

**IN THE INCOME TAX APPELLATE TRIBUNAL “G” BENCH, MUMBAI**

**BEFORE MS. KAVITHA RAJAGOPAL, JM AND  
SHRI GIRISH AGRAWAL, AM**

ITA No. 3367/Mum/2024  
(Assessment Year:2015-16)

Godrej and Boyce Mfg. Co. Ltd. (into which Cartini India Ltd. has now been amalgamated) Kalyaniwala and Mistry LLP Esplanade House, 2 <sup>nd</sup> Floor, Hazarimal Somani Mag, Fort, Mumbai-400 001	Vs.	Dy. CIT 14(1)(2) Ayakar Bhavan, Mumbai-400 020
PAN/GIR No.AAACG 0555 D		
<b>(Assessee)</b>	:	<b>(Respondent)</b>

<b>Assessee by</b>	:	Shri Jeet Kamdar
<b>Respondent by</b>	:	Shri Shambhu Yadav

<b>Date of Hearing</b>	:	22.08.2024
<b>Date of Pronouncement</b>	:	19.11.2024

**ORDER**

**Per Kavitha Rajagopal, J M:**

This appeal has been filed by the assessee, challenging the order of the learned Commissioner of Income Tax (Appeals) ('Id.CIT(A) for short), National Faceless Appeal Centre ('NFAC' for short) passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2015-16.

2. The assessee has raised the following grounds of appeal:

*1) The Assessing Officer erred in passing the Assessment Order on a non-existent entity and the Commissioner (Appeals) erred in not disposing off the ground raised before him. The Assessment Order passed by the Assessing Officer on the amalgamating company is bad in law and requires to be quashed.*

2) Without prejudice to Ground 1, the Assessing Officer erred in denying and Commissioner (Appeals) erred in not dealing with ground regarding the non-grant of additional depreciation of Rs.38,69,120/- claimed by the Appellant being the balance depreciation in respect of assets which were acquired and put to use for less than 180 days in the preceding Assessment Year 2015-2016.

3. Brief facts of the case are that the assessee company is engaged in the business of manufacture locks and allied products and had filed its return of income on 29.09.2015, declaring total income at Rs.34,02,08,517/- and the same was processed u/s. 143(1) of the Act. The assessee's case was selected for limited scrutiny under CASS and notices u/s. 143(2) and 142(1) of the Act were duly issued and served upon the assessee. The learned Assessing Officer ('ld. A.O.' for short) had passed the assessment order u/s. 143(3) of the Act on 29.09.2017, declaring total income at Rs.34,40,77,690/-, after making an addition/disallowance on account of additional depreciation claimed by the assessee, amounting to Rs.38,69,120/-.

4. Aggrieved the assessee was in appeal before the first appellate authority, challenging the assessment order.

5. The ld. CIT(A) vide order dated 30.04.2024 had dismissed the appeal as infructuous for the reason that the said appeal for the impugned assessment year has already been decided vide order no. ITBA/NFAC/S/250/2024-25/1064441964(1) dated 29.04.2024. Further the ld. CIT(A) has also stated that in Form 35 the assessment order of some other assessee by name M/s. Cartini India Ltd. is enclosed.

6. The assessee is in appeal before us, challenging the order of the ld. CIT(A).

7. The learned Authorised Representative (ld. AR for short) for the assessee contended that M/s. Cartini India Ltd. was amalgamated with Godrej & Boyce Manufacturing Co. Ltd. w.e.f. 01.04.2016 as per the scheme of amalgamation sanctioned

by the Hon'ble High Court of Bombay vide order dated 20.06.2016. The ld. A.O. inspite of this has passed the assessment order in the name of a *non est* company which ceased to exist. The ld. AR further contended that inspite of raising the said ground before the ld. CIT(A), the same was not adjudicated by the first appellate authority. The ld. AR prayed that the assessment order be quashed on the said ground.

8. The learned Departmental Representative (ld. DR for short), on the other hand, relied on the order of the lower authorities.

9. We have heard the rival submissions and perused the materials available on record. It is observed that the assessment order has been passed in the name of a *non est* company which ceased to exist post the amalgamation with Godrej & Boyce Manufacturing Co. Ltd. Though it is settled law that the assessment order should not be passed in the name of a non existing company, the ld. A.O. has erred in passing the impugned order in the name of the old company. The ld. CIT(A), on the other hand, has not dealt with this issue, though a specific ground has been raised by the assessee on this issue. It is evident from the ld. CIT(A)'s order that there has been an order passed by the ld. CIT(A) dated 29.04.2024, disposing of the appeal of the assessee against the impugned assessment order. This has not been brought to our knowledge by both sides and has also not furnished a copy of the same.

10. Before us, as per Form No. 36, the assessee has appealed against the order of the ld. CIT(A) dated 30.04.2024, who has merely dismissed the appeal as infructuous for the reason that there has been another order dated 29.04.2024. As there remains no issue to be adjudicated which arises out of the ld. CIT(A)'s impugned order, we are inclined to

dismiss the appeal filed by the assessee as infructuous. Since, we have not decided this appeal on the merits, it will not have any bearing on any other appeal, if any, filed by the assessee against the impugned assessment order for the year under consideration.

11. In the result, the appeal is dismissed as infructuous.

*Order pronounced in the open court on 19.11.2024*

Sd/-  
(Girish Agrawal)  
Accountant Member

Sd/-  
(Kavitha Rajagopal)  
Judicial Member

Mumbai; Dated : 19.11.2024

Roshani, Sr. PS

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent
3. CIT- concerned
4. DR, ITAT, Mumbai
5. Guard File

BY ORDER,

(Dy./Asstt.Registrar)  
ITAT, Mumbai