

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'G' NEW DELHI)**

**BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

ITA No. 3508/DEL/2012 (A.Y. 2002-03)

ACIT Circle-7(1) New Delhi	Vs.	M/s Saurer Embroidery Systems India Pvt. Ltd. D-41, South Extension, Part- II, New Delhi PAN: AABCS7541Q
Appellant		Respondent
Assessee by	None	
Revenue by	Sh. Sahil Kumar Bansal, Sr. DR	
Date of Hearing	20/02/2025	
Date of Pronouncement	27/02/2025	

ORDER

PER YOGESH KUMAR, U.S. JM:

The present appeal is filed by the Department of Revenue against the order of the CIT(A)-X, New Delhi [‘Ld. CIT(A) ’ for short] dated 18/04/2012 for the Assessment Year 2002-03.

2. The Grounds of appeal are as under:-

“1. Whether on the facts and circumstances of the case, the Ld. CIT(A) was justifiable in deleting the addition made by the A.O. on account of excess depreciation claimed by the Assessee on plant and machinery.”

3. Brief facts of the case are that, an assessment order came to be passed u/s 147 read with Section 143(3) of the Income Tax Act, 1961 (‘Act’ for short)

on 23/09/2009 by disallowing a sum of Rs. 87,63,577/- being depreciation claimed by the Assessee. Aggrieved by the assessment order dated 23/09/2009, the Assessee preferred an Appeal before the Ld. CIT(A). The Ld. CIT(A) vide order dated 18/04/2012, allowed the Appeal and set aside the Assessment order on the Ground that the sanction for the assessment proceedings u/s 147 of the Act was not obtained inconsonance with provisions of Income Tax Act. Aggrieved by the order of the Ld. CIT(A), the Department of Revenue preferred the present Appeal.

4. None appeared for the Assessee even after issuing several notices. Since the Assessee is not serious in contesting the present Appeal, we deem it fit to decide the Appeal on hearing the Ld. Departmental Representative and verifying the material available on record.

5. The Ld. Departmental Representative Sh. Sunil Kumar Bansal though relied on the assessment order and defended the Department of Revenue, however, fairly submitted that in the present case, the approval has been obtained from CIT instead of JCIT/Addl. CIT u/s 151 of the Act and left it to the decision of the Bench.

6. Heard the Ld. Departmental Representative and perused the material available on record. In the present case, the Assessee filed return for Assessment Year 2002-02 and the same has been processed u/s 143(1) of the Act and not subjected to scrutiny u/s 143(3) of the Act. Since the assessment was completed u/s 143(1) of the Act without being subjected to scrutiny

proceedings u/s 143(3) of the Act, the provision of Section 151 (2) will come in to play. In the present case, as could be seen from the order of the Ld. CIT(A), the approval has been obtained u/s 151 of the Act for issuance of notice u/s 147 of the Act from the CIT instead of JCIT/Addl. CIT. In the present case, the power of sanction lies with JCIT/ACIT and such power cannot be exercised by any other authority including the superior authority. Therefore, Ld. CIT(A) has rightly come to conclusion that the assessment proceedings have been initiated based on in-valid sanction and accordingly declared the initiation of proceedings u/s 147 of the Act is found void-ab-initio. In our considered opinion, the order of the Ld. CIT(A) in setting aside the assessment order is not suffering from any infirmity or error and the same is required no interference in the hands of the Tribunal. Finding no merits in the Grounds of appeal of the Department, The Appeal of the Department is dismissed.

Order pronounced in the open court on 27th February, 2025

Sd/-

**(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

Date:- 27.02.2025

R.N, Sr.P.S*

Sd/-

**(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI