आयकर अपीलीय अधिकरण न्याय पीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, MUMBAI

BEFORE SHRI AMIT SHUKLA, JM &
SHRI ARUN KHODPIA, AM

I.T.A. No. 5300/Mum/2025
(Assessment Year: 2015-16)

Deloitte Shared Services India LLP (Successor of Deloitte Shared Services India Pvt. Ltd.), 32 Floor, One International Center, Tower-3, Senapati Bapat Marg, Elphinstone Mill Compound, Mumbai-400013. **PAN: AAACC1525H**	Vs.	**Dy.CIT, Circle-1(1)(1),** Circle-22(1), Room No. 322, 3rd Floor, Piramal Chamber, Lal Baug, Parel, Mumbai-400013.
Assessee - अपीलार्थी / Appellant	:	**Revenue -** प्रत्यर्थी / Respondent

Assessee by	:	Shri Percy pardiwala, Sr. Adv. & Shri Niraj Sheth, AR
Revenue by	:	Shri Annavaran Kosuri, Sr. DR
Date of Hearing	:	22.12.2025
Date of Pronouncement	:	19.02.2026

O R D E R

Per Arun Khodpia, AM:

The captioned appeal of the assessee, preferred against the order of Commissioner of Income Tax (Appeals), NFAC, Delhi (in short "Ld. CIT(A)"), dated 30.06.2025, arises from the order u/s 143(3) of Income Tax Act, 1961 (in short "The Act") dated 14.12.2017, passed by DCIT-1(1)(1), Mumbai (In short "Ld. AO"), has raised the following ground of appeal:

*"**1:0 Re.: Disallowance of depreciation u/s. 32 of the Income-tax Act, 1961 ["the Act]***

1:1 The Assessing Officer/ Commissioner of Income-tax (Appeals) ["CIT(A)"]/ National Faceless Appeal Centre ["NFAC"] erred in disallowing depreciation of Rs.2,91,33,039 claimed on E-devices by alleging that the E-devices have not been used by the Appellant for its own business.

1:2 The Appellant submits that considering the facts and circumstances of its case and the law prevailing on the subject, it is entitled to and has correctly claimed depreciation on E-devices and the stand taken by the Assessing Officer/ CIT(A)/ NFAC in this regard is misconceived, incorrect and ought to be struck down.

1:3 The Appellant submits that the Assessing Officer be directed to allow depreciation on E-devices as claimed by the Appellant in its return of income and to re-compute its total income and tax thereon accordingly.

Without prejudice to the above:

1:4 The Appellant submits that the CIT(A)/ NFAC erred in not adjudicating ground of appeal No. 4 of its appeal filed with CIT(A)/ NFAC relating to the plea that in case the disallowance of depreciation on E-devices is sustained, then the recoveries made by the Appellant from its group entities for use of E-devices ought not to be taxed as income of the Appellant for the year under consideration.

Without prejudice to the above:

1:5 The Appellant submits that the CIT(A)/ NFAC erred in not accepting its alternative claim that in case the disallowance of depreciation on E-devices is sustained, then the Assessing Officer should be directed to allow depreciation on E-devices in the subsequent years on the entire cost of Rs. 9,28,84,372/-.

2:0 Re.: Directing the Assessing Officer to invoke provisions of section 151(sic) of the Act:

2:1 The CIT(A)/ NFAC erred in directing the Assessing Officer to invoke the provisions of section 151 (sic) [should be read as section 150 of the Act] to check whether any action has been taken in the hands of the group companies with respect to the user charges paid by them to the Appellant for use of E-devices.

2:2 The CIT(A)/ NFAC also erred in directing the Assessing Officer to invoke the provisions of section 151 (sic) (should be read as section 150 of the Act] to examine the claim of depreciation on E-devices for the subsequent years.

2:3 The CIT(A)/ NFAC also erred in stating that the provisions of section 40A(2)(b) are attracted as these are group companies. The CIT(A)/NFAC erred in not appreciating the fact that these entities are not covered u/s 40A(2)(b) of the Act.

3:0 Re: Penalty

3:1 The CIT(A)/ NFAC also erred in stating that the Id. DCIT is justified in initiating penalty proceeding considering the nature of additions and disallowances.

4:0 Re.: General:

4:1 The Appellant craves leave to add, alter, amend, substitute and/or modify in any manner whatsoever all or any of the foregoing grounds of appeal at or before the hearing of the appeal."

2. The assessee filed its return of income for the AY 2015-16 on 30.09.2015, declaring a total income of Rs. 1,98,33,51,990/-. Later, the case was selected for scrutiny assessment, which was completed u/s 143(3) on 14.12.2017, making therein following disallowances:

a. Donation – Rs. 40,000/-

b. Depreciation – Rs. 2,91,73,039/-

3. To challenge the aforesaid disallowances, assessee preferred an appeal before the Ld. CIT(A), wherein the matter has been partly allowed for statistical purposes and restored back to AO, with following observations:

*"**5. Adjudication:-***

5.1 I have considered the facts of the case and examined the documents uploaded by the appellant at the time of filing of appeal.

5.2 First four grounds of appeal are related to disallowance of depreciation amounting to Rs. 2,91,33,939/- The facts relating to this issue are that the appellant purchased some electronic devices towards the end of the relevant previous year specifically on 30th and 31st March. These devices were handed over to its group companies for their use. The AO asked the appellant to produce evidence that these devices have been actually put to use for the purpose of the appellant during the relevant previous year. The appellant submitted various documents and details. It was mainly claimed that these devices were ready to use and these have been put to use immediately after receipt as there is no gap between supply and receipt of these devices. The group companies have been located at various places from where the devices were procured and these were actually received within the previous year. However these details and arguments did not find favour with the AO. He rejected the same and held that the appellant had failed to establish that these were actually put to use. Hence he disallowed the depreciation and added back the entire amount of depreciation of Rs. 2,92,33,939/-.

In appeal also the same contentions have been repeated. However more detailed reply has been furnished and a number of judgements of the various Hon'ble Courts have been cited in its favour. However the real issue is that the appellant purchased the devices and provided it to its group companies for their use. For allowance of depreciation under section 32 two conditions are required to be fulfilled. The first is that the tax payer should be the owner of the assets and the second is that these are used for the business of the tax payer. In the instant case the devices have been purchased by the appellant. There for the first condition gets satisfied. However the second condition has not been fulfilled as the devices have been used for the purpose of the group companies and not for the appellant. The appellant was asked to establish as to how the second condition gets satisfied when the devices have been provided to the group companies and these have been used by them in their own business. Use by these companies can not be said to be usage by the appellant. This was discussed during the VC and the appellant was asked to show cause how this condition is fulfilled. The appellant promised to submit a detailed note on the same by 27.06.2025 alongwith judicial pronouncements in its favour. The appellant has filed the reply on 27.06.2025 as promised. On perusal of the same, it is seen that it is merely repetition of what was stated earlier. It is time and assailing the decision of the AO in holding that the devices in question were not put to use. During VC the representatives of the appellant company were pointed out that the devices in question were not used by the appellant for its business. Hence the second basis condition of section 32 does

not stand fulfilled. They were requested to justify and state their claim as to how that condition is satisfied. Nothing has been stated regarding this in the reply. This means the appellant has nothing to say in its favour. Accordingly the appellant does not fulfill the second creation to be eligible for allowance of this appreciation. Enough opportunity including VC has been provided to the appellant to establish that this condition is satisfied and how.

In view of the above discussion, the appellant has not been able to make out a case in favour of these grounds and the same are hereby dismissed.

There is another aspect of the case. The group companies got the devices on the last or penultimate day of the previous year. Despite that these paid user charges equal to the cost of the devices to the appellant company and claimed the same as expenditure in their profit and loss accounts. This expenditure on their part is too much on the higher side. Moreover provisions of section 40A(2)(b) are also attracted as these are stated to be group companies. The user charges at the rate of 100% of the cost for usage for one or two days is not acceptable in any manner. The AO should examine the issue as to whether any action in the hands of the group companies has been taken. If not it should be now considered and for that purpose provisions of section 151 may be invoked.

In the case of the appellant company itself since it has been held that depreciation on these devices is not allowable to it in any case as the second condition of section 32 doesn't stand fulfilled the assessments of subsequent years should be examined and the AO should see whether any action can be taken and for that purpose also provisions of section 151 can be invoked.

For the purposes of last two sub-paras, the ratio of the following case laws may be relevant: OME TAX DEPARTN

1. *Raj kumar C(HUF) [2021] 130 taxmann.com 349(Karnatka)*
2. *Smt. chandrabai [2015] 53 taxmann.com304(Madras)*
3. *PP Engineering work [2014] 49 taxmann.com 321 (Delhi)*

5.3 The fifth ground is regarding allowance of depreciation inspect of the devices provided to its own employees by the appellant and used for the purpose of its business. I am inclined to accept this plea of the appellant. In view of the details of the devices, it is held that these were able to be put to use and as such eligible for depreciation. Since all the devices have not been provided to the group companies and some of these have been used by its employees for the purpose of the appellant company itself, accordingly this ground of the appellant is allowed. The assessing officer is directed to compute the amount of depreciation pertaining to those devices which have been used by the appellant for its own business and allow the same. The appellant will co-operate with the assessing officer by

providing the required details and enabling him to compute the correct amount of depreciation allowable. As such this ground of appeal stands allowed.

54 In the 6th ground the appellant has stated that the Ld. DCIT should have allowed depreciation for the subsequent years on the complete amount of purchase and not on the WDV. This contention is dependent upon as to whether the depreciation is allowable to the appellant or not. If it is not allowable in the current assessment year due to non-fulfillment of basic conditions of section 32, it is not allowable in the subsequent years also. Since the devices provided to group companies are not used for the purpose of the business of the appellant accordingly there is no question of allowing depreciation for the subsequent years also. Therefore this contention of the appellant has no weight in view of discussion and decision in para 5.2 above. As such this ground stands dismissed.

5.5 The seventh ground of appeal and additional ground is regarding disallowance of deduction under section 80G. During assessment proceedings the AO noticed that the appellant had made payment for donation in cash in violation of the provisions of section 80G. Accordingly he issued a show cause notice to the appellant and after considering the reply to the same, disallowed the deduction of Rs. 40,000/- and added it back to the income. During appeal proceedings the appellant has contested this disallowance. During proceedings and discussion in VC it was agreed that the payment for donation had been made in cash. However it was stated that the donation made was Rs. 40,000/- and the deduction claimed was Rs. 20,000/- being 50% of the same. However the AO has disallowed Rs. 40,000/- instead of 20,000/-. Only the correct amount of Rs. 20,000/- should be disallowed and not the total amount of payment of Rs. 40,000/-, On going into the facts of the matter I am inclined to agree with the contention of the appellant and this ground is allowed. The AO is directed to reduce the disallowance after verifying the actual claim.

5.6 Ground numbers 9, 12 and13 are general and deserve no comments.

5.7 Ground number 10 is regarding credit for self assessment tax of Rs. 9,458/- by the appellant. The AO should verify this claim and allow the credit if the payment has been made and is in order.

5.8 The 11th ground the initiation of penalty proceeding. The cause for this ground does not arise at this stage as the proceeding have only been initiated and no penalty has been levied. The nature of additions and disallowances are of such nature warranting initiation of these proceedings. The AO is justified in initiating the penalty proceeding. As such this ground of appeal is dismissed.

***6. In result, appeal is partly allowed for statistical purposes**."*

4. Before us the Ld. Representative of the assessee (Ld. AR), submitted that the assessee LLP is a shared service center, which provides various services and facilities to the group entities, which includes Central Functions viz. Finance and Accounts, Administration, Information Technology, Human Resources, Documentation, Risk and Regulatory etc. During the year under consideration, assessee had purchased I pad and Kindle on the request of Group entities, which are provided to them and being owner of such devices, have capitalized the cost in its books and claimed depreciation u/s 32 of the Act. The depreciation so claimed by the assessee was disallowed by the Ld. AO, observing that the e-devices (I-pad and Kindle) purchased by the assessee to be used by the employees of group concerns, which are purchased at different locations in India on 30 / 31.03.2015 from different vendors, who had dispatched such devices on those dates, that how such devices could be put to use on same day at different locations. Assessee submitted that the device worth Rs. 9,71,10,129/- out of Rs. 9,82,84,372/-were reached the employees of respective group entities and being ready to use were put to use on the same day. In this regard notice u/s 133(6) were issued to certain Vendors, and they have stated that the assets were received by related parties of the assessee. The submission of assessee that e-devices were delivered was further confirmed by the group entities also that the devices were received by them. Ld. AO, even after the request of assessee had not provide the copy of notices u/s 133(6) and the response received from Vendors. It is submitted that, once the assessee had purchased the devices and

allotted to group entities, as confirmed by such group entities, the same establishes that they are put to use, the assessee accordingly would be entitled for the benefit of depreciation. It is submitted that put use has to be seen in the perspective of circumstances under which the assets are being used, as per judicial pronouncements relied by the Ld. AR, so far as assessee is the owner of asset and income from such asset leased out before the end of relevant year, the use of leased equipment by put to use by the lessee would be irrelevant. In present case such conditions are existent, that the assets i.e. e-device (I-pad and Kindle) have been allotted to respective group entities for use of their employees before the end of year and amount recovered from them had been shown as income in the hands of assessee, actual of use of such devices by the employees of group entities in such a case would be irrelevant for the purpose of allowance of depreciation u/s 32 of the Act. Reliance was placed on following decisions:

CIT Vs. Kotak Mahindra Finance Ltd. (2010) 191 Taxman 280 (Bombay HC)

K.M. Sugar Mills Ltd. Vs. CIT (2015) 57 Taxmann.com 68 (SC)

Multi Builders Ltd. Vs. (2005) 147 Taxman 103 (Calcutta HC)

5. To support the aforesaid contentions Ld. AR drew our attention to various details, such as confirmations by the group entities, debit notes showing recovery of amount for use of office assets, working of depreciation as per income Tax Act, Income from such recoveries / recoverable offered for tax

under the head "other recoveries" in profit & loss Account under Note 17 "Other Income". It is submitted that the entire Lease rent for the devices and user charge fee is offered for tax during the year itself.

6. It is also submitted that such arrangement cannot be construed as a colorable device for double deduction of expenses, as the assessee had offered the entire amount received for tax, further any allegation of achieving the benefit of low tax rate also invalidates, since all the group entities are under within the ambit of same tax rate.

7. Per contra, Ld. Sr DR representing the revenue submitted that the assessee had not submitted any proof of put to use before the authorities to claim its entitlement for depreciation under the provisions of section 32 of the Act. He vehemently supported the orders of revenue authorities.

8. We have considered the rival submissions, perused the material available on record and case laws relied by the assessee. Admittedly, in present matter the assessee had purchased e-devices though centralized purchases for employees of the group entities. As stated, it was to obtain the benefit of centralized and bulk purchases. The entire Lease rent and user fee for such devices were paid by the assessee LLP on behalf of the group entities, which in turn recovered from them by issuing of debit Notes. Such amount recovered / recoverable has been offered for tax by the assessee. The issue before us is regarding claim of depreciation by

the assessee during the relevant AY. Since, it is confirmed by the all the group entities that devices are allotted to them on or before 31.03.2015. Such fact was also checked and confirmed by the Ld. AO by issue of notice u/s 133(6), but not quoted in the assessment order, as has been perceived by the assessee that impliedly the same was in conformity with the facts submitted by the assessee, so not brough on record. Even otherwise no negative inference has been drawn by the AO on this aspect. Adverting to the judicial pronouncement referred to by the Ld. AR, in case of lease or the assets, wherein the ownership belongs to the assessee and the assts have been handed over to the respective lessee's, the put to use condition become irrelevant and it can be construed that the assessee had used the said asset for the purpose of its business. In the facts of present case, since the assets (e-devices) are received by the respective users before the end of relevant year, i.e., the group entities and as agreed by them to pay the debit note raised on them to the assessee, which was also offered as taxable income by the assessee, it can be held that the assets i.e., e-devices are used for the business of assessee in the relevant year, so, the assessee would be entitle for depreciation u/s 32 of the Act. Further, there could not be any motive for the assessee to make an arrangement with group concerns by way of transferring income or expenditure for tax planning, being all such entities are under same tax rate slab.

9. We, thus, are of the considered view that the depreciation claimed by the assessee was in accordance with the provisions of law, supported with the view

of Hon'ble Courts in the cases referred to supra. Consequently, we set aside the findings of Ld. CIT(A) *qua* the issue of depreciation and direct the AO to allow the depreciation claimed on e-devices allotted to group entities in accordance with the rates prescribe in the law.

10. Since we have directed to allow the entitled depreciation to the assessee, the other legal contention raised by the Ld. AR, becomes academic only, so are not adjudicated.

11. In result the appeal of assessee, stands allowed in terms of our aforesaid observations.

Order pronounced in the open court on 19-02-2026.

Sd/-	***Sd/-***
(AMIT SHUKLA)	**(ARUN KHODPIA)**
Judicial Member	**Accountant Member**

Mumbai, Dated : 19-02-2026.
**SK, Sr. PS*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. DR, ITAT, Mumbai
4. Guard File
5. CIT

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai