

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

**BEFORE DR. B.R.R. KUMAR, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

I.T.A. No. 1991/DEL/2020 (A.Y 2012-13)

Ram Avtar Singh VPO Seekri, Faridabad Haryana PAN No. AILPS4719D (APPELLANT)	Vs.	ACIT Circle-2 Faridabad, Haryana (RESPONDENT)
---	-----	--

Assessee by :	None
Department by:	Shri Atiq Ahmed, SR. DR

Date of Hearing	01.08.2022
Date of Pronouncement	.08.2022

ORDER

PER YOGESH KUMAR U.S., JM

This appeal is filed by the assessee for assessment year 2012-13 against the orders of the Ld. Commissioner of Income Tax (Appeals)–, Faridabad, dated 18.03.2020.

2. The brief facts of the case are that, the assessee filed return claiming depreciation of machinery owned by the assessee wherein the block of the assessment, new machineries acquired were also clubbed. While processing the case by the CPC, the same was not allowed to claim as depreciation on new machineries acquired and added towards the block assets. An Application u/s 154 of the Act was moved before the A.O to rectify the

'mistake apparent from the record'. The Ld. A.O vide order dated 25/03/2019 rejected the application filed by the assessee. As against the order dated 25/03/2019, the assessee has filed an appeal before the CIT(A), Faridabad. The Ld.CIT(A) vide order dated 18/03/2020 decided the Appeal ex-parte by dismissing the Appeal filed by the assessee.

3. Aggrieved by the order dated 18/03/2020 passed by the CIT(A), the assessee is before us on following grounds:-

"1. That the learned CIT (Appeals) has erred on facts and in law while confirming the order of the AO, rejecting the assessee's application moved under Section 154 for rectifying of the mistake apparent from the record in respect of not allowing of the depreciation claimed by the assessee. The order passed by the AO under Section 154 of the Income Tax Act is bad in law. Depreciation claimed by the assessee is liable to be allowed.

2. That while not allowing of the appeal filed by the appellant which is filed against the order passed under Section 154 of the Income Tax Act, the learned CIT (Appeals) has not appreciated the fact that the CPC has erred on facts and in law while not allowing of the depreciation as claimed by the assessee as per rule in the return of income filed. After taking into consideration the grounds of appeal and the material available on record particularly the new machineries acquired by the assessee during the year and put to use on which depreciation is liable to be allowed. The assessee has claimed the depreciation correctly as per Income Tax Rules, the appeal filed by the assessee was liable to be allowed. The learned CIT (Appeals) has not considered the aforesaid facts while passing of the appellate order.

3. *That in any view of the case, the depreciation claimed by the assessee which was claimed correctly and as per Income Tax Rules is liable to be allowed being the assessee is entitled for the same being the assessee has acquired the new machineries on which depreciation is liable to be allowed. Application moved under Section 154 of the Income Tax Act is liable to be allowed.'*

4. *That the order of Ld.CIT(A) dated 18.03.2020 is bad in law."*

4. None appeared for the assessee even after issuing notice by the registry. By considering the issue involved in the Appeal, grounds of appeal and after hearing the Ld. DR, we proceed to decide the matter.

5. The Ld.CIT (A) while deciding the appeal passed the ex-parte order without hearing the assessee. In our opinion, the assessee should have been given proper opportunity of being heard. Therefore, in the interest of justice the issue deserves to be set aside to the file of CIT(A) for fresh consideration. Needless to say that the assessee shall be provided with the opportunity of being heard by the Ld.CIT(A). Accordingly, we partly allow the Grounds of Appeal for statistical purpose by remanding the matter to the file of Ld.CIT(A) to decide the Appeal on merits, after hearing the assessee.

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

Order pronounced in the open court on th August, 2022.

(Dr. B.R.R. KUMAR)
ACCOUNTANT MEMBER

(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Dated : /08/2022

**R.N* Sr. PS*

Copy forwarded to :

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

Draft dictated	02.08.2022
Draft placed before author	02.08.2022
Approved Draft comes to the Sr.PS/PS	
Order signed and pronounced on	
File came to P.S.	
File sent to the Bench Clerk	
Date on which file goes to the AR	
Date on which file goes to the Head Clerk.	
Date of dispatch of Order.	
Date of uploading on the website	