

**IN THE INCOME-TAX APPELLATE TRIBUNAL "E" BENCH,
MUMBAI**

**BEFORE SHRI SANDEEP GOSAIN, JUDICIAL MEMBER
&
SHRI PRABHASH SHANKAR, ACCOUNTANT MEMBER**

**ITA No.6067/MUM/2024
(A.Y. 2015-16)**

Essay Commercial Resources Private Limited 16 th Floor, Tower 2A, One World Center, Senapati Bapat Marg, Mumbai 400 013, Maharashtra	v/s. बनाम	Deputy Commissioner of Income Tax, Central Circle – 2(4), 1001, 10 th Floor, Pratihtha Bhavan, Old CGO Annexe, Maharishi Karve Road, Mumbai – 400020, Maharashtra
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AACCE5161H		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Appellant by :	Ms.Prachi Mehta, AR
Respondent by :	Shri Hemanshu Joshi (Sr. DR)

Date of Hearing	02.07.2025
Date of Pronouncement	06.08.2025

आदेश / O R D E R

PER PRABHASH SHANKAR [A.M.] :-

The present appeal is filed by the assessee against the order passed by the Learned Commissioner of Income-tax (Appeals)/National Faceless Appeal Centre, Delhi [hereinafter referred to as "CIT(A)"] pertaining to the order u/s. 143(3)/154 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] dated 27.01.2021 as passed by the Income Tax Officer, Ward-42(1)(2), Mumbai for the Assessment Year [A.Y.] 2018-19.



2. The Revised grounds of appeal are as below:-

1. *On the facts and under the circumstances of the case, and in law, the Ld. CIT(A) erred in confirming an addition of income amounting to Rs. 7,71,199 on account of depreciation on immovable property ignoring the fact that the Appellant has not claimed deduction of such depreciation in the Return of Income.*
2. *On the facts and under the circumstances of the case, and in law, the Learned CIT(A) erred in confirming addition of depreciation on immovable property of Rs. 16,00,401 for the purpose of computing profits under the provisions of section 115JB of the Income Tax Act, 1961(Act) made in consequence of addition of depreciation on immovable property under the normal provisions of the Act.*
3. *On the facts and under the circumstances of the case, and in law, the Learned CIT(A) erred in confirming the addition by the Ld. AO on account of depreciation on immovable property at Rs. 16,00,401 under section 115JB of the Act as against addition made under the normal provisions of the Act only to the extent of Rs. 7,71,199.*

3. In **ground no.1**, the assessee has claimed that AO erred in disallowing a sum of Rs. 7,71,199/- on account of depreciation on immovable assets. While passing order under section 143(3) of the Act, he added back a sum of Rs. 7,71,199/-, being claim of depreciation on ground that the same was claimed on the house property. During the appellate proceedings, it was contented that the AO failed to appreciate the fact that the assessee had not claimed such amount as deduction in computation of total income. The assessee submitted that it has claimed depreciation only on plant and machinery and no depreciation has been claimed on the investment property while arriving at total income as per provisions of the Act. Such a disallowance would tantamount to disallowing the same amount twice, thus, leading to double taxation of



the same amount. Thus, the disallowance of Rs. 7,71,199/- ought to be deleted. The ld.CIT(A) observed that from the audit report that assessee had shown the closing value of building as on 31.03.2014 at Rs 2,24,61,2013/- and opening value on 01.04.2014 at Rs 2,33,53,415/- after taking into consideration the amount of depreciation of Rs. 8,92,202/- as on 01.04.2014, Further, depreciation of Rs 7,71,199/- was taken for the year under consideration under the head 'Building' of 'Non-Current Investment'. In view of the same, it could be concluded that depreciation was being claimed on the building and therefore, he did not find any infirmity in the action of AO in adding the amount of Rs. 7,71,199/- on account of depreciation on ground. Hence, the decision of AO was upheld.

4. In related **ground no.2 and 3**, also the issue pertains to confirming addition of depreciation on immovable property of Rs. 16,00,401/- for the purpose of computing profits under the provisions of section 115JB of the Act made in consequence of addition of depreciation on immovable property under the normal provisions of the Act which is also the subject matter for adjudication in ground no.1 above. It is submitted that Ld CIT(A) erred in confirming the addition by the Ld. AO on account of depreciation on immovable property at Rs. 16,00,401/- under section 115JB of the Act as against addition made under the



normal provisions of the Act only to the extent of Rs. 7,71,199/-.It is prayed that the addition under section 115JB of the Act being consequential to the addition made under the normal provisions of the Act, where additions under the normal provisions of the Act is not sustained as referred to in Ground 1, the AO may also be directed for deletion of consequential addition of depreciation on immovable property made under section 115 JB of the Act.

5. In this regard, the Id.AR has pointed out that during the relevant assessment year, in the order passed under section 143(3) of the Act, the AO concluded that the immovable property being residential flat at Bangalore was not utilised for the purpose of the business and accordingly any depreciation calculated on it should not be allowed to be claimed as deduction under the normal provisions of the Act. Thereafter, the Ld. AO disallowed book depreciation as deduction under the normal provisions of the Act which was already disallowed by the assessee while computing income under the provisions of the Act. Further, under the impugned order under section 154, the Ld. AO. disallowed book depreciation on the aforesaid immovable property to the extent of Rs. 16,00,401 (i.e. opening depreciation of Rs. 8,92,202 and depreciation of Rs. 7,71,199 for the relevant year) while computing income under the provisions of MAT. Explanation 1 to section 115JB of



the Act provides for additions and disallowances to be made to the net profit for computing book profits under the provisions of MAT. Further, as per the said explanation, there is no provision to disallow depreciation except to the extent it pertains to revaluation of asset. The assessee submits that the above depreciation does not pertain to revaluation of asset. In view of the above, the book depreciation ought not to have been disallowed for computing profit under the provisions of MAT.

6. We find that all the above grounds are intricately linked to the issue involving disallowance of depreciation on certain immovable property for the purposes of section 115JB of the Act as also for normal computation of income although the ld.AR has vehemently pointed out that no addition in respect of depreciation on immovable property was warranted since the assessee did not claim any such depreciation. Therefore, the findings in respect of ground no.1 would have consequential effect on these grounds as well. We are of the view that all the above grounds require factual verification of the contentions of the assessee from the records by the authorities below before making any disallowance of depreciation either for the normal or deemed provisions of section 115JB of the Act of the Act.



6.1 Before us, the ld.AR has repeated the claim that no depreciation was claimed under the head building. However, the CIT(A) has referred to its depreciation chart on Non Current Investment whereby the above amount is reflected. We consider it appropriate to remand this issue back to the file of ld.CIT(A) to examine it afresh thoroughly after allowing adequate opportunity of hearing to the assessee to explain the matter qua records and decide the issue in accordance with the provisions of law.

7. In the result, the appeal is **allowed for statistical purposes.**

Order pronounced in the open court on **06.08.2025.**

Sd/-

SANDEEP GOSAIN

(न्यायिक सदस्य / JUDICIAL MEMBER)

Sd/-

PRABHASH SHANKAR

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 06.08.2025

Lubhna Shaikh / Steno

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai



5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

