

**THE INCOME TAX APPELLATE TRIBUNAL  
DELHIBENCH 'F', NEW DELHI**

**Before Dr. B. R. R. Kumar, Accountant Member**

**Sh. Yogesh Kumar US, Judicial Member**

**ITA No. 8519/Del/2019 : Asstt. Year : 2004-05**

DCIT, Circle-20(1), New Delhi-110002	Vs	Planetcast Technologies Ltd. (Formerly known as Essel Shyam Technologies Ltd.), Hemkunt Chamber, 11 <sup>th</sup> Floor, 89, Nehru Place, New Delhi-110028
(APPELLANT)		(RESPONDENT)
<b>PAN No. AAACE8824H</b>		

**CO No. 113/Del/2022 : Asstt. Year : 2004-05**

Planetcast Technologies Ltd. (Formerly known as Essel Shyam Technologies Ltd.), Hemkunt Chamber, 11 <sup>th</sup> Floor, 89, Nehru Place, New Delhi-110028	Vs	DCIT, Circle-20(1), New Delhi-110002
(APPELLANT)		(RESPONDENT)
<b>PAN No. AAACE8824H</b>		

**Assessee by : Sh. Ved Jain, Adv. &  
Sh. Aman Garg, CA  
Revenue by : Sh. K. K. Mishra, Sr. DR**

<b>Date of Hearing: 07.12.2022</b>	<b>Date of Pronouncement: 03.03.2023</b>
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**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal and Cross Objection have been filed by the Revenue and the assessee against the order of Id. CIT(A)-7, New Delhi dated 28.08.2019.

2. Following grounds have been raised by the Revenue:

*"1. In the facts and circumstances of the case, the Id. CIT(A) erred in quashing the order of the AO taking view that the order passed by the Assessing Officer is time barred as per time limit prescribed in Section 153(6) of the Act, while not appreciating the fact that there was specific direction from the Hon'ble ITAT to the AO to pass a speaking order after giving a reasonable opportunity to assessee which is covered in the proviso of Section 153(3) i.e. time limit for completion of set aside proceedings was none months from the end of the financial year in which order of Hon'ble ITAT was received in the PCIT office."*

3. In CO No. 113/Del/2022, following grounds have been raised by the assessee:

*"1. On the facts and circumstances of the case, the Id. CIT(A) has erred in not adjudicating the ground on merit taken by the assessee regarding disallowance of Rs.1,43,88,504/- on account of royalty expenditure."*

4. At the outset, the assessee submitted that the Assessment Order passed by the AO complying with the directions of ITAT is time barred as per the provisions of Section 153(6).

5. The assessee brought to our notice that the ITAT passed its order on 10.06.2016 in the case of the assessee for A.Y. 2004-05 and the same was received in the office of CIT(Judicial) on 06.07.2016 and further in the office of Id. PCIT-7 on 20.09.2016. These facts are not in dispute. Section 153(6)

6. The provisions of Section 153(6) reads as under:

*"Section 153....."*

*(6) Nothing contained in sub-sections (1) and (2) shall apply to the following classes of assessments, reassessments and re-computation which may, subject to the provisions of 15-16[sub-sections (3), (5) and (5A)], be completed—*

*(i) where the assessment, reassessment or re-computation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 250, section 254, section 260, section 262, section 263, or section 264 or in an order of any court in a proceeding otherwise than by way of appeal or reference under this Act, on or before the expiry of twelve months from the end of the month in which such order is received or passed by the Principal Commissioner or Commissioner, as the case may be; or*

7. As per the provisions, the time limit of 12 months from the end of the month in which the order of ITAT is received by Id. PCIT/CIT, gets expired on 31.09.2017. The Assessing Officer has passed Assessment Order on 31.12.2017, which is barred by limitation given under the provisions of the Act.

8. Hence, the entire order of the AO is treated as *void ab initio*.

9. In the result, the appeal of the Revenue is dismissed and the Cross Objection of the assessee is allowed.

Order Pronounced in the Open Court on 03/03/2023.

Sd/-

**(Yogesh Kumar US)**  
**Judicial Member**

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**Dated: 03/03/2023**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

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

**ASSISTANT REGISTRAR**