

आयकर अपीलीय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

श्री मंजुनाथ. जी, लेखा सदस्य एवं श्री मनोमोहन दास, न्यायिक सदस्य के समक्ष
BEFORE SHRI MANJUNATHA. G, ACCOUNTANT MEMBER AND
SHRI MANOMOHAN DAS, JUDICIAL MEMBER

आयकर अपील सं./ITA No.939/Chny/2022
निर्धारण वर्ष /Assessment Year: 2015-16

Bannari Amman Sugars Ltd.,
1212, Trichy Road,
Coimbatore – 641 018.
[PAN: AAACB-8933-G]
(अपीलार्थी/Appellant)

The Dy. Commissioner of
Income Tax,
Vs. Corporate Circle-1,
Coimbatore.
(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA No.946/Chny/2022
निर्धारण वर्ष /Assessment Year: 2015-16

The Asst. Commissioner of
Income Tax,
Central Circle-3(2),
Chennai.
(अपीलार्थी/Appellant)

Bannari Amman Sugars Ltd.,
1212, Trichy Road,
Vs. Coimbatore – 641 018.
[PAN: AAACB-8933-G]
(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Assessee by : Shri R. Vijayaraghavan, Advocate
प्रत्यर्थी की ओर से /Revenue by : Shri N. Senthil Kumar, CIT
सुनवाई की तारीख/Date of Hearing : 15.05.2023
घोषणा की तारीख /Date of Pronouncement : 09.08.2023

आदेश / ORDER

PER MANOMOHAN DAS, J.M:

Aforesaid two appeals Nos. ITA/939/Chny/2022 and ITA 946/Chny/ 2022 filed by assessee and Department respectively arises out of the order of the learned Commissioner of Income Tax (Appeals)-16, Chennai [hereinafter "CIT(A)"] dated 17-08-2022 for the

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Assessment Year 2015-16 in the matter of assessment order passed by Ld. Assessing Officer [AO] under section 143(3) r.w.s. 92CA of the Income Tax Act, 1961 [hereinafter “the Act”] on 28-12-2018. At first we adjudicate the appeal of the assessee and thereafter the appeal of the Department would be adjudicated.

ITA No. ITA 939/Chny/2022:

2. The grounds of appeal of the assessee read as under:

1. The order of the Commissioner of Income Tax (Appeals)-16 relevant to the AY 2015-16 dt. 17-08-2022 is opposed to law, facts and circumstances of the case.

2. The learned Commissioner of Income Tax (Appeals)-16 has erred in disallowing the investment allowance claimed by the appellant under section 32AC(1A) amounting to Rs. 11,77,36,432/- on Co-generation power plant and Anaerobic Digester.

3. The learned CIT(A) ought to have considered that the Appellant had claimed the allowance only on new asset acquired during the year which is well within the ambit of new asset as defined under section 4 of Section 32AC.

4. The learned CIT(A) without considering the legislative intent to provide incentive benefits to manufactures and intention of inserting sub-section 4 of section 32AC which specifically denies the allowance only for those assets which have been claimed 100% deduction in any previous years and not to restrict the claim in the same year under consideration.

5. For the purposes of this section, “new asset” means any new plant and machinery (other than ship or aircraft) but does not include-

I. any plant or machinery which before its installation by the Appellant was used either within or outside India by any other person;

II. any plant or machinery installed in any office premises or any residential accommodation in the nature of a guest house;

III. any office appliances including computers or computer software;

IV. any vehicle; or

V. any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income

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chargeable under the head "Profits and gains of business or profession" of any previous year.

6. It is submitted that the exclusion mentioned in Section 32AC(4) w.r.t. "new asset", only to restrict the claim already made prior to the current previous year i.e. where depreciation has already been allowed in the earlier years. As far as the Appellant Company is concerned, it is reiterated that no depreciation was claimed in any of the prior years other than AY 2015-16. Further, it is an incentive deduction given besides the depreciation claim admissible to the Appellant.

7. The learned Commissioner of Income Tax erred in stating that the Appellant has incorrectly claimed allowance under section 32AC which is not tenable.

8. For these and such other rounds that may be adduced at the time of hearing, it is prayed that the disallowance made in the order dated 17-08-2022 may kindly be deleted.

3. The brief facts of the matter are that the assessee is a resident company and is engaged in manufacturing of sugar, alcohol, granite and cogeneration of power from co-generation Unit. It filed return of income on 08-11-2015 declaring taxable income as Nil under normal provisions and book profit of Rs. 39,96,773/- which was subjected for scrutiny through CASS. Accordingly, requisite notices under the Act were served upon the assessee. The assessee responded such notices by submitting the details as called for. The case was also referred to the Transfer Pricing Officer for ascertaining the Arms Length Price. However, the Ld. TPO did not propose/suggest any adjustment. There was a claim for additional depreciation at 20% by the assessee on the plant and machinery installed in the co-generation Unit by him. However, the Ld. AO rejected the claim of the assessee

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and completed the assessment vide order dated 28-12-2018. The Ld. AO added Rs. 8,38,71,478/- and Rs. 11,98,85,981/- respectively, to the total income of the assessee. While completing the assessment, the Ld. AO observed as under:-

“6a. On perusal of the records it is noticed that assessee has claimed deduction under section 32AC(1A) of RS. 38,18,07,764/- while working out the taxable income. The classification of assets on which the deduction is claimed is as below:

<i>Plant and machinery</i>	<i>Rs. 161,70,34,890/-</i>
<i>Electrical Installations</i>	<i>Rs. 1,43,30,324/-</i>
<i>Co-generation Power Plant</i>	<i>Rs. 87,55,92,987/-</i>
<i>Anaerobic Digester</i>	<i>Rs. 3,84,26,891/-</i>

On examining the depreciation chart it is noticed that depreciation at 80% and additional depreciation at 20% has been claimed on the assets installed in the cogeneration unit. Depreciation has been claimed at 100% on the Anaerobic Digester. Thus, 100% of the cost of these assets have been claimed as depreciation in the year under consideration.

6b. Deduction under section 32AC(1A) is allowed on acquisition of new assets, after satisfying the conditions mentioned in the section. Section 32AC(4) reads as follows;

For the purposes of this section, “new asset” means any new plant or machinery (other than ship or aircraft) but does not include—

- (i) Any plant or machinery which before its installation by the assessee was used either within or outside India by any other person;*
- (ii) Any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;*
- (iii) Any office appliances including computers or computer software;*
- (iv) Any vehicle; or*
- (v) Any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head “Profits and gains of business or profession” of any previous year.*

6c. As can be seen from the above, for claiming deduction under section 32AC(1A), “new asset” does not include any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in

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computing the income chargeable under the head "Profit and gains of business or profession" of any previous year.

6d As discussed in earlier para of this order, assets totaling Rs.12,91,10,330/- of the cogeneration unit is being considered in the block of 15% depreciation as against the 80% block claimed by assessee. Therefore, these assets are being considered as eligible for claiming deduction under section 32AC(1A). In respect of the balance asset of the cogeneration unit totaling Rs. 74,64,82,657/- (87,55,92,987 – 12,91,10,330/) assessee is not eligible to claim deduction under section 32AC(1A) of the Act.

Similarly, in respect of the Anaerobic Digester unit, 100% of the cost of the which is allowed as deduction is not eligible to be considered in the deduction under section 32AC(1A) of the Act.

Also Electrical installation totaling Rs.1,43,30,324/- are not eligible for deduction under section 32AC(1A)."

4. Being Aggrieved, the assessee filed 1st appeal before the Ld. CIT(A) unsuccessfully. The Ld. CIT(A) vide order dated 17-08-2022 has rejected the appeal of the assessee by observing that the assessee has already claimed 100% depreciation as by the Ld. AO. Aggrieved further, the assessee filed the present appeal before the Tribunal.

5. Heard both the parties and perused the materials on record. The Ld. AR submitted that the assessee did not claim depreciation allowance in any of the prior years other than A.Y 2015-16 and the restriction not to allow the depreciation allowance with retrospective effect is for new asset only on which previously there was claim for allowance. On the other hand, the Ld. Sr. D.R supported the order of the Ld. CIT(A). Thus, we have to adjudicate and decide as to whether

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the assessee is eligible for additional depreciation at 20% as claimed. The assessee submitted before the Ld. CIT(A) that, (i) the assessee has acquired and installed the plant and machinery during the financial year 2014-15 and has not claimed any deduction by whatever manner including depreciation during prior years, which does not affect the nature of being a “new asset, and (ii) the exclusion mentioned in section 32AC(4) w.r.t. “new asset”, is only to restrict the claim already made prior to the current previous year i.e. where depreciation has already been allowed in the earlier years. As far as this assessee is concerned, it is reiterated that no depreciation was claimed in any of the prior year’s other than AY 2015-16. Further, it is an incentive deduction given besides the depreciation claim admissible to the assessee.

6. The Ld. CIT(A) after consideration of the findings of the Ld. AO and submissions of the assessee vide order dated 17-08-2022 rejected the claim of the assessee by observing that, the assessee already claimed for 100% depreciation as stated in the order of Ld. AO dated 28-12-2018. The observations of Ld. CIT(A) read as under:-

“5.3 I have considered the matter. For claiming deduction under section 32AC, Assessee has to invest in new plant or machinery. The plant and machinery so invested on are termed as new asset. Section 32AC(4) defines new assets as under:

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....(4) For the purposes of this section, "new asset" means any new plant or machinery (other than ship or aircraft) but does not include –

- (i) any plant or machinery which before its installation by the assessee was used either within or outside India by any other person;
- (ii) any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;
- (iii) any office appliances including computers or computer software;
- (iv) any vehicle; or
- (v) any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head " Profits and gains of business or profession" of any previous year.

It is seen that according to clause (iv) of sub-section 4 of section 32AC, if in any previous year, the assessee had claimed the cost of asset as depreciation in computing income under the head business or profession, then the portion on which claim is already made cannot be part of new asset. In the case machineries used in cogeneration of power and anaerobic digester, the AO stated that assessee had already claimed (80% + 20%) or 100% depreciation. In the written submission, the assessee stated that assessee had not claim depreciation on those assets in any of previous year. I am not in agreement with this claim of assessee. The Act does not talk of earlier previous year. It talks of any previous year. Therefore, if assessee claimed for 100% depreciation on any asset, those assets will not be entitled for any further allowance under section 32AC of the Act. In the assessment order, the AO excluded electrical installations from the list of plant and machinery. No reason has been given for the same. The AO is therefore directed to allow the claim under section 32AC of the Act for electrical installation. But allowance under section 32AC of the Act for cogeneration power plant and Anaerobic Digester is rejected. Ground is partly allowed. Appeal is partly allowed.

7. The Ld. CIT(A) vide aforesaid observed that, if assessee claimed 100% depreciation on any asset, those assets will not be entitled for any further allowance under section 32AC of the Act. On the other hand, the assessee has been claiming that they had not claimed such allowance in any of the prior previous years.

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8. We have carefully considered the submissions made by both the parties and findings of the lower authorities. We find that the assessee has claimed investment allowance u/s. 32AC of the Act amounting to Rs. 11,98,85,981/- towards plant and machinery and other assets acquired and installed during the impugned assessment year on the ground that in addition to depreciation of assets, the assessee can claim investment allowances as per the provisions of Section 32AC of the Act. The A.O has re-worked investment allowances by observing that the assessee has already claimed 80% depreciation on new plant and machinery and further, 20% additional depreciation, in total 100% depreciation on new asset and thus, the assessee cannot claim investment allowances as per the provisions of Section 32AC of the Act. Having considered rival contentions, we find that as per the provision of Section 32AC(4)(v) of the Act, the term new asset means any new plant or machinery but does not include, any plant and machinery, the whole of actual cost for which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head “profit and gains of business or profession” of any previous year. The plain reading of Section 32AC makes it very clear in case the assessee claim depreciation on new asset then it cannot claim investment allowances on the new asset to the extent of depreciation already claimed as per the provisions of Section 32AC of

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the Act. In the present case, the appellant claims that it has claimed depreciation for the A.Y 2015-16, but as per the provisions of Section 32AC, if assessee claims depreciation in any previous year then to that extent it cannot claim deduction u/s. 32AC of the Act. In our considered view, the counsel for the assessee misconstrued the provisions of section 32AC(4)(v) of the Act in as much as per said provisions, it is very clear that if assessee claims depreciation then it cannot claim investment allowances on new asset. The A.O and Ld. CIT(A) after considering the facts that the assessee already claimed 80% depreciation on new asset and further 20% additional depreciation giving total 100% depreciation on new asset has rightly re-computed u/s. 32AC of the Act and thus, we are inclined to uphold the order of Ld. CIT(A) and dismiss the appeal filed by the assessee.

