

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'F', NEW DELHI**

**Before Sh. Kul Bharat, Judicial Member
Dr. B. R. R. Kumar, Accountant Member**

**ITA No. 5063/Del/2018 : Asstt. Year: 2013-14
ITA No. 5588/Del/2018 : Asstt. Year: 2014-15**

ACIT, Circle-20(2), New Delhi	Vs	M/s Radius Infratel Pvt. Ltd., 3 rd Floor, Bansal Plaza Commercial Complex, Plot No. 13, Sector-6, Dwarka, New Delhi-110075
(APPELLANT)		(RESPONDENT)
PAN No. AADCR9855Q		

**Assessee by : Sh. Ratnesh Awasthi, CA
Revenue by : Sh. Vivek Vardhan, Sr. DR**

Date of Hearing: 31.07.2023	Date of Pronouncement: 29.09.2023
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ORDER

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

The present appeals have been filed by Revenue against the order of Id. CIT(A)-XXV, New Delhi dated 19.06.2018 and the order of Id. CIT(A)-38, New Delhi dated 01.03.2018.

2. In ITA No. 5063/Del/2018, the Revenue has raised following grounds of appeal:

"(i) On the facts and under the circumstances of the case, the Ld.CIT(A) has erred in law in deleting the addition of Rs. 1,16,15,339/- on account of depreciation on fixed assets without appreciating the fact that the assessee company had failed to explain the basis for the ratio taken for capitalization of these assets during the year.

(ii) On the facts and under the circumstances of the case, the Ld. CIT(A) has erred in law in deleting the addition of Rs.2,06,07,004/- on account of various expenses without appreciating the fact that the assessee company had failed to give the exact details of the business purpose for which these expenses were incurred particularly when a major activity of the assessee was creation of capital work in progress during the year."

3. In ITA No. 5588/Del/2018, the Revenue has raised following grounds of appeal:

"1. On the facts and under the circumstances of the case, the Ld.CIT(A) has erred in law and facts in deleting the addition of Rs. 7,82,12,745/- on account of addition of fixed assets which was by the way of transfer/ capitalization of telecom infrastructure of Rs. 139.25 crores from the capital work in progress after considering the appellate authorities order for AY 2013-14, without appreciating the fact that the assessee company had failed to explain the basis for the ratio taken for capitalization of these assets during the AY. 2013-14 and A.Y. 2014-15.

2. Whether on the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deciding the matter for AY 2014-15 on the basis of the order of CIT(A)-38, Delhi for AY 2013-14."

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Depreciation:

4. From the Assessment Order, we find that the Assessing Officer has disallowed depreciation on plant & machinery to the tune of Rs.1,16,15,339/- as the assessee has not complied to the notices issued by the Assessing Officer. The Id. CIT(A) obtained the remand report from the Assessing Officer wherein the AO categorically submitted that "*documentary evidences in*

the form of bills and various other supporting working and details were examined for all assets and the same was found to be satisfactory in an overall context". Based on the remand report, the Id. CIT(A) deleted the addition. Since, the revenue authorities namely the AO and the Id. CIT(A) fairly accepted the acquisition of the capital assets after due verification, the appeal filed by the revenue is liable to be dismissed.

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Disallowance of Expenses:

5. Owing to non-submission of details by the assessee, the Assessing Officer has disallowed 20% of employee benefit expenses, 50% of other expenses, 20% of travelling expenses and 20% of the rental expenses. The Id. CIT(A) obtained the remand report from the Assessing Officer wherein the AO categorically submitted that he has examined voluminous documentary evidences in the form of various bills and other documents. Since, the order of the Id. CIT(A) is based on the remand report of the AO, we decline to interfere with the order of the Id. CIT(A).

6. In the result, the appeals of the Revenue are dismissed.
Order Pronounced in the Open Court on 29/09/2023.

Sd/-

(Kul Bharat)
Judicial Member
Dated: 29/09/2023

*Subodh Kumar, Sr. PS"

Copy forwarded to:

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

Sd/-

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

ASSISTANT REGISTRAR