

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C" DELHI**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.As. No.8269/DEL/2018 & 6022/Del/2019
Assessment Years 2010-11 & 2011-12

Gulati Steel Fab P. Ltd., Plot No.139, Sector-24, Faridabad.	v.	Dy. Commissioner of Income Tax, Circle-I, Faridabad.
TAN/PAN: AACCG7561M		
(Appellant)		(Respondent)

Appellant by:	Shri R.B. Mathur, CA		
Respondent by:	Shri Anuj Garg, Sr.D.R.		
Date of hearing:	01	08	2022
Date of pronouncement:	22	08	2022

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeals have been filed by the Assessee against the orders of the Commissioner of Income Tax (Appeals), Faridabad ['CIT(A)' in short], dated 29.10.2018 and 29.05.2019 arising from order assessment order passed by the Assessing Officer (AO) under Sections 143(3) r.w. Section 147 of the Income Tax Act, 1961 (the Act) concerning AYs 2010-11 and 2011-12 respectively.

2. When the matter was called for hearing, the ld. counsel for the assessee submitted at the outset that depreciation of Rs.1,44,300/- claimed on old boring machine WDV

Rs.9,62,000/- has been disallowed by the Assessing Officer on the ground that the purchase of the machinery is bogus. In this regard, the Id. counsel for the assessee pointed out that in the subsequent Assessment Year 2017-18, the Assessing Officer issued notice under Section 142(1) of the Act and made requisite specific inquiries in this regard yet again which reads as under:

“Please furnish the details machinery purchased from M/s. Neel Kanth Steel and whether any depreciation was claimed on such machineries purchases during earlier years from M/s. Neel Kanth Steel.”

3. In response thereto, the assessee replied and inquiries were also conducted by the Assessing Officer. The Id. counsel for the assessee pointed out that the assessment order dated 09.12.2019 was passed under Section 143(3) of the Act for Assessment Year 2017-18 wherein no disallowance was carried out on the depreciation claimed on the machinery purchased from M/s. Neel Kanth Steel. In this factual backdrop, the Id. counsel urged for reversal of disallowance in Assessment Years 2010-11 and 2011-12 in question having regard to the factual position tested in the subsequent Assessment Year 2017-18.

4. In the light of the submissions made on behalf of the assessee, we find merit in the plea of the assessee. The Assessing Officer, in the instant case, has acceded to the position on facts reported by the Assessing Officer. Thus, there is no warrant to take a wholly different position in other assessment years. The disallowance of depreciation of

Rs.1,44,300/- and Rs.1,22,655/- for Assessment Years 2010-11 and 2011-12 respectively are thus reversed.

4. In the result, both the appeals of the assessee are allowed.

Order pronounced in the open Court on 22/08/2022.

Sd/-

**[KUL BHARAT]
JUDICIAL MEMBER**

DATED: /08/2022
Prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**