

आयकर अपीलीय अधिकरण
दिल्ली पीठ "एस एम सी", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER
आअसं . 964/दिल्ली/2026 (नि.व. 2022-23)
ITA No. 964/DEL/2026 (A.Y.2022-23)

Kribhco Fertilizers Ltd.,
A-60, Kailash Colony, South Delhi, Delhi 110048

PAN: AACCK-6999-B

बनाम Vs.

..... अपीलार्थी/ Appellant

Deputy Commissioner of Income Tax,
Circle 13(1), CR Building, Delhi 110002

..... प्रतिवादी/ Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Birn Shah, Chartered Accountant
(Through VC)

प्रतिवादीद्वारा/ Respondent by : Shri Manoj Kumar, Sr. DR (Through VC)

सुनवाई की तिथि/ Date of hearing : 23/03/2026

घोषणा की तिथि/ Date of pronouncement : 15/04/2026

आदेश/ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [in short 'the CIT(A)'] dated 16.12.2025, for Assessment Year 2022-23.

2. The assessee in appeal has assailed the order of CIT(A) in confirming disallowance of depreciation Rs.40,05,875/- claimed on intangible assets.

3. Shri Birn Shah, appearing on behalf of the assessee submits that in the Financial Year 2005-06, the assessee company had purchased a Urea Fertilizer Complex at Saharanpur, U.P., as a going concern on as is where is basis from M/s Oswal Chemical and Fertilizers Ltd. The possession, management, and control of the said Urea Fertilizer Complex in running condition was handed over to the assessee on 18.01.2006. The total purchase cost of the Urea Fertilizer Complex was

Rs.1908 crores /-, comprising the value of various tangible assets, intangible assets, and net current assets. The assets includes, all Intellectual Property Rights and technical information, all permits licences, leases, etc., assets listed in Schedule A of the Agreement as on 18.01.2006. The assessee, in the impugned assessment year, claimed depreciation on intangible assets as it was claiming in the preceding assessment years. The same was denied by the AO. In the preceding assessment years, a similar claim of depreciation on intangible assets made by the assessee was denied by the AO. In appeal before the CIT(A), the assessee's claim of depreciation was allowed year after year. The Revenue carried the issue in appeal before the Tribunal in ITA Nos. 3489 & 3490/Del/2017 for A.Ys. 2012-13 & 2013-14 and ITA No. 6100/Del/2017 for A.Y. 2014-15. The Tribunal, vide common order dated 30.09.2021 following earlier orders of Tribunal, dismissed the Revenue's grounds of appeal against deletion of addition on account of depreciation on intangible assets. He further pointed that in the impugned order, the CIT(A) has recorded that the Tribunal had allowed depreciation on intangible assets in the preceding assessment years in the assessee's case, but to take a different view placed reliance on the decision of Hon'ble Supreme Court of India in the case of *Sundaram Finance Ltd. vs. DCIT (99 taxmann.com 152)*. The Id. AR further contended that the CIT(A) has erred in holding that the assessee failed to produce any evidence to show that the licenses/permits are still enforceable and that the assessee is deriving benefits therefrom. The Id. AR submitted that the amount paid for acquiring intangible assets has already been capitalized, and the assessee is now eligible for depreciation.

4. Per contra, Shri Manoj Kumar representing the department supporting findings of the CIT(A) prayed for dismissing appeal of the assessee.

5. Both sides heard. The short issue for consideration in the present appeal is with the assessee's claim of depreciation on intangible assets is allowable in the given facts. This is a legacy issue. Since AY 2006-07, the AO has been consistently disallowing depreciation claimed by the assessee on intangible assets. The CIT(A) has allowed the claim of the assessee, and the Revenue has been consistently agitating the issue in appeal before the Tribunal. The Tribunal has upheld the findings of the CIT(A) in allowing depreciation on intangible assets. The Tribunal, vide common order dated 30.09.2021 for A.Ys. 2012-13 to 2014-15, after placing reliance on the decision in ITA No. 4963/Del/2015 for A.Y. 2011-12, allowed the claim of the assessee and upheld the findings of the CIT(A). I find no reason to take a different view in the impugned assessment year as well. The decision of Hon'ble Apex Court on which the CIT(A) has placed reliance to take a different view is distinguishable on facts, hence, does not support the cause of Revenue. Hence, the findings of the CIT(A) on this issue in the impugned order are *set aside* and appeal of the assessee is **allowed**.

Order pronounced in the open court on Wednesday the 15th day of April, 2026.

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

दिल्ली/Delhi, दिनांक/Dated 15/04/2026

NV/-

प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT/CIT(A)
4. विभागीय प्रतिनिधि, आय.अपी.अधि. , दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Asstt. Registrar) ITAT, DELHI