

आयकर अपीलीय अधिकरण “ए” न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL “A” BENCH, PUNE

BEFORE SHRI S.S.GODARA, JM  
AND SHRI DR. DIPAK P. RIPOTE, AM

आयकर अपील सं. / ITA No.2673/PUN/2017  
निर्धारण वर्ष / Assessment Year : 2012-13

Danfoss Power Solutions India Pvt.Ltd.,  
Gat No. 94-100, Hi-Cliff Industrial Estate,  
Wagholi – Rahu Road, Kesnand,  
Off Nagar Road,  
Pune – 412 207

PAN : AAFCS2954P

.....अपीलार्थी / Appellant

बनाम / V/s.

DCIT, Circle- 1(2), Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Nikhil Pathak  
Revenue by : Shri S. P. Walimbe

सुनवाई की तारीख / Date of Hearing : 12.05.2022  
घोषणा की तारीख / Date of Pronouncement : 10.06.2022

**आदेश / ORDER**

**PER S. S. GODARA, JM :**

1. This assessee’s appeal for A.Y. 2012-13 is directed against the CIT(A), Pune’s order dated 24/08/2017 passed in case No. ITBA/APL/S/250/2017-18/1005884886(1) involving proceeding u/s. 143(3) of the Income Tax Act, 1961 ; in short "the Act".

Heard both the parties. Case file perused.

2. Learned counsel states at the outset that the assessee does not press for its first and foremost substantive ground as well as petition dated

27.08.2021 raising the issues of the disallowance of provision for expenses amounting to Rs.2,62,591/- and Rs.15,28,959/- representing education, secondary and higher education cess; respectively. Rejected accordingly.

3. Next comes the sole surviving issue of depreciation disallowance relating to goodwill amounting to Rs.2,11,52,210/- arising on acquisition of business undertaking from M/s. Dantal Hydrolics Ltd. in financial year 2001-02 relevant to A.Y. 2002-03.

4. There is hardly any dispute between the parties such as a depreciation claim pertaining to goodwill is indeed allowable once hon'ble apex court having settled the law in case (2012) 348 ITR 302 (SC) Smifs Securities Ltd. Their lordships have admittedly considered Sec.32(1)(II) read with Explanation 3(b) of the Act that a goodwill indeed forms intangible asset eligible for depreciation.

5. The department at this stage invited our attention to the Assessing Officer's assessment discussion that the assessee's claim could not even be entertained since not filed even in a revised return as per Goetze India Ltd. V/s. CIT (2006) 284 ITR 323 (SC). Suffice to say, that the CIT(A) has gone a step ahead of the assessment discussion in holding that although their lordships have made it clear that the appellate authorities' jurisdiction to entertain a new claim without a revised return has nowhere been impinged upon in any manner whatsoever. His findings in paras 10 onwards hold that the assessee had already amortized cost of the assets in issue over a period

of three years on straight line method and therefore, rejected the impugned claim of depreciation on goodwill therefore.

6. We have given our thoughtful consideration to vehement rival contentions against and in support of impugned disallowance and find no force in Revenue's stand reiterating the CIT(A)'s detailed discussion. We first of all observe that such a depreciation on goodwill is indeed allowable now in view of forgoing legal position whereas the Revenue's endeavour is to treat it as an instance of no such written down value 'WDV' available anymore (supra). Face with this situation, we are of the opinion that the assessee's impugned claim; although held allowable as well as maintainable as a mandatory deduction in light of Sec. 32 Explanation 5, requires the Assessing Officer's afresh computation taking into consideration all the necessary facts as per law. The instant sole issue is restored back to him with a rider that it shall be assessee's bounden duty only to file record all the relevant details in consequential proceedings. Ordered accordingly.

7. This assessee's appeal is partly allowed for statistical purposes in above terms.

Order pronounced in the Open Court on this 10<sup>th</sup> day of June, 2022.

**Sd/-**

**Sd/-**

**(DR.DIPAK P.RIPOTE)**

**(S.S. GODARA)**

लेखा सदस्य/ **ACCOUNTANT MEMBER**

न्यायिक सदस्य/**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 10<sup>th</sup> June, 2022.

Ashwini

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(A)- Pune.
4. The Pr.CIT-1, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "ए" बेंच,  
पुणे / DR, ITAT, "A" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

S.No.	Details	Date	Initials
1	Draft dictated on	12.05.2022	
2	Draft placed before author	08.06.2022	
3	Draft proposed & placed before the Second Member		
4	Draft discussed/approved by Second Member		
5	Approved Draft comes to the Sr. PS/PS		
6	Kept for pronouncement on		
7	Date of uploading of Order		
8	File sent to Bench Clerk		
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R.		
11	Date of Dispatch of order		