

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH, AHMEDABAD**

**BEFORE SHRI TR SENTHIL KUMAR, JUDICIAL MEMBER AND
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

**ITA No. 145/AHD/2026
Assessment Years: 2017-18**

Rubber King Tyre Private Limited, 103-104 Naindhara Apartment, Nr. GNFC Info Tower, S.G. Highway, Bodakdev, Ahmedabad, Gujarat - 380054 [PAN – AAHCR9051J]	Vs.	Deputy Commissioner of Income Tax (DCIT), 3(1)(2), Ahmedabad – 380015
(Appellant)		(Respondent)
Assessee by	Shri Aseem L Thakkar, AR	
Revenue by	Shri Kalpesh Rupavatia, SR-DR	
Date of Hearing	18.02.2026	
Date of Pronouncement	20.02.2026	

ORDER

PER NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER:

This appeal is filed by the assessee against the order of National Faceless Appeal Centre(NFAC), Delhi [hereinafter referred to as 'CIT(A)'], dated 14.11.2025 for the Assessment Year (A.Y.) 2017-18 in the proceeding u/s 143(3) of the Income Tax Act.

2. The brief facts of the case are that the assessee had filed its return of income for A.Y. 2017-18 on 30.10.2017 declaring Nil income. The case was selected for scrutiny under CASS. In the course of assessment, the AO had disallowed depreciation on good-will claimed by the assessee and

also made disallowance of late payment of provident fund. The assessment was completed u/s. 143(3) on 20.12.2019 at total Income of Rs. 3,55,91,222/-.

3. Aggrieved with the order of the AO, the assessee had filed an appeal before the First Appellate Authority which was decided by Ld. CIT(A) vide the impugned order and the appeal of the assessee was partly allowed in respect of disallowance of PF/EPF contribution.

4. Now the assessee is in second appeal before us. The following grounds have been taken in this appeal.

1. *The learned Commissioner of Income tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi has erred in passing an Ex parte order dismissing the appeal without providing reasonable opportunity of being heard to the appellant. Hence the same being against the principles of natural justice and equity requires to be quashed*
2. *The learned Commissioner of Income tax (Appeals) National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in disallowing depreciation on goodwill amounting to Rs.3.31,62,509/-on irrelevant grounds. The disallowance has been made wrongly by invoking Explanation-7 to section 43(1) and/or Explanation 2 (b) of section 43(6) as well as fifth proviso to section 32(1) and other provisions of Income tax Act*
3. *The learned Commissioner of Income tax (Appeals) National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in not appreciating fact that the cost incurred by the appellant amalgamated company was accounted for in the books of account according to the accepted principles of accounting and accounting standards and as the Goodwill was acquired by incurring cost, depreciation thereon was rightly claimed as per the provisions of section 32 of the Income tax Act and therefore, disallowance of Rs.3.31,62,509/- requires to be deleted*
4. *The learned Commissioner of Income tax (Appeals) National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in not properly appreciating the fact that Hon'ble*

National Company Law Tribunal (NCLT) had approved scheme of amalgamation of amalgamating company with appellant company which was binding in all respect including exchange ratio and value of shares in terms of which, the appellant company had incurred cost of acquiring Goodwill by issue of shares duly approved in the scheme of amalgamation. The goodwill thus arising only under the scheme for cost is eligible for depreciation.

5. *The learned Commissioner of Income tax (Appeals) National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in not considering approved scheme binding on him as regards specific issue of cost of goodwill and other assets in terms of para 6.4 not objected by the Income tax Department in the amalgamation proceedings. The acquisition of goodwill for cost by issue of shares approved by NCLT is binding and cost of goodwill being consequential to approved scheme as per law conclusion that there is no cost or asset did not exist in books of amalgamating company is irrelevant hence depreciation be allowed as claimed*
6. *The learned Commissioner of Income tax (Appeals) National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in ignoring the real effect of relevant provisions of the Income tax Act and the approved scheme of amalgamation while holding that depreciation is not allowable under the provisions of the Income tax Act. The disallowance of depreciation made by the Id AO suffers from serious error of both fact and law and based on wrong interpretation of law with predetermined and prejudicial mind by not properly considering the submissions of the appellant and hence depreciation be granted as claimed.*
7. *The learned Commissioner of Income tax (Appeals) National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in disallowing depreciation on goodwill acquired for cost by wrongly interpreting the various provisions of law and not following the binding judgments including those of Honble Apex Court and Gujarat High Court on the eligibility of depreciation on intangible assets. The appellant prays that the depreciation claim of Rs. 3.31.62.509/- be directed to be granted.*
8. *The learned Commissioner of Income tax (Appeals) National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the disallowance of employees contribution towards EPF amounting to Rs 13.82,698/- made by the Assessing officer without properly considering the submission of the appellant regarding interpretation of due date of payment and not adhering to the principles of natural justice The disallowance/ addition being not based on correct facts and also against the judgment of Apex Court is unjustified and hence the same requires to be deleted and deduction as claimed be granted.*

9. *The learned Commissioner of Income tax (Appeals) National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in making addition of Rs. 1,32,28,661/- being depreciation on intangible assets which is not permissible while computing Book Profit under section 115JB of the IT Act.*
10. *The learned Commissioner of Income tax (Appeals) National Faceless Appeal Centre (NFAC), Delhi has erred in confirming the action of the Assessing Officer in passing prejudicial order by not adhering to the principles of natural justice and not affording reasonable opportunity of being heard*
11. *The assessee craves leave to add, amend, alter, delete, change or modify any or all grounds of appeal before or at the time of the hearing*

5. Shri Aseem L Thakkar the Ld. A.R of the assessee submitted that the assessee could not make any compliance before the Ld. CIT(A) and the issue of depreciation on goodwill couldn't be explained before him. Further, the matter of disallowance of PF/EPF contribution was also not properly explained. The Ld. AR, therefore, requested that the assessee may be allowed another opportunity to make compliance by setting aside the matter to the file of Ld. CIT(A).

6. Per contra, Shri Kalpesh Rupavatia, the Ld. SR-DR, supported the order of Ld. CIT(A). However, he had no objection if the matter was set aside to the file Ld. CIT(A) for allowing another opportunity to the assessee.

7. We have considered the request of the assessee. It is found that the Ld. CIT(A) had allowed 3 opportunities to the assessee but no compliance was made by the assessee on any of the occasion. The assessee has also not explained the reason for non-compliance before the Ld. CIT(A). We, therefore, deem it proper to impose a cost of

Rs.10,000/- on the assessee which should be deposited to the **Prime Minister National Relief Fund** within a period of 15 days from the date of receipt of this order. Subject to the payment of cost, the Ld. CIT(A) is directed to allow one more opportunity to the assessee and thereafter adjudicate the grounds taken by the assessee on merits. The assessee is also directed to make compliance before the Ld. CIT(A) in the course of set aside proceeding. In case the assessee does not make compliance, the Ld. CIT(A) will have liberty to adjudicate the grounds taken by the assessee on merits on the basis of materials available on record.

8. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced in the Court on 20/02/2026 at Ahmedabad.

Sd/-
(TR SENTHIL KUMAR)
Judicial Member

Dated - 20th February, 2026

Neelesh

Sd/-
(NARENDRA PRASAD SINHA)
Accountant Member

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1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त (अपील) / The CIT(A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण / DR, ITAT,
6. गार्ड फाईल / Guard file.

आदेशानुसार/BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad