

आयकर अपीलीय अधिकरण
कोलकाता 'बी' पीठ, कोलकाता में
**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'B' BENCH, KOLKATA**

श्री जॉर्ज माथान, न्यायिक सदस्य
एवं
श्री रकेश मिश्रा, लेखा सदस्य
के समक्ष
Before

**SHRI GEORGE MATHAN, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**I.T.A. Nos.: 2280, 2281 & 2283/KOL/2024
Assessment Years: 2012-13, 2013-14 & 2015-16**

D.C.I.T., Circle-11(1), Kolkata	Vs.	Philips India Limited
(Appellant)		(Respondent)
PAN: AABCP9487A		

Appearances:

Department represented by : Ranu Biswas, Addl. CIT, Sr. DR.

Assessee represented by : Ninad Patade, AR.

Date of concluding the hearing : 18-June-2025

Date of pronouncing the order : 25-June-2025

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

These appeals filed by the Revenue are against the separate orders of the Commissioner of Income Tax (Appeals)-NFAC, Delhi [hereinafter referred to as Ld. 'CIT(A)'] passed u/s 250 of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AYs 2012-13, 2013-14 and 2015-16 dated 14.06.2024, 16.05.2024 and 17.05.2024 respectively, which have been passed against the assessment orders u/s 143(3) r.w.s. 254 of the Act, dated 16.11.2018, 29.11.2028 and 19.05.2022, respectively.

1.1. The Registry has informed that the appeals are barred by limitation by 91, 120 and 120 days, respectively. At the time of hearing, the Ld. DR submitted the reasons for the delay in filing the appeals. After perusing the same, we find force in the reasons mentioned therein and are satisfied that the Revenue had a reasonable and sufficient cause and was prevented from filing the instant appeals within the statutory time limit. We, therefore, condone the delay and admit the appeals for adjudication.

1.2. Since the issues are common, all the appeals were heard together and are being decided vide this common order for the sake of convenience and brevity.

2. The Revenue is in appeal before the Tribunal raising the following grounds of appeal:

AY 2012-13:

“1. That on the facts of the case and in law, the CIT(A) is not justified in allowing 30% depreciation on Moulds ignoring the fact that the assessed is not engaged manufacturing of plastic and/or rubber products.

2. That the CIT(A) is unjustified in not appreciating the facts that the assessee is not development of embedded software and services.

3. That the appellants crabs leave to add any new ground and alter any of the grounds and to put forward necessary arguments in support of the grounds of appeal.”

AY 2013-14:

“1. That on the facts of the case and in law, the CIT(A) is not justified in allowing 30% depreciation on Moulds ignoring the fact that the assessee is not engaged in manufacturing of plastic and/or rubber products.

2. That the CIT(A) is unjustified in not appreciating the facts that the assessee is not entitled to enhanced depreciation @ 30% on Mould used by third parties for manufacturing of electronics and electrical products electronic medical equipment, development of embedded software and services.

3. That the appellants crabs leave to add any new ground and alter any of the grounds and to put forward necessary arguments in support of the grounds of appeal.”

AY 2015-16:

“1. That on the facts of the case and in law, the CIT(A) is not justified in allowing 30% depreciation on Moulds ignoring the fact that the assessee is not engaged in manufacturing of plastic and or rubber products.

2. That the CIT(A) is unjustified in not appreciating the facts that the assessee is not entitled to enhanced depreciation @ 30% on Mould used by third parties for manufacturing of electronics and electrical products electronic medical equipment, development of embedded software and services.

3. That the appellants craves leave to add any new ground and or alter any of the grounds before or during the course of appellate proceedings.”

3. We will first take up the appeal for A.Y. 2012-13. Brief facts of the case are that the assessee company had filed its original return of income for AY 2012-13 declaring total income of ₹142,34,80,660/-. Thereafter, revised return was filed declaring total income at ₹ 1,41,76,98,430/-. The assessment u/s 143(3) r.w.s. 144C of the Act was completed on 27.02.2017. Being aggrieved, the assessee filed appeal against the assessment order before the Hon'ble ITAT, Kolkata and the case was set aside as per order dated 07.02.2018 for fresh adjudication in accordance with the law. The Ld. AO passed the order u/s 143(3) r.w.s. 254 of the Act on 16.11.2018 determining the total assessed income at ₹145,61,94,540/- and made disallowance on account of depreciation on moulds amounting to ₹3,14,04,352/-. Aggrieved with the assessment order, the Revenue filed an appeal before the Ld. CIT(A) who partly allowed the appeal of the assessee.

4. Aggrieved with the order of the Ld. CIT(A), the Revenue has filed the appeals before this Tribunal.



5. Rival contentions were heard and the submissions made have been examined. The Ld. AR drew our attention to the fact that the only ground of appeal is against the depreciation claimed @ 30% which has been restricted to 15% by the Ld. AO on the plant and machinery for moulds. The Ld. CIT(A) has noted that the assessee relies on third party vendors for its plastic requirements. As per the AO, it does not meet the criteria prescribed u/s 32 of the Act read with Rule 5A of the IT Rules 1962. The AO therefore restricted depreciation @ 15% available for general Plant and Machinery. In this case the moulds are owned by the appellant and are provided to vendors to meet its plastic requirements. These vendors work exclusively for Philips India. The Ld. AO is of the opinion that depreciation @ 30% is only for rubber and plastic good factories. Since the appellant does not own these factories, it is not eligible for depreciation @ 30%. It was informed to us that in the AY 2009-10 this issue has been decided in favour of the assessee and which has also been reproduced at page 33 of the order of the Ld. CIT(A). Our attention was drawn to para 1.1 3rd sub-para on page 33 of the order of the Ld. CIT(A) in which reliance has been placed on the order for AY 2009-10 dated 22.08.2023 of the Hon'ble Tribunal, which is reproduced as under:

“The same issue was before Hon’ble ITAT, Kolkata in appellant’s own case for A.Y.2009-10. The Hon’ble ITAT, Kolkata in its decision dated 22.08.2023 in the case of the appellant relied on decision of a coordinate bench in the case of Honda Motorcycle & Scooter India (P) Ltd. Vs ACIT and ruled in favour of the appellant. The relevant portion of the judgement is reproduced below:

6. In view of the above, we are inclined to hold that the conclusion arrived by the Id. CIT(A) in para 5.2 of the impugned order is quite correct and justified and. we are unable to see any valid reason to interfere with the impugned order on this issue as admittedly and undisputedly the assessee is owner of the plastic mould which were

used in the premises of various vendors for manufacturing of plastic and rubber goods for use of assessee. In our considered opinion, it is immaterial whether the plastic /rubber moulds were used in the factory premises of the assessee or vendors. Prime requirement is that moulds should be owned by the assessee, the same should be part of block assets shown by the assessee and these were put to use for the purpose of business of the assessee and the three requisite conditions have been fulfilled by the assessee in the present case and thus it is entitled to claim, depreciation @ 30% which was rightly allowed by the Id. CIT(A). Hence ground No. 1 of the Revenue being devoid of merits is dismissed.

6. Since the facts of the case are materially same, we, therefore respectfully following the decision mentioned above, set aside the order of Ld. CIT(A) and direct Ld. AO to allow the depreciation @ 30%. The appeal filed by the assessee is allowed.

Respectfully following the decision of Hon'ble ITAT in the case of the appellant for A Y. 2009-10, this ground is decided in favour of the appellant."

6. Since similar is the case in the other assessment years, the Ld. AR requested that no interference was called for in the order of the Ld. CIT(A). The Ld. DR on the other hand, relied on the order of the Ld. AO and requested that the order of the Ld. CIT(A) may be set aside.

7. We have considered the rival submissions. The Ld. CIT(A) has decided the appeal by following the order of the coordinate bench in the assessee's own case for A.Y. 2009-10. Hence, respectfully following the order of the Coordinate Bench of the Tribunal in **I.T.A. No. 2097/KOL/2018**, it is held that the assessee is eligible for depreciation @ 30% and there is no need to interfere in the order of the Ld. CIT(A) which is confirmed and the appeal of the Revenue is hereby dismissed for A.Y. 2012-13.



8. Since the issues in A.Y. 2013-14 and A.Y. 2014-15 are similar, hence following the order for A.Y. 2012-13, the appeals of the revenue for both these years are also dismissed.

9. In the result, all the three appeals filed by the Revenue are dismissed.

Order pronounced in the open Court on 25th June, 2025.

Sd/-

[George Mathan]

Judicial Member

Sd/-

[Rakesh Mishra]

Accountant Member

Dated: 25.06.2025

Bidhan (P.S.)



Copy of the order forwarded to:

1. **D.C.I.T., Circle-11(1), Kolkata**
2. **Philips India Limited, 3rd floor, Tower A, DLF IT Park, 08 Block, New Town S.O. Rajarhat, Kolkata, West Bengal, 700156.**
3. CIT(A)-NFAC, Delhi.
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata