

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

**BEFORE
SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

MA No.327/Del/2024
Arising out of ITA No.792/Del/2010
(ASSESSMENT YEAR 2006-07)

M/s Escort Limited, 11, Scindia House, Connaught Circus, New Delhi. PAN-AAACE0074B	Vs.	DCIT, Central Circle-3, New Delhi.
(Appellant)		(Respondent)

Assessee by	Shri R.M. Mehta, Adv.
Department by	Shri Ankush Kalra, Sr. DR
Date of Hearing	12/12/2025
Date of Pronouncement	16/02/2026

ORDER

PER CHALLA NAGENDRA PRASAD, JM:

Through this Miscellaneous Application (“MA” in short”) is filed by Assessee seeking to recall the order of the Tribunal in ITA No.792/Del/2010 dated 27.02.2024.

2. The Ld. Counsel for the assessee submitted that the Tribunal while disposing of Ground Nos.2 & 3 of grounds of appeal which are relating to long term capital loss and prior period expenses respectively, did not consider the submissions and evidences furnished by the Assessee including the decision of the jurisdictional High Court and various other decisions which were relied on.

2. The Ld. Counsel for the assessee also contended that in the course of hearing with respect to long terms capital loss, it was orally submitted that the buyer company had ceased to exist and no purpose would be served in remanding the matter to the Assessing Officer to examine the buyer and ascertain the valuation of shares. This inadvertently, appears to have escaped consideration of the Hon'ble Tribunal, resulting in the remanding to the Assessing Officer of an issue emanating from an assessment order dated 31.12.2008, the assessment year being 2006-07 which is 18 years old.

3. Further, the Ld. Counsel for the assessee submitted that on the issue of valuation, before the Tribunal, it was the contention of the Assessee that the actual sale consideration could not be substituted with any other figure in the absence of specific provision in the IT Act empowering the Tax Authority to do so and specific reference was made to the Jurisdictional High Court decision in the case of Arjun Malhotra vs. CIT [2008] 92 taxmann.com 338 (Delhi) and other ITAT Delhi Benches in the case of DCIT vs. Jindal Equipment Leasing & Consultancy Services Ltd. [2011] 10

taxmann.com 284 (Delhi). The Ld. Counsel for the assessee submitted that the aforesaid submissions have not been considered by the Tribunal while passing the order. Therefore, it is respectfully submitted that the mistakes apparent from the record in the order of the Tribunal can be placed in the following main heads namely:

- (i) Non-consideration of the oral and written submissions.
- (ii) Non-consideration of the evidence available on record.
- (iii) Non-consideration of the judgments of the Hon'ble Supreme Court and Delhi High Court relied upon, as also other Hon'ble High Courts and Benches of Hon'ble ITAT.
- (iv) Non-consideration of the judgements of the Hon'ble Delhi High Court and the Hon'ble ITAT in assessee's own case, on prior period expenses.

4. Therefore, the Ld. Counsel for the assessee submitted that the order of the Tribunal in ITA No.792/Del/2010 dated 27.02.2024 be recalled to decided Ground Nos.2 & 3 of grounds of appeal.

5. Heard rival contentions and perused the order of the Tribunal and the record. We find merit in the submissions of the Ld. Counsel for the assessee. The Tribunal while disposing of the appeal appears to have not considered the evidences, submissions and the binding decisions which the assessee placed reliance in the course of hearing. Therefore, we are of the view that there is a mistake apparent on record in not considering the submissions,

evidences and the binding decisions while disposing of the appeal by the Tribunal. Thus, we recall of the order of the Tribunal in ITA No.712/Del/2010 dated 27.02.2024 for the limited purpose of adjudicating ground No.2 & 3 of grounds of appeal.

6. In the result, the MA filed by the assessee is allowed as indicated above.

Order pronounced in the open Court on 16.02.2026.

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-

(CHALLA NAGENDRA PRASAD)
JUDICIAL MEMBER

Dated:16.02.2026

PK/Sr. Ps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW, DELHI