

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

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं सुश्री पदमावती यस, लेखक सदस्य के समक्ष
BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND
MS. PADMAVATHY.S, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.2346/Chny/2025
निर्धारण वर्ष /Assessment Year: 2011-12

SSI Media India Pvt. Ltd.,
No.5A, Senthil Andavar Street,
Dhanalakshmi Colony,
Vadapalani, Chennai – 600 026.
PAN: AAGCS 1347F

Vs. The Asst. Commissioner of Income
Tax,
Non Corporate Circle-20(1),
Chennai.

(अपीलार्थी/Appellant)

(प्रत्यर्थी/Respondent)

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

: Mr. V.Balaji, C.A
: Mr. Saujanya Ranjan, JCIT

सुनवाई की तारीख/Date of Hearing
घोषणा की तारीख /Date of Pronouncement

: 10.02.2026
: 13.02.2026

आदेश / ORDER

PER PADMAVATHY.S, A.M:

This appeal by the assessee is against the order of the Commissioner of Income Tax (Appeals), Addl./JCIT(A)-3, Bengaluru (in short "FAA") passed u/s. 250 of the Income Tax Act, 1961 (in short "the Act") dated 03.06.2025 for Assessment Year (AY) 2011-12. The assessee raised the following ground of appeal:

"1.1 The Order of the Ld. Commissioner of Income-tax (Appeals) (hereinafter referred to as CIT(A)] is contrary to law, facts and circumstances of the case and is violative of the principles of equity and natural justice and is liable to be quashed.

GROUND 2-THE REOPENING IS INVALID

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2.1 *The learned CIT(A) has failed to appreciate that the notice issued u/s 148 of the Act is invalid, as it has been issued without mentioning properly as to which sanction authority has granted approval u/s 151 of the Act.*

2.2 *The learned CIT(A) erred in holding the reassessment valid when the notice u/s 148 of the Act was issued beyond four years from the end of the relevant assessment year without there being any failure on the part of the appellant to disclose fully and truly all material facts necessary for assessment.*

2.3 *The learned CIT(A) failed to appreciate that the issue of depreciation was already examined during the original assessment u/s 143(3), and reopening on the same facts amounts to mere change of opinion, which is impermissible under the law.*

GROUND 3-DEPRECIATION CLAIM IS LEGALLY JUSTIFIED

3.1 *The Ld. CIT(A) erred in upholding the action of the Assessing Officer in restricting the depreciation on bus shelters, foot over bridges, and other advertising structures to 10% treating them as "buildings", ignoring the fact that the structures are either:*

Temporary structures eligible for 100% depreciation under Income Tax Rules, or

Commercial rights eligible for 25% depreciation as intangible assets under Section 32.

3.2 *The Ld. CIT(A) erred in confirming the classification of the structures as "buildings" without appreciating their functional use, nature, temporary life span, and the fact that the appellant is not the owner of the structure in perpetuity.*

3.3 *Without prejudice to the above, the Ld. CIT(A) failed to consider that the claim of the appellant of 25% depreciation has been accepted all along by the department for all the subsequent years and also in the earlier years.*

3.4 *Without prejudice to the above, the Ld. CIT(A) failed to consider that the appellant was eligible for depreciation at 100% under the block "temporary structures" as per Appendix I of the Income Tax Rules, 1962.*

3.5 *The Ld. CIT(A) erred in not appreciating the detailed submissions made by the appellant and failed to consider binding judicial precedents cited in support of the appellant's claim.*

GROUND 4-OTHERS

4.1 *The appellant craves the indulgence of this Hon'ble Tribunal to amend, alter, supplement the above grounds and add such other grounds as may be raised during the course of hearing."*

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2. The assessee is a company engaged in the business of advertising industry mainly concentrating on outdoor advertising. The assessee obtains licenses or rights from Government agencies like Transport Corporation and municipalities to erect bus shelters, foot over bridges, hoardings, media etc. which are then used for displaying commercial advertisements. The assessee filed a return of income for A.Y 2011-12 declaring total income of Rs. 28,91,130/-. The case was selected for scrutiny and the order u/s. 143(3) of the Act was passed accepting the income returned by the assessee. Subsequently, a notice u/s. 148 of the Act was issued on 09.03.2018 reopening the assessment on the ground that the depreciation claimed by the assessee at 25% on display structure is excessive and therefore income has escaped assessment. In the reasons recorded for reopening, the A.O has stated that these structures should be treated as buildings and to be depreciated at 10% and since the assessee has claimed depreciation at 25% treating it as plant and machinery, there is a reason to believe that the income has escaped assessment. The assessee raised objections which were disposed off by the A.O. The A.O completed the assessment u/s. 147 of the Act by disallowing the depreciation to the tune of Rs. 19,06,012/-. Aggrieved, the assessee filed further appeal before the CIT(A).

3. The assessee raised the legal contention that there was no failure on the part of the assessee to disclose any material fact and therefore reopening beyond four years in the present case is not valid. The assessee also raised the legal contention that the impugned issue of depreciation is already verified by the A.O during the course of assessment proceedings u/s. 143(3) of the Act and therefore reopening based on the same reason is mere change of opinion. The CIT(A) rejected the legal contentions of the assessee stating that the

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income escaping assessment is more than Rs.1,00,000/- and therefore the notice u/s. 148 is not invalid. The CIT(A) further held that the A.O has not examined the issue of depreciation claimed in the original assessment and mere submission details by the assessee will not constitute a change of opinion. The CIT(A) upheld the disallowance on merits. The assessee is in appeal before the Tribunal against the order of the CIT(A).

4. The Ld. AR submitted that grounds No.2.1 to 2.3 pertain to the legal contention and if the same is considered and allowed in favour of the assessee, the rest of ground would become academic. Accordingly, we will first proceed to consider the grounds on the validity of reopening. The primary contention of the Ld. AR is that the notice u/s. 148 of the Act in the present case is issued beyond four years from the end of the relevant AY and therefore the proviso to Section 147 of the Act would be applicable whereby there cannot be a reopening without there being a failure on the part of the assessee to disclose fully and truly all material facts necessary for assessment. The ld. AR drew our attention to the notice u/s. 148 of the Act (page 60 of paper book) and the reasons recorded (page 61 of paper book) to submit that the very basis for reopening is the income declared by the assessee where depreciation is claimed at 25% instead of 10% as held by the A.O. Accordingly, the ld. AR argued that there is no failure on the part of the assessee to disclose the material facts. The Ld. AR also drew our attention to the details called for during the course of original proceedings and where the assessee has made specific submissions with regard to claim of deprecation @ 25% (page 44 & 45 of paper book).

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5. The Ld. Departmental Representative (DR) on the other hand relied on the order of CIT(A) to submit that the CIT(A) has considered the legal objection of the assessee and has given a detailed finding on the same.

6. We heard the parties and perused the material on record. For the purpose of adjudication, we will first consider the legal contention that the notice under section 148 which issued after the expiry of 4 years without satisfying the mandate of 1st proviso to section 147 of the Act. In this regard, we will look at the relevant provisions of section 147 of the Act which reads as under:

Income escaping assessment.

147. If the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of [sections 148 to 153](#), assess or reassess such income and also any other income chargeable to tax which has escaped assessment and which comes to his notice subsequently in the course of the proceedings under this section, or recompute the loss or the depreciation allowance or any other allowance, as the case may be, for the assessment year concerned (hereafter in this section and in [sections 148 to 153](#) referred to as the relevant assessment year) :

Provided that where an assessment under sub-section (3) of [section 143](#) or this section has been made for the relevant assessment year, no action shall be taken under this section after the expiry of four years from the end of the relevant assessment year, unless any income chargeable to tax has escaped assessment for such assessment year by reason of the failure on the part of the assessee to make a return under [section 139](#) or in response to a notice issued under sub-section (1) of [section 142](#) or [section 148](#) or to disclose fully and truly all material facts necessary for his assessment, for that assessment year:

6. From the above provisions, it is clear that where the assessment under section 143(3) has been made for the relevant AY, the AO cannot take action

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after expiry of 4 years from the end of relevant AY unless any income chargeable to tax has escaped assessment by reason on the part of the assessee to disclose fully and truly all material facts necessary for this assessment.

7. In assessee's case the notice under section 148 was issued on 09.03.2018 which is beyond 4 years and the assessment under section 143(3) of the Act is completed vide order dated 06.03.2014. Therefore, the 1st proviso to section 147 is clearly applicable in assessee's case. From the perusal of the reasons recorded (page 61 of the PB) we notice that the AO on the basis of information from the statement of income that the assessee has claimed depreciation @ 25% the AO has reopened the assessment stating that income has escaped assessment since the assessee is entitled to claim depreciation only @ 10%. It is clear from the said reasons that the AO has reopened the assessment based on the information i.e. depreciation details disclosed by the assessee in the statement of income. Further we notice that the assessee during the course of assessment under section 143(3) of the Act has submitted before the AO the details of depreciation claimed along with the justification as to why the depreciation is claimed @ 25% (page 44 & 45 of paper book) and that the AO while completing the assessment under section 143(3) did not make any disallowance towards depreciation. Therefore, in our considered view there is no failure on the part of assessee to disclose fully and truly all material facts for the purpose of assessment and accordingly re-opening for the said reason beyond 4 years is not tenable. We also see merit in the contention of the Id. AR that the re-opening is merely based on change of opinion on the material which is already available on record and which has been considered during the course of original

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assessment. Accordingly, we hold that on this count also the re-opening by the AO is not sustainable.

8. In result the appeal of the assessee is allowed.

Order pronounced on 13th day of February, 2026 at Chennai.

Sd/-
(यस यस विश्वनेत्र रवि)
(SS Viswanethra Ravi)

न्यायिक सदस्य / Judicial Member

Sd/-
(पद्मव्रती यस)
(Padmavathy.S)

लेखा सदस्य /Accountant Member

चेन्नई/Chennai, दिनांक/Dated: 13th February, 2026.

EDN, Sr. P.S

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