

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C': NEW DELHI**

**BEFORE
SHRI MAHAVIR SINGH, VICE PRESIDENT
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.2334/Del/2019
(ASSESSMENT YEAR 2013-14)

DCIT, Circle-14(1), New Delhi	Vs.	M/s. K.N. Infracon Pvt. Ltd. 517-A, Narain Manzil, 23, Barakhamba Road, Connaught Place, New Delhi-110001. PAN-AADCK0599E
(Appellant)		(Respondent)

Assessee by	None (Adjournment Application)
Department by	Shri Om Prakash, Sr. DR
Date of Hearing	19/05/2025
Date of Pronouncement	28/05/2025

ORDER

PER MANISH AGARWAL, AM:

This is an appeal filed by the Revenue against the order of the Id. Commissioner of Income Tax (Appeals)-5, New Delhi [CIT(A) in short], dated 19.12.2018 passed u/s 250 of the Income Tax Act, 1961 for Assessment Year 2013-14.

2. During the course of hearing, the Ld. AR of the assessee has sought adjournment vide letter dated 19th May, 2025 by observing that the copy of Form-36 was not available with them. It is seen that the present appeal was filed by the Revenue way back in March, 2019 and, after that on various occasions, the appeal was listed for hearing

and except for three occasions when one Ms. Monalisa Maity appeared and sought adjournment, none was present on behalf of the assessee. It is surprising that even after so much of the time the assessee never asked for supply of Form-36. It is further seen that on earlier occasions, the adjournment was sought by the AR on the ground that the arguing counsel was out of the station or the paper book in this case has not been filed but never stated that Form 36 was not filed.

3. Looking to these facts, we are unable to accept the request of the AR for adjournment and, therefore, adjournment application of the assessee is rejected and the appeal is decided on merits.

4. After going through the records, it is seen that the assessee has filed certain documents with regard to the claim of brought forwarded unabsorbed business losses and after considering the same, the Ld. CIT(A) has allowed the appeal of the assessee. It is further seen that Hon'ble Jurisdictional High Court in the case of M/s Yum Restaurants (India) Pvt. Ltd. Vs. Commissioner of Income Tax-9 in ITA No.349 & 388/2025 vide order dated 13.01.2016 has already dealt this issue and given contrary findings, however, the Ld. CIT(A) has not considered the said judgment while allowing the appeal of the assessee.

5. Looking to these facts, the matter is sent back to the file of the AO with directions to be considered the claim to the assessee in view of the judgment of the Hon'ble Jurisdictional High Court in the case of M/s Yum Restaurants (India) Pvt. Ltd. (supra) and decide the same

in accordance with law. Accordingly, both the grounds of appeal of Revenue are allowed for statistical purposes.

6. As a result, the appeal of the Revenue is partly allowed.

Order pronounced in the open court on 28.05.2025.

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Dated: 28.05.2025

PK/Ps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI