A) is directed to decide the appeal afresh after giving a reasonable opportunity of being heard to the assessee.

6. In the result, the appeal filed by the assessee is allowed for statistical purpose.

7. The order is pronounced in the open court on 15.02.2022 in the presence of both the rival representatives.

Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER

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

NEHA

Date:- 15.02.2022

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	15.02.2022
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for Pronouncement	
Date on which the fair order comes back to the Sr. PS/ PS	
Date on which the final order is uploaded on the website of ITAT	15.02.2022
Date on which the file goes to the Bench Clerk	
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	