

**IN THE INCOME TAX APPELLATE TRIBUNAL "SMC" BENCH,**  
**MUMBAI**

**BEFORE SHRI ABY T. VARKEY, JM**

आयकर अपील सं/ I.T.A. No.1110/Mum/2023  
(निर्धारण वर्ष / Assessment Year: 2015-16)

M/s. Cinetech Entertainment India Pvt. Ltd. 27 Filmlab, Walbhatt Road Goregaon (E), Mumbai- 400063.	<b>बनाम/</b> Vs.	ITO, Ward-16(1)(1) Room No. 436A, Aayakar Bhavan, Maharishi Karve Road, Mumbai-400020.
<b>स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AA ECC3526G</b>		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Assessee by:	Shri Rakesh Joshi
Revenue by:	Shri Dharmvir D Yadav (Sr. DR)

सुनवाई की तारीख / Date of Hearing: 27/06/2023  
घोषणा की तारीख /Date of Pronouncement: 30/06/2023

**आदेश / ORDER**

**PER ABY T. VARKEY, JM:**

This is an appeal preferred by the assessee against the order of the Ld. CIT(A)/NFAC, Delhi dated 14.10.2021 for AY. 2015-16.

2. The main grievance of the assessee is against the action of the Ld. CIT(A) confirming the action of the AO disallowing the depreciation in respect of Film Projector.

3. At the outset, it has been brought to my notice that there is a delay of fifteen (15) months in filing of the appeal. According to Ld. AR, even though, the Ld. CIT(A) has passed the impugned order on 14.10.2021, the assessee was not aware of the passing of the impugned order because it was an ex-parte order; and a copy of which was not received by the assessee and the assessee came to know about the passing of the exparte order only while casually examining e-filing portal on 31.03.2023; and immediately after realising that impugned order was passed, the assessee filed the appeal on 05.04.2023; and in



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order to support the aforesaid contention has filed an affidavit. After going through the contents of the affidavit, I am of the view that delay caused was not due to the deliberate omission the part of assessee. Since there is reasonable cause for delay in filing of appeal, the delay caused in filing of appeal is condoned and proceed to dispose of the appeal on merits.

4. At the outset, regarding the issue of depreciation claimed by assessee, it has been brought to my notice that the assessee had claimed 60% depreciation in respect of Film Projector in the earlier assessment year i.e. in AY. 2013-14 which was not accepted even at the level of this Tribunal and depreciation was allowed only at 15%. And it was also brought to our notice that in AY 2014-15 also, the Tribunal following the decision in assessee's own case for AY. 2013-14 have directed the AO to examine the working of depreciation as per the revised WDV for AY. 2014-15. Therefore, the prayer of the assessee is only limited to allowing depreciation @ 15% as per the revised WDV after giving effect to Tribunal order for earlier two assessment years [AY 2013-14 & 2014-15]. In the light of the aforesaid decision of the Tribunal in the assessee's own case for AY. 2013-14 & AY. 2014-15, similar direction need only be passed. For ease of understanding the effect of Tribunal order in earlier years to th on depreciation in respect of film projector, assessee has filed the following chart to show the claim of assessee and the action of AO/Tribunal (Infra) for AY. 2013-14, AY. 2014-15 and AY. 2015-16 which is extracted below: -

**As per IT Returns filed by the assessee**



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AY	Opening WDV	Addition during the year	Total	Depreciation @ 60%	Closing WDV
2013-14		2,05,44,188	2,05,44,188	1,22,50,283	82,93,905
2014-15	82,93,905	20,80,800	1,03,74,705	62,24,823	41,49,882
2015-16	41,49,882	-11,200	41,38,682	24,83,209	16,55,473

**As per Assessment Order Passed u/s 143(3) of the Act**

AY	Opening WDV	Addition during the year	Total	Depreciation @ 60%	Closing WDV
2013-14		2,05,44,188	2,05,44,188	30,62,571	1,74,81,617
2014-15	1,74,81,617	20,80,800	1,95,62,417	29,34,363	1,66,28,055
2015-16	1,66,28,055		1,66,28,055	24,94,208	1,41,33,846

**Depreciation Disallowable**

Particulars	AY.2013-14	AY. 2014-15	AY. 2015-16
Depreciation Claimed as per ITR	1,22,50,283	62,24,823	24,83,209
Depreciation Allowable as per Asst. Order	30,62,571	29,34,363	24,94,208
Depreciation Disallowable	91,87,712	32,90,461	-10,999

5. Respectfully following the Tribunal orders, in assessee's own case for AY. 2013-14 & AY. 2014-15, AO is directed to correctly re-work the depreciation allowable to the assessee as per the revised WDV chart given (supra) i.e, after giving effect to the Tribunal order in assessee's own case for AY. 2013-14 & AY. 2014-15 by giving 15% depreciation on Film Projector, in accordance to law and after considering the chart reproduced (supra).

6. In the result, the appeal of the assessee is partly allowed.

Order pronounced in the open court on this 30/06/2023.

Sd/-  
(ABY T. VARKEY)  
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated : 30/06/2023.  
Vijay Pal Singh, (Sr. PS)



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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR, ITAT, Mumbai
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai