

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD**

BEFORE

**SHRI R.K. PANDA, VICE PRESIDENT
AND
SHRI LALIET KUMAR, JUDICIAL MEMBER**

आ.अपी.सं / **ITA No.303/Hyd/2023**
(निर्धारण वर्ष / Assessment Year: 2017-18)

M/s. Sree Krishna Automotives
Hyderabad Private Limited,
Hyderabad.

Asst. Commissioner of
Vs. Income Tax,
Circle-3(2),
Hyderabad

[PAN No.AAKCS5353H]

अपीलार्थी / Assessee

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri K.C. Devdas, C.A.
राजस्व द्वारा/Revenue by: Shri Kumar Adithya.

सुनवाई की तारीख/Date of hearing: 18.07.2023
घोषणा की तारीख/Pronouncement on: 20.07.2023

आदेश / **ORDER**

PER LALIET KUMAR, JM:

The appeal of the assessee for A.Y. 2017-18 arises from the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dt.14.02.2023 invoking proceedings under section 143(3) of the Income Tax Act, 1961 (in short, "the Act").

2. The grounds raised by the assessee read as under :

“1. The Hon'ble Commissioner of Income Tax (Appeals) has erred both on facts of the case and in law involved in so far as it is prejudicial to the interest of the Appellant.

2. The Hon'ble CIT(A) has disallowed the claim in respect of depreciation on goodwill of Rs.80,93,063/- without giving proper opportunity of being heard and the order passed u/s.250 without being heard is not valid

3. The Hon'ble CIT(A) ought to have observed that the Assessing officer failed to appreciate the detailed submission made during the course of assessment proceedings and has disallowed the claim of the assessee in respect of depreciation on goodwill on the excess amount paid to M/s. Inline 4 Motors Pvt Ltd for takeover of Jaguar showroom without proper appreciation of the facts and circumstances of the case.

4. The Hon'ble CIT(A) or the Assessing Officer has wrongly disallowed the claim of the assessee as the assessee has arrived at the Goodwill by incorporating all the assets and liabilities at Book Values of the M/s.Inline 4 Motors Pvt Ltd during the takeover, which is not sustainable and the same needs to be deleted.”

3. The appeal filed by the assessee is barred by limitation by 45 days. It has moved a condonation petition explaining reasons for the delay. We have heard both the parties on this preliminary issue. Having regard to the reasons given in the petition, we condone the delay and admit the appeal for hearing.

4. Facts of the case, in brief, are that the assessee is an authorized dealer of Honda and Mitsubishi Company at Hyderabad location and Jaguar Company for both AP & Telangana States. It filed its return of income for the A.Y. 2017-18 on 31.10.2017 admitting taxable income of Rs.5,02,04,683/-. Thereafter, the case was selected for complete scrutiny under CASS. Therefore, notice

u/s. 143(2) was issued to the assessee via online on 26.09.2018. Subsequently, notice u/s. 142(1) was issued calling for information. In response to these notices, the assessee company filed information from time to time. After verifying the information, the Assessing Officer had completed the assessment for the A.Y. 2017-18 interalia making an addition of Rs.80,93,063/- and passed assessment order u/s 143(3) of the Act dt.31.12.2019 computing total taxable income at Rs.5,82,97,746/-.

5. Feeling aggrieved with the order of Assessing Officer, assessee filed an appeal which was subsequently migrated to the CIT(A), NFAC, Delhi, who in turn dismissed the appeal of assessee.

6. Feeling aggrieved with the order of ld.CIT(A), assessee is now in appeal before us.

7. Before us, ld. AR contended that assessee had already submitted the reasons for claim of depreciation on goodwill before the Assessing Officer. However, the Assessing Officer did not consider the submissions made by the assessee made during the course of assessment and disallowed the claim of assessee in respect of depreciation on goodwill amounting to Rs.80,93,063/- and that the ld.CIT(A) also wrongly confirmed the order of Assessing Officer. Hence, the orders of lower authorities are not in accordance with the law.

8. On the other hand, the ld.DR relied upon the orders passed by the lower authorities. Furthermore, ld. DR drew our

attention to Paragraphs 2 and 3 of the order of the Id.CIT(A), NFAC, Delhi, which read as under :

“2. Aggrieved with the order issued by the Assessing Officer, the appellant has filed present appeal on 30.01.2020. In the course of appellate proceedings, it is seen that the appellant was issued and served various notices u/s 250 of the Act from this office to present their contentions and any supporting documents. The said notices were issued right from 2020 through till 2022 and all of them (4 in number) remain un-complied with. The appellant has been right from 2020 through till October 2022 asking for adjournments without filing any submissions. Even in November 2022, the National Faceless Appeal Centre (NFAC) enabled communication window to facilitate filing of submissions by the appellant but to no avail.

3. In view of the above, it is clear that the appellant is not interested in prosecuting the present appeal because there has been no response as yet. In view of the above, the appeal stands dismissed.”

9. We have heard the rival contentions of both the parties and perused the material available on record, and also the orders passed by the lower authorities. On the perusal of the order of Assessing Officer, it is evident that the assessee had submitted an elaborate explanation for claiming such depreciation and relied on several case laws. However, the Assessing Officer did not consider the explanation offered by the assessee, as the assessee failed to furnish the supporting documents like valuation certificate etc., except for contending that the value of goodwill was taken at Rs.4,31,63,000/-. Thereafter, the order of Assessing Officer was confirmed by Id.CIT(A), as the assessee failed to appear despite being granted sufficient opportunities. In paragraph 2 of the Id.CIT(A)'s order, the Id.CIT(A) clearly mentioned the details of various opportunities granted to the assessee. We further find that though the assessee furnished all the information, it failed to file

the supporting documents to substantiate its case. However, we considering the request made by the ld. AR that the matter may be remanded to the file of Assessing Officer to prove its case, we think it would be just and proper to remand the matter back to the file of ld.CIT(A) with a direction to consider the explanation offered by the assessee and to consider any documents filed by the assessee, in accordance with the law after affording sufficient opportunities of hearing to assessee and Assessing Officer. Accordingly, the appeal of the assessee is allowed for statistical purposes with the following directions :

11. Further, the assessee shall be at liberty to file required documents to prove its case and the ld.CIT(A) shall consider any evidence submitted by the assessee. Needless to say that the ld.CIT(A) shall examine those documents / evidence filed by the assessee. After considering the documents filed by the assessee, ld.CIT(A) shall pass a detailed speaking order dealing with the contentions of the assessee. We have not adjudicated the other grounds on merits since we are setting aside the orders passed by the lower authorities and remanded the case to the file of ld.CIT(A) for fresh adjudication. The assessee is directed to appear before the ld.CIT(A) and cooperate in early hearing of the appeal. Thus, the grounds of the assessee are allowed for statistical purposes.

12. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the Open Court on 20th July, 2023.

Sd/- (R.K. PANDA) VICE PRESIDENT	Sd/- (LALIET KUMAR) JUDICIAL MEMBER
---	--

Hyderabad, dated 20th July, 2023.
TYNM/SPS

Copy to:

S.No	Addresses
1	M/s. Sree Krishna Automotives Hyderabad Pvt. Ltd., Hyderabad. C/o. B. Narsing Rao & Co., Chartered Accountants, Plot No.554, Road No.92, Jubilee Hills, Hyderabad – 500 096.
2	Asst. Commissioner of Income Tax, Circle-3(2), Hyderabad.
3	DR, ITAT Hyderabad Benches
4	Guard File

By Order