

**IN THE INCOME TAX APPELLATE TRIBUNAL,
'C' BENCH, KOLKATA**

**Before Shri Rajpal Yadav, Vice-President (KZ)
&
Dr. Manish Borad, Accountant Member**

**I.T.A. No. 1070/KOL/2023
Assessment Year: 2015-2016**

***Shreegopal Concrete Private Limited,.....Appellant
11A, Maharshi Devendra Road,
6th Floor, Room No. 2,
Kolkata-700007
[PAN: AAJCS2118P]***

-Vs.-

***Deputy Commissioner of Income Tax,.....Respondent
Circle-9(2), Kolkata,
Aayakar Bhawan, 7th Floor,
P-7, Chowringhee Square,
Kolkata-700069***

Appearances by:

N o n e, appeared on behalf of the assessee

*Shri Sailen Samadder, Addl. CIT, Sr. D.R., appeared on
behalf of the Revenue*

Date of concluding the hearing : December 11, 2023

Date of pronouncing the order : December 11, 2023

O R D E R

Per Rajpal Yadav, Vice-President (KZ):-

The assessee is in appeal before the Tribunal against the order of Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 10.08.2023 passed for A.Y. 2015-16.

2. In the first ground of appeal, the assessee has pleaded that ld. CIT(Appeals) has erred in confirming the disallowance of Rs.5,73,148/-. In response to the notice of hearing, the assessee has filed a paper book submitting all the requisite details.

3. With the assistance of ld. D.R., we have gone through the record carefully. As far as this ground of appeal is concerned, the issue is covered by the decision of the Hon'ble Supreme Court in the case of Checkmate Services Pvt. Limited reported in 329 CTR page 1. The Hon'ble Supreme Court has held that if the assessee failed to make deposits employees' contributions in the P.F. & ESI accounts within the time provided under P.F. & ESI Acts, it will not be entitled to claim any deduction. In this case, the assessee failed to deposit P.F. & ESI contributions of the employees' with P.F. & ESI accounts, therefore, ld. CIT(Appeals) has rightly upheld the disallowance.

4. The next grievance of the assessee is that the ld. CIT(Appeals) has erred in sustaining the action of the ld. Assessing Officer in disallowing the depreciation of Rs.6,78,745/- on Rolling Mills. The ld. Assessing Officer has recorded a brief finding on this issue, which reads as under:-

"It is seen from the Tax Audit Report as well as details submitted by the A.R. in the course of hearing that the assessee has claimed depreciation @100% on the Rolling Mill Rolls. But depreciation allowable in the case of Iron & Steel Industry Rolling Mill Rolls is 80%. As such depreciation to the tune of Rs.6,78,745/- (i.e. 20% of Rs.33,93,726/-) is disallowed and added to the total income of the assessee.

(Add: Rs.6,78,745/-

5. Before the ld. CIT(Appeals), it was contended by the assessee that 80% is the normal depreciation, whereas it is entitled additional depreciation of 20%, In other terms, it is 100% of depreciation. The only error at the end of the assessee was that both the items were not shown independently. If the case has been examined by the ld. Assessing Officer, then, the assessee could have explained it. The ld. Assessing Officer has not examined it analytically.

6. Considering the above aspect, we remit the issue back to the ld. Assessing Officer with a direction that ld. Assessing Officer shall go through the details again and if it is found that the assessee is entitled for additional depreciation, then a finding to that effect is to be recorded separately. If it is entitled for additional depreciation, then the depreciation of 20% over and above 80% already granted be allowed to the assessee. In case, it is not admissible, then specific finding be recorded.

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

Order pronounced in the open Court on 11/12/2023.

Sd/-

(Manish Borad)
Accountant Member

Sd/-

(Rajpal Yadav)
Vice-President (KZ)

Kolkata, the 11th day of December, 2023

- Copies to :*(1) *Shreegopal Concrete Private Limited,*
11A, Maharshi Devendra Road,
6th Floor, Room No. 2, Kolkata-700007
- (2) *Deputy Commissioner of Income Tax,*
Circle-9(2), Kolkata,
Aayakar Bhawan, 7th Floor,
P-7, Chowringhee Square, Kolkata-700069
- (3) *Commissioner of Income Tax (Appeals),*
National Faceless Appeal Centre, Delhi;
- (4) *The Departmental Representative*
- (5) *Guard File*
- TRUE COPY*

By order

Assistant Registrar,
Income Tax Appellate Tribunal,
Kolkata Benches, Kolkata

Laha/Sr. P.S.