

IN THE INCOME TAX APPELLATE TRIBUNAL
Mumbai "D" Bench, Mumbai.

Before Shri B.R. Baskaran (AM) & Shri Aby T. Varkey (JM)

I.T.A. No. 4475/Mum/2016 (A.Y. 2007-08)

Dy.CIT-3(3)(1) Room No. 609 6 th Floor Aayakar Bhavan M.K. Road Mumbai-400 020.	Vs.	Minosha India Ltd. (formerly known as Ricoh India Ltd.) 801, 8 th Floor Ackruti Star MIDC Central Road Near Marol Telephone Exchange, Andheri-E Mumbai-400 093. PAN : AAACR4151J
(Appellant)		(Respondent)

Assessee by	Ms. Rajvi Mehta
Department by	Smt. Mahita Nair
Date of Hearing	12.03.2024
Date of Pronouncement	04.04.2024

O R D E R

Per B.R.Baskaran (AM) :-

The Revenue has filed this appeal challenging the order dated 18.4.2016 passed by the learned CIT(A)-8, Mumbai and it relates to A.Y. 2007-08. The only issue urged in this appeal relates to allowability of depreciation on goodwill.

2. We heard the parties and perused the record. This is second round of proceedings. In the first round the Tribunal, vide its order dated 13.9.2013 passed in ITA No. 3144/Mum/2012, had restored the matter relating to the depreciation claimed on goodwill to the file of the Assessing Officer. The assessee had generated goodwill when a company named M/s Gesterner (India) Ltd was merged with the assessee as per the orders passed by

Honourable High Courts of Calcutta and Mumbai, vide their orders dated 05-04-2005 and 08-04-2005 respectively. Accordingly, all the assets and liabilities of M/s Gesterner (India) Ltd. was transferred to assessee herein. The difference between consideration paid and the net asset value of transferor company was termed as "Goodwill" in the books of the assessee company. The assessee amortised the same in the books and also claimed the same as deduction.

3. In the set aside proceedings, the Assessing Officer held that the goodwill is not a depreciable asset and accordingly disallowed the claim of Rs.3,58,16,000/- claimed as amortization/depreciation on the amount of goodwill.

4. In the appellate proceedings, the learned CIT(A) noticed that the depreciation claimed by the assessee was allowed in A.Y. 2008-09 by his predecessor by following the decision rendered by Hon'ble Supreme Court in the case of Smifs Securities Ltd. (2012) 348 ITR 302. Accordingly he directed the Assessing Officer to allow depreciation on goodwill. Aggrieved, the Revenue has filed this appeal.

5. We noticed from the paper book filed by the assessee that it is a recurring issue before the Tribunal. We noticed that in A.Y. 2005-06 (ITA No. 4150/Mum/2016), A.Y. 2006-07 (ITA No. 4474/Mum/2016) and in A.Y. 2009-10 (ITA No. 4700/Mum/2015), the Tribunal has consistently held that the depreciation claimed on goodwill is allowable as deduction. In the absence of any material to contradict decisions rendered by the Coordinate Benches on an identical issue in various other years, we do not find it necessary to interfere with the decision rendered by the learned CIT(A) on this issue.

6. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced on 04.04.2024.

Sd/-
(Aby T. Varkey)
Judicial Member

Sd/-
(B.R. Baskaran)
Accountant Member

Mumbai.; Dated : 04/04/2024

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai.
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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai

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