

**IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH 'H' : NEW DELHI)**

**SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
and
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.3107/Mum/2015
(ASSESSMENT YEAR : 2008-09)**

Tahiliani Design Pvt. Ltd.,
130/132, Great Western Bldg.,
S.B. Singh Marg, Fort,
Mumbai – 400 023.
(PAN : AABCT7453L)

vs. DCIT – 2 (3),
Mumbai.

**ITA No.5204/Del./2016
(ASSESSMENT YEAR : 2012-13)**

**ITA No.65/Del./2020
(ASSESSMENT YEAR : 2012-13)**

**ITA No.66/Del./2020
(ASSESSMENT YEAR : 2013-14)**

**ITA No.67/Del./2020
(ASSESSMENT YEAR : 2014-15)**

**ITA No.1938/Del./2020
(ASSESSMENT YEAR : 2014-15)**

**ITA No.68/Del./2020
(ASSESSMENT YEAR : 2015-16)**

**ITA No.1937/Del./2020
(ASSESSMENT YEAR : 2015-16)**

Tahiliani Design Pvt. Ltd.,
C/o RKACA and Associates LLP, CAs
E – 186, Basement,
Greater Kailash – 1,
New Delhi – 110 048.
(PAN : AABCT7453L)

vs. ACIT, Circle 25 (1),
New Delhi.

(APPELLANT)

(RESPONDENT)

ASSEESSEE BY : Shri Ajay Mankotia, CA

REVENUE BY : Ms. Sapna Bhatia, CIT DR

Date of Hearing : 21.02.2023

Date of Order : 23.02.2023

ORDER**PER BENCH :**

These are appeals by the assessee against the respective orders of Id. CIT (A).

2. Although assessee has raised various grounds, however the issues pressed in brief for each appeal have been submitted by the Id. Counsel for the assessee as under :-

S.No.	Appeal Number	Assessment Year	Detail of issues involved	Amount
1	ITA 3107/Mum/2015	2008-09	Depreciation	43.32 lakhs
2	ITA 5204/Del/2016	2012-13	1. Depreciation – Rs.31.25 Lakhs (arising out of AY 2008-09) 2. Section 40a)(ia) – Rs.1.48 lakhs 3. Cessation of liability – Rs.29.48 lakhs	62.21 lakhs
3	ITA 65/Del/2020	2012-13	Penalty u/s 271(1)(c)	
4	ITA 66/Del/2020	2013-14	1. Depreciation - Rs.28.10 lakhs (arising out of AY 2008-09) 2. Section 40(A) (3) – Rs.1.16 lakhs 3. Section 14A – Rs.1.51 lakhs	36.25 lakhs

			4. Repairs & maintenance – Rs.5.48 lakhs	
5	ITA 67/Del/2020	2014-15	Depreciation (arising out of AY 2008-09)	25.27 lakhs
6	ITA 1938/Del/2020	2014-15	Penalty u/s 271(1)(c)	
7	ITA 68/Del/2020	2015-16	Depreciation (arising out of AY 2008-09)	22.73 lakhs
8	ITA 1937/Del/2020	2015-16	Penalty u/s 271(1)(c)	

3. It is noted that the first ground in ITA No.3107/Mum/2015 for AY 2008-09 is on account of disallowance of depreciation on fixed assets.

4. Brief facts of the case are that during the course of assessment proceedings, the assessee had shown addition of Rs.7,47,62,896/- to the fixed assets on which it had claimed depreciation of Rs.79,03,293/-. AO asked the assessee to file copies of relevant bills and vouchers in respect of the additions to the fixed assets. However, the assessee was able to produce only a few of the bills. AO, therefore, allowed the depreciation pertaining to the bills produced amounting to Rs.31,26,361/- and disallowed the balance.

5. Upon assessee's appeal, ld. CIT (A) noted that he had also given chance to the assessee to produce original bills but assessee filed only photocopies of the bills. He held that no relief can be given to the assessee. As additional evidences were only photocopies, ld. CIT (A) held that the same cannot be admitted.

6. Against this order, assessee is in appeal before us. We have heard both the parties and perused the records.

7. Ld. Counsel of the assessee pleaded that now the assessee is in possession of all the vouchers which they have obtained with a great effort. He

submitted that the assessee is seeking permission to file additional evidences in this regard and requested that the issue may be remitted to AO to consider fresh evidences and pass appropriate order. He further submitted that this issue has cascading effect in ITA Nos.5204/Del/2016 for AY 2012-13, 66/Del/2020 for AY 2013-14, 67/Del/2020 for AY 2014-15 & 68/Del/2020 for AY 2015-16. Ld. Counsel of the assessee pleaded that in all these years, the adjudication for ITA No.3107/Mum/2015 will have a bearing as decision in that case will be cascading effect on the amount of depreciation for the respective years.

8. Upon hearing both the counsels and perusing the records, we are of the opinion that the interest of justice would be served if the issue of additional evidences now being submitted are remanded to the file of AO. AO shall consider the additional evidences which the assessee have now claimed to have obtained and thereafter decision as per law. Needless to say, assessee should be provided an opportunity of being heard.

9. As regards other issues in the appeals mentioned in ITA Nos.5204/Del./2016 & 66/Del/2020 for AYs 2012-13 & 2013-14 respectively, we note that adjudication of these grounds and remanding the ground relating to depreciation to the AO will lead to multiplicity of proceedings. Hence, both the counsels agreed that if the issue of depreciation is remanded to the file of AO to consider afresh for passing an appropriate order, other aspects can be left adjudicated to be considered after the issue of depreciation is dealt with by the AO thus the entire order is complete. We find ourselves in agreement with the above proposition. Higher Courts have expounded that all grounds have to

be adjudicated as otherwise part decisions will lead to multiplicity of proceedings. Hence, we direct that the issue of depreciation will be dealt with at the level of AO and other issues raised shall remain intact. Both the parties are at liberty to file the appeals if deem necessary, after the issue of depreciation is decided pursuant to this remand.

10. ITA Nos.65/Del/2020, 1938/Del/2020 & 1937/del/2020 for AYs 2012-13, 2014-15 & 2015-16 respectively are penalty orders u/s 271(1)(c) of the Income-tax Act, 1961 (for short 'the Act') relating to quantum appeals discussed above. Since the quantum issues are being remitted to the file of AO, we deem it proper to remand the consequential penalty u/s 271(1)(c) of the Act also to the file of AO for giving consequent effect after the adjudication of the depreciation part.

11. In the result, all the appeals by the assessee stands partly allowed for statistical purposes.

Order pronounced in the open court on this 23RD day of February, 2023.

**SD/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER**

**SD/-
(SHAMIM YAHYA)
ACCOUNTANT MEMBER**

**Dated the 23RD day of February, 2023
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- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**