9. In the result, the appeal of the assessee is dismissed.

ITA No. 946/Chny/ 2022:

10. The Registry has noted that there was a delay of 25 days in filing of the appeal, however, the Bench has condoned that delay admitting the affidavit as filed by the Department.

11. The grounds of appeal of the Department are as follows:-

1. *The order of the Id. Commissioner of .T. (Appeals) is erroneous on facts of the case and in law.*

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2. The Ld. CIT(A) erred in holding that higher depreciation @ 80% is allowable even in respect of those machineries which do not form part of Part A (ii) (8) (ix) D of New Appendix-1 of the depreciation table given in the IT Rules and which is contrary to the rate of depreciation prescribed in Rule 5 of IT Rules.
- 2.1 The learned CIT(A) ought to have appreciated the fact that, only those machineries as mentioned in part A (ii)(8)(x) D of new Appendix-1 of IT Rules, forming part of co-generation units shall be eligible for higher depreciation @ 80%, and all other machineries would be eligible for normal depreciation as applicable to plant and machinery.
3. The learned CIT(A) erred in allowing deduction u/s. 32AC(1A) of the IT Act on electrical installations, without appreciating the fact that the assessee had not satisfied the conditions stipulated in section 32AC(4) of the IT Act, on the issue of claim of depreciation and place of installation of the equipments.
- 3.1 The learned CIT(A) erred in allowing deduction u/s. 32AC(1A) of the IT Act on electrical installations, without appreciating the fact that the assessee had claimed depreciation at the rate of 10% on electrical installations, thereby the electrical installations shall not come under the purview of "new assets" for the purpose of deduction u/s. 32AC(4) of the IT Act.
4. For these grounds and any other ground including amendment of grounds that may be raised during the course of the appeal proceedings, the order of Id. CIT(A) may be set aside and that of the Assessing Officer be restored.

12. The brief facts of the case are that the assessee vide his return of income dated 08-11-2015 claimed depreciation at the rate of 80% on the below mentioned assets.

<i>Name of the Asset</i>	<i>WDV</i>	<i>Depreciation @80%</i>
<i>Coal Conveyor & Flayash</i>	<i>569952</i>	<i>455962</i>
<i>Bagasse Handling System</i>	<i>4661908</i>	<i>3729526</i>
<i>DG Set 1010-KVA-2 Nos</i>	<i>18740332</i>	<i>14992266</i>
<i>Ash Handling System</i>	<i>8720921</i>	<i>6976737</i>
<i>Bagasse Handling System</i>	<i>82096357</i>	<i>65677086</i>
<i>Chimney</i>	<i>14166285</i>	<i>11333028</i>
<i>Container Gas Analyser</i>	<i>154575</i>	<i>61830(40%)</i>

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13. The Ld. AO after consideration of the claim of the assessee observed that though the above assets /parts may be forming part of the cogeneration unit, the Income Tax Rules do not permit accelerated depreciation on the same, as specific parts of the cogeneration unit have been identified for the higher rate of depreciation. The Ld. AO observed that the above assets have to be considered in the block of 15% depreciation and accordingly vide order dated 28-12-2018 disallowed the claim of the assessee of Rs. 8,38,71,478/- on the higher rate of 80% depreciation by treating the same as excess depreciation and added the same to the total income of the assessee. The Ld. AO disallowed the claim of the assessee for 80% depreciation by referring the Income Tax Rules, 1962 and observed that the below mentioned parts of cogeneration system only fall in the 80% depreciation block;

1. *Back pressure passout, controlled extraction, extraction-cum condensing turbines for co-generation along with pressure boilers.*
2. *Vapour absorption refrigeration system*
3. *Organic rakine cycle power system*
4. *Low inlet pressure small steam turbines.*

14. Against the order of the Ld. AO, the assessee preferred appeal before the learned CIT(A) successfully.

Being aggrieved, the Department filed the present appeal before the Tribunal.

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15. It was the submission of the assessee before the Ld. CIT(A) that, the above mentioned assets are part and parcel of cogeneration unit. The details functions of such assets were explained to the Ld. CIT(A) as stated at page Nos. 5 to 6 of the Ld. CIT(A)'s order. The assessee also relied on the decision of the Hon'ble ITAT, Vishakhapatnam passed in the case of Sarvaraya Sugars Limited vs. DCIT [ITA No. 577/VIZ / 2014, decision of the ITAT, Chennai passed in the case No. ITA 1289 / Chny / 2019 of DCIT vs. Bannari Amman Sugars Ltd. and decision of the Hon'ble M.P. High Court passed in the case of DCIT vs. VippySolvex Products Ltd [164 taxman 483]. The Ld. CIT(A) considered the aforesaid decisions in his order at page Nos. 6 to 10 and thereafter has passed his order in favour of the assessee.

16. The ITAT, Chennai vide order dated 21-03-2022 in ITANo.1289/Chny/2019 have decided the issues of allowance of 80% depreciation and additional depreciation at the rate of 20% in favour of the assessee which read as under:

"8.1 The Ld. AO proceeded to disallow higher depreciation of 80% as claimed by the assessee on Chimney, Bagasse Handling System, Distribution Control Systems, Air Compressor, Ash Handling Systems, Front end loader and fuel handling systems. The assessee submitted that these assets were part and parcel of power generation unit. To support the same, the work involved in the process of generation of power along with the usage of each of this part was elaborately explained in its reply. The Engineering plan for the whole cogeneration system was also enclosed to explain the process of whole cogeneration unit and the essential / eminent integrated parts of the unit. It was thus submitted that the

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said asset forms an integral part of power generation plant and eligible for higher rate of depreciation.

8.2 The Ld. AO rejected assessee's submissions by observing that these articles were mere accessories and as per entry 8(ix)(D) of New Appendix 1 of tables of depreciation, only specified assets were eligible for 80% depreciation. Accordingly, disallowance of Rs.423.29 Lacs was made.

8.3 The Ld. CIT(A), after considering the manual / literature of all the equipment came to a conclusion that the assets were part and parcel of power generation unit. Each item would not have any function by itself except when it forms part of the whole system. The relevant findings with respect to each of the asset was as under: -

a. Chimney

In a cogeneration plant, the gases produced are first cooled and then excavated through the chimney. This chimney forms an inseparable accessory of a cogeneration plant and hence it is eligible for 80% depreciation.

b. Bagasse handling system

Bagasse, being the combustible product is used in the cogeneration plant. A bagasse handling system carries the bagasse from the bagasse yard to the furnace by using conveyor belts. It is also a part of the cogeneration system as the core raw material (bagasse) used for the generation of power is carried through this system. Without this system cogeneration system will not operate. Hence this is attributable to 80% depreciation.

c. Distribution control systems:

Distributed control system is a computerized control system used to control the production line in the industry. In a sugar - Co generation plant, the controller elements are not centrally located. DCS helps in routing the control consistently. It is a system used to automate the energy flows within the factories and hence, it is evident that it is falling under the heading "Instrumentation and Monitoring System for monitoring energy flows" in the category "Automatic Electrical Load Monitoring System". The same is eligible for claiming 80% Depreciation.

d. Air compressor

The air compressor is a device that converts power into kinetic energy, by compressing and pressurizing the air. This pressurized air is used to rotate the turbine and in turn power is produced. This is an integral part of power generation plant and hence falls under the 80% depreciation slab.

e. Ash handling systems:

The ash produced from combustion of coal and bagasse, is to be disposed off rightly. In order to do that the ash

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handling system is used. This transports the ash from the furnace to the ash yards. This is one of the strenuous tasks in a cogeneration plant and since this does hand in hand with the power generation, 80% depreciation is claimed.

Finally, it was held that the assets mentioned above form part of co-generation plant for which depreciation @ 80% is admissible. Accordingly, Ld. AO was directed to grant depreciation of Rs.423.29 Lacs. Aggrieved, the revenue is in further appeal before us.”

17. After considering the aforesaid decision, the Ld. CIT(A) vide para No. 5.3.1 observed that items of asset forming part of cogeneration unit are to be considered as part and parcel of integrated systems as each separate unit would not have function by themselves. The contents of the para No. 5.3.1 read as under :-

“ It is seen that on similar issue, Hon'ble ITAT, in assessee's own case taken a view that items of asset forming part of cogeneration unit are to be considered as part and parcel of integrated system as each separate unit would not have function by themselves. In view of the binding decision, ground Nos 2 to 4 are allowed”.

18. As the similar issue has already been decided in favour of the assessee by the ITAT, Chennai as aforesaid, we hold that, the Ld. CIT(A) has correctly decided the issue of 80% depreciation issue in favour of the assessee. Thus, we reject the appeal of the Department on that issue.

19. Regarding the issue on Electrical installations, the Department claims that the assessee had claimed depreciation at the rate of 10% and thereby it shall not come under the purview of “new assets” for the purpose of deduction under section 32AC(4) of the IT Act. The Ld.

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CIT(A) decided this issue in favour of the assessee by holding that the Ld. AO did not assign any reason for disallowing on it. The Ld. AO had assigned reasons for disallowing the claim of the assessee on the Plant and machinery, Co-generation Power Plant and Anaerobic Digester. The findings of the Ld. AO under para No. 6d of his order dated 28-12-2018 read as under:-

“6d. As discussed in earlier para of this order, assets totaling Rs. 12,91,10,330/- of the cogeneration unit is being considered in the block of 15% depreciation as against the 80% block claimed by assessee. Therefore, these assets are being considered as eligible for claiming deduction under section 32AC(1A). In respect of the balance of asset of the cogeneration unit totaling Rs. 74,64,82,657/- (87,55,92,987 – 12, 91,10,330) assessee is not eligible to claim deduction under section 32AC(1A) of the Act.

Similarly, in respect of the Anaerobic Digester unit, 100% of the cost of the which is allowed as deduction, is not eligible to be considered in the deduction under section 32AC(1A) of the Act.

Also Electrical installation totaling Rs. 1,43,30,324/- are not eligible for deduction under section 32AC(1A).”

20. From the aforesaid, it is clear that, the Ld. AO did not assign specific reason for disallowing the claim of the assessee on the asset of Electrical installation. On the other hand, regarding the plant and machinery, cogeneration power plant and Anaerobic Digester, the claim for depreciation was disallowed by the Ld. AO by assigning specific reasons. Further, the claim of the assessee is that they did not claim for depreciation prior to the AY 2015-16.

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21. The Ld. AO during the assessment proceeding noticed that the assessee has claimed deduction under section 32AC(1A) of Rs. 38,18,07,764/- while working out the taxable income. The classification of assets on which the deduction is claimed is as below:

<i>Plant and machinery</i>	<i>Rs. 161,70,34,890/-</i>
<i>Electrical Installations</i>	<i>Rs. 1,43,30,324/-</i>
<i>Co-generation Power Plant</i>	<i>Rs. 87,55,92,987/-</i>
<i>Anaerobic Digester</i>	<i>Rs. 3,84,26,891/-</i>

22. The assessee submitted before the Ld. CIT(A) as recorded at page 12 of the Ld. CIT(A)'s order is read as under:

"It is submitted that the exclusion mentioned in Section 32AC(4) w.r.t "new asset", is only to restrict the claim already made prior to the current previous year i.e. where depreciation has already been allowed in the earlier years. As far as this appellant is concerned, it is reiterated that no depreciation was claimed in any of the prior year's other than AY 2015-16. Further, it is an incentive deduction given besides the depreciation claim admissible to the appellant.

It is submitted that the Appellant has acquired and installed the plant and machinery during the financial year 2014-15 and has not claimed any deduction by whatever manner including depreciation during prior years, which does not affect the nature of being a "new asset".

23. The Ld. CIT(A) considered the submission of the assessee as well as the observation of the Ld. AO while disposing of the appeal. The Ld. CIT(A) observed that, the Ld. AO did not give any reason while disallowing the depreciation allowance on the Electrical Installations. In our view, the observation of the Ld. CIT(A) should not be interfered as no disallowance should be made without stating any reason.

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Therefore, we upheld the decision of the Ld. CIT(A) on the issue of depreciation allowance on that Electrical Installation.

24. In view of the forgoing, the appeal of the Department is dismissed.

25. In the result, the appeals of the assessee as well as the Revenue are dismissed.

Order pronounced on 09th August, 2023.

Sd/-
(मंजुनाथ. जी)
(Manjunatha. G)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 09.08.2023.

EDN/-

Sd/-
(मनोमोहन दास)
(Manomohan Das)
न्यायिक सदस्य/Judicial Member

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF