

आयकर अपीलीय अधिकरण 'सी' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI

मजनीय श्री मनु कुमर गिरि, न्यायिक सदस्य एवं
मजनीय अमितभ शुक्ल लेखक सदस्य के समक्ष
BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI HON'BLE AMITABH SHUKLA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA Nos.1860 & 1861/Chny/2024
निर्धारण वर्ष /Assessment Years: 2013-14 & 2014-15

Dynaspede Integrated Systems
Pvt. Ltd.,
136-A, SIPCOT Industrial Complex,
Salem – 635 126.
[PAN: AAACD 7414N]

Vs. The Dy. Commissioner of Income
Tax,
Circle-1(1),
Salem.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by
प्रत्यर्थी की ओर से /Respondent by

: Shri Narahari Nava Kanth, C.A
: Ms. R. Anitha, Addl. CIT

सुनवाई की तारीख/Date of Hearing

: 17.06.2025

घोषणा की तारीख /Date of Pronouncement

: 08.09.2025

आदेश / ORDER

PER MANU KUMAR GIRI (Judicial Member):

These two appeals by the assessee are directed against orders of even dated 07.05.2024 passed by the Ld. Commissioner of Income-tax (Appeals), NFAC Delhi [in short 'the Ld. CIT(A)'] for assessment years 2013-14 & 2014-15.



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2. In both the appeals facts are identical hence adjudication in ITA No.1860/Chny/2024 for AY 2013-14 will apply *mutatis mutandis* to ITA No.1861/Chny/2024 for AY 2014-15.

3. The sole issue in the present appeal relates to the assessee's claim of depreciation of Rs. 2,74,15,039/- on goodwill arising from amalgamation in the hands of the resultant entity, M/s. Dynaspede Integrated Systems Pvt. Ltd.

4. Briefly stated facts of the case are that the assessee is a company engaged in manufacturing engineering products, filed its return of income for AY 2013-14 on 28.09.2013 declaring Nil income. The return was initially processed u/s 143(1) of the Act and subsequently taken up for scrutiny u/s 143(2) of the Act, resulting in an assessment u/s 143(3) of the Act dated 17.03.2016, wherein the reported loss was recomputed. Thereafter, the assessment was reopened by issuance of notice u/s 148 of the Act dated 27.03.2018, and reassessment u/s 143(3) r.w.s. 147 of the Act was completed on 14.12.2018 by the ACIT, Circle-1, Hosur, disallowing depreciation on goodwill amounting to Rs. 2,74,15,039/-. The reopening was initiated based on the interpretation of the proviso to section 32(1) of the Act and the decision of the ITAT Bangalore Bench in the case of United



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Breweries Ltd. The assessee objected to the reopening vide letter dated 15.11.2018, however, the objections were rejected by the AO. It was held that depreciation on goodwill arising from amalgamation was not allowable in view of the fifth proviso to section 32(1) of the Act. Aggrieved by the same, the assessee preferred an appeal before Ld. CIT(A). However, the Ld. CIT(A) partly allowed the appeal and dismissed the ground relating to depreciation on goodwill arising from amalgamation by observing as under:

The AR of the appellant was specifically called out to submit the said documentation to decide the issue, but unfortunately it has chosen not to comply to the same. In view of the above non-compliance, it is held that Ld.JAO's decision was correct, the ground of appeal is dismissed.

Aggrieved, assessee preferred an appeal before us.

5. At the outset, the learned Counsel for the assessee submitted that the disallowance of depreciation on goodwill, arising out of amalgamation, by invoking the provisions of the fifth proviso to section 32(1) of the Act, is unsustainable. In support of this contention, the learned AR relied upon the following judicial precedents:

- I. *CIT vs. Smifs Securities Ltd. [2012] 348 ITR 302 (SC);*
- II. *M/s. Pentasoft Technologies vs. DCIT [2014] 41 taxmann.com 120 (Mad.);*



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III. M/s. Dorma India Pvt. Ltd. vs. ACIT in ITA Nos.1664 to 1666/Chny/2019 (Chennai-Trib.).

6. The learned Departmental Representative, on the other hand, supported the order of the Assessing Officer and prayed for dismissal of the assessee's appeal.

7. We have heard the rival submissions and perused the orders of the authorities below. We find that on the issue of 'depreciation on goodwill arising from amalgamation', the Id. CIT(A) has not given any specific finding as the assessee failed to provide additional documents such as Amalgamation order, Pre amalgamation and post amalgamation financials, Goodwill calculation etc. The assessee also did not dispute these facts as discernible from Sr. No. 32 of the statement of facts filed before us. Therefore, we set aside the issue relating to 'depreciation on goodwill arising from amalgamation' to the file of the Id.CIT(A) who will proceed with aforesaid issue a fresh after calling requisite details/documents from the assessee. Needless to say, the Id.CIT(A) will grant proper opportunity of hearing to the assessee before deciding the issue. The assessee is free to file all such documents in support of the issue in question. Further, if the issue in question is decided against the assessee by the Id. CIT(A) then the assessee is entitled to raise legal/jurisdictional grounds again



ITA Nos.1860 & 1861/Chny/2024
Dynaspede Integrated Systems Pvt. Ltd.

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before us. The Id. CIT(A) will dispose of the issue keeping in mind the judgments/orders referred supra.

8. Our above order is equally applicable to the ITA No.1861/Chny/2024 for AY 2014-15.

9. In the result, both the appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on 08th day of September, 2025 at Chennai.

Sd/-
(अमिताभ शुक्ला)
(Amitabh Shukla)

लेखा सदस्य /Accountant Member

Sd/-
(मनु कुमार गिरि)
(Manu Kumar Giri)

न्यायिक सदस्य / Judicial Member

चेन्नई/Chennai, दिनांक/Dated: 08th September, 2025.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai /Madurai/Coimbatore/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF