

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, AHMEDABAD**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER
& SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

I.T.A. No.411/Ahd/2023
(Assessment Year: 2018-19)

JVS Industries Pvt. Ltd., Nexus Industrial Park Phase-2, Kotambi, B.O. Kotambi, Vadodara-391510	Vs.	Principal Commissioner of Income Tax, Vadodara-1
[PAN No.AACCJ1358H]		
(Appellant)	..	(Respondent)

Appellant by :	Shri Milin Mehta, A.R.
Respondent by:	Shri H. Phani Raju, CIT DR
Date of Hearing	01.07.2024
Date of Pronouncement	23.07.2024

ORDER

PER SIDDHARTHA NAUTIYAL - JUDICIAL MEMBER:

This appeal has been filed by the Assessee against the order passed by the Ld. Principal Commissioner of Income Tax-1, (in short “Ld. PCIT”), Vadodara vide order 29.03.2023 passed for Assessment Year 2018-19.

2. The Assessee has taken the following grounds of appeal:-

“Invalid Revision u/s 263:

1. *The learned Principal Commissioner of Income Tax, Vadodara - 1, (“PCIT”) erred in fact and in law in revising the assessment framed u/s 143(3) of the Income Tax Act, 1961 (“the Act”) by invoking powers u/s 263 despite the fact that the conditions stipulated for invoking such extra ordinary jurisdiction were not satisfied.*
2. *The learned PCIT erred in fact and law in setting aside the assessment order passed u/s 143(3) and directed to frame fresh assessment on the issue already considered and decided during the assessment proceedings.*
3. *The learned PCIT erred in fact and in law in setting aside the assessment order passed u/s 143(3) of the Act on the ground that the assessment was made without proper examination and inquiry despite the fact that the Income Tax Officer, “National E-Assessment Centre (“the AO”) passed an order after due verification of details/documents.*

4. *The learned PCIT erred in fact and in law in setting aside the order of AO despite the fact that the order was passed after proper application of mind.*

5. *The learned PCIT erred in fact and in law in not dropping the proceedings u/s 263 despite the fact that the original order passed by the AO is neither erroneous nor prejudicial to the interest of the Revenue.*

Without prejudice to the above

Valuation of Goodwill:

6. *The learned PCIT erred in fact and in law in disputing the amount of goodwill recognized during the year despite the fact that the same has arisen out of business transfer executed in AY 2017-18 and not during the year under consideration.*

7. *The learned PCIT erred in fact and in law in challenging the valuation of goodwill despite the fact that the valuation of net assets of M/s JVS Engineers and the purchase consideration is duly accepted by the AO as well as learned PCIT.*

8. *The learned PCIT erred in fact and in law in objecting the valuation of goodwill without appreciating the facts on record in proper perspective.*

9. *The learned PCIT erred in fact and in law in objecting the valuation of goodwill by making irrelevant observations.*

Depreciation on Goodwill:

10. *The learned PCIT erred in fact and in law in setting aside the assessment order passed u/s 143(3) of the Act for verifying the claim of depreciation-on goodwill recognized on acquisition of business without appreciating the fact that the AO during the course of assessment proceedings has allowed depreciation after proper verification of the facts on record.*

11. *The learned PCIT erred in fact and in law in invoking provisions of section 49 and 55 of the Act and thereby treating cost of goodwill as Nil, despite the fact that these provisions are not applicable to the Appellant.*

12. *The learned PCIT erred in fact and in law in setting aside the order of the AO for verifying allowability of depreciation on goodwill without appreciating the fact that the goodwill being business asset, the cost and written down value of same shall be determined as per provisions of section 43 of the Act.*

13. *Your Appellant craves the right to add to or alter, amend, substitute, delete or modify all or any of the grounds of appeal.”*

3. The brief facts of the case are that the assessee company has e-filed its return of income on 19.12.2018 declaring total income at Rs. Nil/-. The case was selected for complete scrutiny assessment under the E-assessment Scheme, 2019. The reason for selection was Share premium, investment in

intangible assets and disallowance of gratuity provision. The scrutiny proceedings were completed by NeAC u/s 143(3) r.w.s. 143(3A) & 143(3B) of the Act vide order dated 11.03.2021 by accepting the returned income. On examining the case records, it was observed by PCIT that during the course of assessment proceedings, the AO has asked the assessee to furnish details of intangible assets acquired during the year and mode of payment for acquiring such intangible assets along with supportive documentary evidences. However, no details as to what intangible assets amounting to Rs. 34,10,19,251/- were purchased during AY 2018-19 was furnished by the assessee. In the reply dated 03/10/2019 the explanation by the assessee was that "*Goodwill is on account of acquisition of business. Please find attached notes and working mentioned as per the Audited Financial Statements*". No Valuation report regarding the acquisition was furnished by the assessee during the course of assessment proceedings. Therefore, PCIT observed that complete details of purchase of intangible assets amounting to Rs. 34,10,19,251/- and nature and source of payments was not furnished during the assessment proceedings. In the absence of the details being furnished by the assessee, it was the duty of the A.O. to carry out inquiry or verification to ascertain the genuineness of the transactions, manner of valuation of the intangible assets and the source of purchase of Intangible assets amounting to Rs. 34,10,19,251/-. However no such inquiry, which was required to be conducted, was carried out and return income was accepted without inquiring into the transactions relating to purchase of intangible assets. Thus, as per Ld. PCIT, the valuation, genuineness and sources of the intangible assets purchased during the year remained unproved, however no addition on this account was made to the total income. This failure of A.O. to conduct an inquiry into the substantial addition to intangible assets made during the year rendered the assessment order passed

u/s 143(3) r.w.s. 143(3A) of the Income Tax Act, 1961 on 11.03.2021 erroneous in so far as it is prejudicial to the interest of revenue within the meaning of section 263 of the Income Tax Act, 1961. Therefore proceedings u/s 263 of the Income Tax Act, 1961 to revise the said order were initiated by PCIT.

4. After taking the submissions filed by the assessee on record, PCIT observed that the assessee company had recognised Goodwill of Rs.60.63 crores which represents the excess consideration paid for purchase of JVS Engineers. During the year under consideration, there was an addition of intangible assets amounting to Rs.34.10 crores. However, no details regarding addition of said intangible asset was provided during the course of assessment proceedings. The PCIT observed that the assessee had purchased business of JVS Engineers through a Business Transfer Agreement on slump sale basis in financial year 2016-17. During the course of assessment, the assessee had submitted that JVS Engineers is a separate legal entity and the assessee did not have access to the financial statements of JVS Engineers. Hence, the assessee was unable to produce the financial statements of JVS Engineers. However, the PCIT observed that the business of JVS Engineers was purchased by JVS Industries Private Limited and both the parties are related parties and there were glaring issues arising from documents submitted which necessitated further enquiry into the matter. During the course of assessment, the assessee did not provide any details on the basis of how Goodwill of Rs.34.10 crores was generated especially in light of the fact that the payment during the impugned assessment year 2018-19 was only to the tune of Rs.12.78 crores. Therefore, while the payment made by the assessee during the year under consideration was Rs.12.78 crores, the goodwill generated was Rs.34.10 crores

in its books and the assessing officer allowed depreciation on the entire amount of goodwill claimed by the assessee, without conducting any enquiry into this crucial aspect. Another notable aspect observed by PCIT was that though the assessing officer had asked the assessee to produce valuation report regarding the claim of basis of goodwill, however, such valuation report was not provided by the assessee. The assessing officer proceeded to complete the assessment proceedings without any further enquiry and allowed depreciation on entire goodwill as claimed by the assessee. The assessing officer also did not enquire into the crucial aspect that the entire transaction of purchase of business and claim of depreciation was effected between related parties. Therefore, when the transaction of sale and purchase of assets is being between related parties, the valuation of net worth of assets of JVS Engineers and valuation of goodwill was a mandatory aspect which ought to have been enquired into by the assessing officer. In absence of any details furnished by the assessee, it was the duty of the assessing officer to carry out necessary enquiry and verification to ascertain the genuineness of the transactions, manner of valuation of intangible assets and the valuation of goodwill created. However, on one hand the assessing officer did not conduct such enquiry which was required to be conducted and on the other hand the assessee had also not furnished any valuation report in support of claim of goodwill. Accordingly, looking into the instant facts, the PCIT held that the assessment order passed by the assessing officer was erroneous insofar as prejudicial to the interests of the Revenue, and this was liable to be set aside for de novo consideration. While passing the order, the PCIT made the following observations:

“12. In view of above facts, it is seen that the complete details/clarification regarding the purchase of intangible assets amounting to Rs. 34,10,19,251/- during

AY 2018-19 and details of payments for acquiring said assets were not furnished during the assessment proceedings. The documents that were submitted were not examined and verified by the A.O. There were glaring issues arising from the documents submitted which necessitated further inquiry into the matter. However A.O. has considered the purchase of intangible assets and allowed the depreciation on the same and the carried forward goodwill without going into the important aspects which were crucial and mandatory to examine the transaction as discussed below.

12.1 In the assessment proceedings the assessee has not provided any as to how the goodwill of Rs.34,10,10,251/- was generated when the payment made in A.Yr.2018-19 was Rs.12,78,60,000/-. A.O. did not bother to raise the said query in the assessment proceedings. BTA mention payment of Rs. 12.78 crores during this year, while goodwill generated was Rs. 34.10 crores. It was incumbent upon the A.O, to verify the said discrepancy in the assessment proceedings, however it was not done.

12.2 During the proceedings u/s 263 of the Act, the assessee has submitted in NOTE 24 on "accounting for business purpose", the working on the is provided. The assessee has further submitted a copy of audit financial statements as-Annexure-B. The said notes to accounts were not furnished before A.O. during assessment proceedings clarifying claim of goodwill on year to year basis. As per Note-24s the assessee has tried to explain that net assets of M/s JVS Engineers amounting to Rs. 25,22,990/- were acquired for a purchase consideration of Rs. 119,99,93,400/- The excess of purchase consideration over net assets recognised as goodwill. Goodwill of Rs. 60,63,20,887/-was recognised in AY 2017-18 and balance goodwill of Rs, 34,10,10,251/- was recognised in AY 2018-19 ie. year under consideration. It is pertinent to mention here that vide submission 3.10.2019, reproduced supra, it was mentioned in notes to accounts that subsequent payments of purchase consideration would be recognised as goodwill as and when. the same is paid. However, on the contrary, the assessee has recognised amounting to Rs. 34,10,10,251/- in AY 2018-19 while payment of Rs, 12,78,80,000/-only was made during AY 2018-19. Therefore, method of accounting followed by the assessee was not consistent Assessee is following mercantile system of accounting. Therefore, the goodwill was to be recognised in initial year i.e. in AY 2017-18. However, the assessee has mentioned that the payments for purchase were subject to fulfillment of certain conditions, therefore, goodwill was to be recognised on the basis of payment of sales consideration But it is seen that such method was also not followed and goodwill of Rs. 34,10,10,251/-was recognised in AY 2018-19 payment of Rs.12,78,60,000/- only was made during AY 2018-19. Thus, the complete notes to accounts giving clarification regarding goodwill were not furnished before the AO and AO passed assessment order without proper verification of the issue, without verifying accounting method followed by the assessee. It was not verified by the AO whether any further goodwill was claimed by the subsequent years.

12.3 Further, vide notice u/s 142(1) dated 02.03.2020, the AO has asked the assessee to furnish the copy of valuation report of intangible assets acquired during the year and vide notice u/s 142(1) dated 12.03.2020, the assessee was asked to

furnish valuation report for plant and machinery and B/S of M/s JVS Engineers. The assessee didn't provide any of said documents during the course of assessment proceedings. However, the AO proceeded to complete the assessment without further verification and inquiry. It is seen from copy of BTA submitted by the assessee that the business of M/s JVS Engineers was purchased by M/s. JVS Industries Private Ltd. The parties entering in to the transactions are related parties and not independent parties. The BTA was signed by Shri Narendra Kumar Saubhagyachandra Shah as seller on behalf of M/s JVS Engineers and the same person has signed BTA in the capacity of purchaser on behalf of JVS Industries Private Limited.

12.4 Thus, it is seen that when the transaction of sale and purchase of assets is being done between related parties, the valuation of net worth of assets of M/s JVS Engineers and valuation of goodwill was a mandatory aspect to be inquired into. The assessee has claimed that it purchased the business of JVS Engineers by way of slump sale. The provisions of slump sale are governed by the provisions of section 2(42C) and section 50B of Income-tax Act, 1961. As per provisions of section 50B of Income tax Act, 1961, the fair market value of the capital assets as on date of transfer has to be done in prescribed manner i.e. FMV as per rule 11UAE shall be deemed as full value of consideration. Further, As per sub section 3 of section 50B of income tax Act Every assessee in the case of slump sale is required to furnish a report of accountant as defined in the explanation below sub section (2) of section 288 before the specified date referred to in section 44AB indicating the computation of the net worth of the undertaking or division, as the case may be and certifying that the net worth of the undertaking or division as the case may be has been correctly arrived at in accordance with the provisions of law.

12.5 However, AO has not raised any query regarding the report filed in form 3CEA as required by virtue of section 50B(3) read with Rule 6H in respect of the slump sale transaction as per BTA as claimed by the assessee. Without verifying the requirements of valuation of assets and necessary certification and reporting as per section 50B of Income-tax Act, 1961, the creation of goodwill should not have been allowed.

12.6 In the absence of the details furnished by the assessee, it was the duty of the A.O. to carry out necessary inquiry or verification to ascertain the genuineness of the transactions, manner of valuation of the intangible assets and the valuation of goodwill created. However no such inquiry which was required to be conducted was done and return income was accepted without inquiring into the transactions relating to purchase of intangible assets. Thus the valuation and genuineness of the intangible assets purchased during the year remained unproved, however no addition on this account was made to the total income. This failure of A.O. to conduct necessary and adequate inquiry into the substantial addition to intangible made during the year renders the assessment order passed u/s 143(3) r.w.s. 143(3A) of the Income Tax Act, 1961 on 11.03.2021 erroneous in so far as it is prejudicial to the interest of revenue within the meaning of section 263 of the Income Tax Act, 1961.

12.7. As far as the issue of allowance of depreciation on goodwill is concerned, the assessee has cited various judicial decisions in its favour. However the Issue here

is to the genuineness of Intangible assets acquired during AY 2018-19, claim of depreciation has to be examined in view of provisions of Income-tax Act and relevant judicial pronouncements in this regard. Similarly the claim of depreciation on goodwill of earlier years also is connected to the valuation creation of goodwill. As pointed out in preceding paragraphs the goodwill is generated as the difference between the purchase price paid and value of purchased, however the mandatory reports and working have not been examined by the A.O. Hence the claim of depreciation remains unverified in the assessment proceedings.

13. Thus the complete details of the purchase of intangible assets amounting to Rs. 34,10,19,251/- and facts relating to valuation of goodwill and nature and source of payments on account of goodwill was not furnished during the assessment proceedings. In the absence of the details being furnished by the assessee, it was the duty of the A.O. to carry out inquiry or verification to ascertain the genuineness of the transactions, manner of valuation of the intangible assets and the source of purchase of intangible assets amounting to Rs.34,10,19,251/- and the entire depreciation claimed on goodwill.

14. A.O.'s failure to conduct necessary inquiry and verification regarding above mentioned issues, and make necessary additions to total income in accordance with provisions of Act, renders the assessment order passed both erroneous and prejudicial to the interest of revenue within the meaning of section 263 of the Act Here it is relevant to reproduce the relevant portion of the Section 263(1) of the Act as under.

6.9 In this regard reference is also made to the following judicial decisions:

- Hon'ble High Court of Delhi in the case of ITO Vs. D G Housing Projects Ltd, Decided on 1st March, 2012, in ITA No. 179/2011 observed as under:-

Revenue does not have any right to appeal to the first appellate authority an order by the Assessing Officer, Section 363 has been enacted to empower-the CIT to exercise power of revision and revise any order passed by the Assessing Officer, if two cumulative conditions are satisfied. Firstly, the order sought to be revised should be erroneous and secondly, it should be prejudicial to the interest of the Revenue, The expression prejudicial to the interest of the Revenue is of wide import and is not confined to merely loss of tax. The term erroneous means a wrong/incorrect decision deviating from law. This expression postulates an error which makes an order unsustainable in law.

The Assessing Officer is both an investigator and an adjudicator. If the Assessing Officer as an adjudicator decides a Question or aspect and makes a wrong is unsustainable in law, it can be corrected by the Commissioner in exercise of revisionary power. As an investigator, it is incumbent upon the Assessing Officer to investigate the facts required to be examined and verified to compute the taxable income. If the Assessing Officer fails to conduct the said investigation, he commits an error and the word erroneous includes failure to make the enquiry. In such cases, the

order becomes erroneous because enquiry or verification has not been made and not because a wrong order has been passed on merits."

- *Decisions of the Hon'ble Supreme Court in **Rampyari Devi Sarogi Vs. CIT (1968) 67 ITR 84 (SC)** and **Tara Devi Aggarwal Vs. CIT (1973) 88 ITR 323(SC)** wherein it was held that "where Assessing Officer-has, accepted a particular contention/issue without any enquiry or evidence whatsoever, the order is erroneous and prejudicial to the interest of the Revenue."*
- *Hon'ble Supreme Court in the of **Malabar Industrial Co. Ltd. v. CIT (2000) 243 ITR 83 (SC)** which is a landmark judgment it has observed that "an incorrect assumption of facts or an incorrect application of law will satisfy the requirement of the order being erroneous.*
- *The Hon'ble ITAT in the case of **Mrs. Khatiza S. Oomerbhoy Vs. ITO, Mumbai, 101 TTJ 1095**, analyzed in detail various authoritative pronouncements including the decision of Hon'ble Supreme Court in the case of **Malabar Industries 243 ITR 83** and has propounded that an incorrect assumption of facts or an incorrect application of law will suffice the requirement of order being erroneous. It is also held that if the order is passed without application of mind, such order will fall under the category of erroneous order.*
- *Delhi High Court in **Gee Vee Enterprises v. Additional Commission of Income-Tax, Delhi-1, (1975) 99 ITR 375**, has observed as under:-*

"The reason is obvious. The position and function of the Income-tax Officer is very different from that of a civil court. The statements made in a pleading proved by the minimum amount of evidence may be accepted by a civil court in the absence of any rebuttal. The civil court is neutral. It simply gives decision on the basis of the pleading and evidence which comes before it. The Income- tax Officer is not only an adjudicator but also an investigator. He cannot remain passive in the face of a return which is apparently in order but cads for further inquiry. It is his duty to ascertain the truth of the facts stated in the return when the circumstances of the case are such as to provoke an inquiry. The meaning to be given to the word "erroneous" in section 263 emerges out of this context. It is because it is incumbent on the Income- tax Officer to further investigate the facts stated in the return when circumstances would make such an inquiry prudent that the word "erroneous" in section 263 includes the failure to make such an inquiry. The order becomes erroneous because such an inquiry has not been made and not because there is anything wrong with the order if all the facts stated therein are assumed to be correct."

- *Hon'ble Ahmedabad Bench of Tribunal, in the decision rendered in the case of **Shri Ramanbhai Bholidas Patel Vs PCIT**, [ITA No. 84/Ahd/2021] has upheld the revisionary proceedings u/s 263 of the Act as the A.O. had allowed deduction u/s 548 without conducting any inquiry into the aUowabiSity of the same,*

15. *Section 263 of the Act empowers the Pr. Commissioner of Income-tax/Commissioner of Income-tax to revise the order passed by the Assessing Officer which is erroneous in so far as it is prejudicial to the interest of revenue. In view of the facts and circumstances of the case and the discussions made in the foregoing*

paragraphs, the assessment order passed u/s 143(3) r.w.s 143(3A) & 143(3B) of the I.T. Act, 1961 by the Assessing Officer in the case of the assessee for the A.Y. 2018-19 on 11.03.2021 is held to be erroneous in so far as it is prejudicial to the interest of revenue, as no inquiry/verification was conducted in respect of issues discussed in preceding paragraphs that should have been done.

16. In view of the above and in exercise of the powers conferred by the provisions of Section 263 of the Act, 1961, the assessment order passed u/s 143(3) r.w.s 143(3A) & 143(3B) of the Act dated 11.03.2021 for the A.Y. 2018-19 in the case of the above mentioned assessee is set aside denovo with a direction to the Assessing Officer to pass fresh assessment order after taking into consideration the issue as may have been already considered together with the issue discussed hereinabove also. Needless to mention that while passing the fresh assessment order, consequent to this order under section 263 of the Act, the Assessing Officer shall grant reasonable and sufficient opportunity of being heard to the assessee.”

5. The assessee is in appeal before us against the aforesaid order passed by PCIT. The counsel for the assessee raised several contentions before us. Firstly, it was submitted before us that the assessing officer during the course of assessment proceedings had made complete enquiries regarding the claim of goodwill and the assessee had also replied to the same. Accordingly, it was submitted that it this is not a case where there was any lack of enquiry by the assessing officer during the course of assessment proceedings, as alleged by the PCIT. Secondly, it was submitted that various Courts including the Hon'ble Supreme Court in this case of Smifs Securities has held that depreciation on goodwill (being the excess consideration paid over the net value assets) is allowable. Accordingly, the assessing officer has not taken an erroneous view and this view regarding depreciation on goodwill taken by the Assessing Officer was duly supported by various judicial precedents on the subject. Therefore, it was submitted before us that this is a case where both the necessary enquiries were conducted during the course of assessment proceedings, the assessing officer had duly applied his mind to the claim of the assessee regarding depreciation on goodwill and also the assessing officer had taken a legally plausible view which were supported by various judicial

precedents. Therefore, PCIT erred in facts and in law in holding that the assessment order was erroneous and prejudicial to the interest of the Revenue.

6. In response, Ld. DR placed reliance on the observations made by the PCIT in the 263 order.

7. We have heard the rival contentions and perused the material on record. On going to the case records, we observe that the assessing officer had not made any specific enquiry regarding the allowability of claim of depreciation of goodwill of Rs. 34.10 crores, during the course of assessment proceedings. We have gone through the various notices issued by the assessing officer and the assessee replies to the same. However, we observe that there was no specific notice asking for the justification of claim of depreciation amounting to Rs. 34.10 crores for the impugned year under consideration and why such claim of depreciation not be disallowed was issued by the Assessing Officer. Therefore, on going to the case records, we are of the considered view that there was an apparent lack of enquiry by the assessing officer, while allowing the claim of depreciation of the assessee for such a huge amount. Secondly, we are of the view that the CIT has correctly observed that while the assessee had only made payment of Rs.12.78 crores during the impugned year under consideration, however, the assessing officer has allowed depreciation on goodwill of Rs.34.10 crores worth of intangible assets created by the assessee in it's books. However, the assessee officer did not carry out the necessary verification with respect to the aforesaid crucial fact, while allowing the claim of depreciation. Another notable aspect with respect to the aforesaid transaction is that the purchase of business (with respect to which depreciation was claimed and allowed) was between related parties and therefore, in these facts it was necessary that the claim of depreciation should be duly supported

by a valuation report justifying the value of intangible assets representing “goodwill” on which depreciation has been claimed by the assessee. The counsel for the assessee has submitted that the claim of depreciation on goodwill has been duly upheld in various decisions and therefore, the assessing officer had taken a legally plausible view after taking into consideration all material facts. However, we are unable to agree with this contention by the counsel for the assessee for the simple reason that firstly, the assessing officer, had not carried out any enquiry with respect to the claim of depreciation, which was required to be done, looking into the facts of the instant case. We observe that no notice was issued to the assessee requiring the assessee to provide any justification for claim of depreciation on goodwill, especially in light of the fact that the entire creation of intangible asset, on which depreciation was claimed by the assessee had taken place between related parties and the claim of goodwill was also not supported by a valuation report. Apparently, the assessee is claiming a substantial amount of depreciation on goodwill during the impugned year under consideration, but no concrete basis for such intangible asset has been provided by the assessee to the assessing officer during the course of assessment proceedings. In our view, such substantial claim of goodwill was needed to be supported by a valuation report, giving the basis for claim of creation of this intangible assets in the books of accounts of the assessee and how and on what basis such goodwill had been created. The Hon’ble Supreme Court in the case of *Smith’s securities* has only laid down the proposition that goodwill is an intangible asset on which depreciation may be claimed by the assessee. However, this does not imply that depreciation on goodwill should be allowed to the assessee automatically and in all cases, without the assessee providing any basis or justification or support for the basis of claim of such depreciation on “goodwill” and without

- 13-

providing the basis of arriving at the value of such intangible asset being “goodwill” created by the assessee in it’s books of accounts. In our view, the assessee does not have a blanket / vested right to claim depreciation on intangible assets on acquisition of business between related parties, without giving due support and justification for the value of such intangible asset, being goodwill created in its books of account on which substantial amount of depreciation has been claimed. Accordingly, looking into the instant facts, where we find that there was evident lack of enquiry by the assessing officer and also the assessee had not filed any specific written submission during the course of assessment proceedings in support of claim of depreciation on goodwill or valuation report in support of claim of goodwill, we are of the considered view that the CIT has not erred in facts and in law in holding that the assessment order is erroneous insofar as prejudicial to the interests of the revenue.

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

This Order pronounced in Open Court on	23/07/2024
---	-------------------

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER

Ahmedabad; Dated 23/07/2024

TANMAY, Sr. PS

TRUE COPY

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad