

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "G" DELHI**

**BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT
&
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.666/DEL/2023
Assessment Year 2017-18

Super Alloy Castings P. Ltd. Plot No.62, Sector-6, Faridabad Haryana.	Vs.	ACIT Circle-2(1) Faridabad
TAN/PAN: AAMCS8327D		
(Appellant)		(Respondent)

Appellant by:	Shri Rajnish Behari Mathur, Adv.		
Respondent by:	Shri Anuj Garg, Sr.DR		
Date of hearing:	22	08	2023
Date of pronouncement:	22	08	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed by the assessee against the order of the Id. Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi ('CIT(A)' in short) dated 15.02.2023 arising from the assessment order dated 18.12.2019 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2017-18.

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

"1. That on the facts and the circumstances of the case the Ld CIT Appeals was not justified in confirming the disallowance of Rs.80,998 on account of Depreciation on Electrical Fittings. No such disallowance has been made in past assessments us 143(3).

2. That on the facts and the circumstances of the case the Ld CIT Appeals was not justified in the confirming the addition of Rs.1,62,500/- on account of personal use of Telephone, Vehicle Running Expenses and Vehicle repair and maintenance. No such

disallowance has been made in past assessments framed us 143(3).”

3. When the matter was called for hearing, the Id. counsel for the assessee submitted that the dispute as per ground no.1 hinges on rate of depreciation applicable to the electric fittings. In the context, the Id. counsel submitted that the electric fittings are installed in the office premises as well as in the factory premises. The depreciation has been claimed @10% on the fittings installed in the office premises whereas the depreciation on Factory Genset and Electrical Panels of certain machine installed for factory premises are charged at 15% as eligible to the assessee. The Assessing Officer as well as the CIT(A) has failed to appreciate the distinction between the electric fittings installed in the factory premises vis-à-vis office premises and allowed depreciation @10% only on the electric fittings installed on factory premises too. It was further pointed out that for the Assessment Year 2014-15 on the same matter, the Assessing Officer issued notice under Section 148 on account of excess depreciation on such electric fittings. However, while framing the assessment under Section 143(3) r.w. Section 147 vide order dated 30.03.2012, the Assessing Officer found merit in the claim of the assessee and no additions were made on the identical point.

4. On appraisal of the orders of the authorities below as well as the facts placed on record, we find palpable merit in the plea of the assessee towards correctness of higher depreciation claimed on electric fittings installed at the factory premises. The Assessing Officer himself has accepted the higher claim of 15% in Assessment Year 2014-15. We thus see substantial force in the claim of the assessee. The order of the CIT(A) is set aside on this issue and the

Assessing Officer is directed to reverse the disallowance on this score. Hence, Ground No.1 of the appeal of the assessee is allowed.

5. Apropos Ground No.2, the Id. counsel submitted that during the year under consideration, the assessee has *inter alia* incurred expenses on telephone, vehicle running and vehicle maintenance etc. In the course of the assessment, the Assessing Officer while framing the assessment has estimated 10% of such expenses amounting to Rs.1,62,096/- in aggregate to have been incurred towards personal user of the directors etc. In this regards, the Id. counsel submitted that such personal user cannot be visualized in the hands of corporate assessee and, at best, it can be regarded as perquisites in the hands of the directors benefitting from such expenses.

6. On perusal of the case records, we find merit in such plea. The Co-ordinate Bench of the Tribunal in the case of DCIT vs. Haryana Oxygen Ltd. (Del) 761 ITD 32 has endorsed the plea of the assessee towards absence of any personal user in the case of corporate assessee. In consonance with such view, we find merit in the plea of the assessee. Hence, Ground No.2 of the appeal of the assessee is allowed.

7. In the result, the appeal of the assessee is allowed.

Order dictated and pronounced in the open Court on 22/08/2023

Sd/-

**[SAKTIJIT DEY]
VICE PRESIDENT**

DATED: /08/2023

Prabhat

Sd/-

**[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER**