

आयकर अपीलीय अधिकरण "बी" न्यायपीठ चेन्नई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
CHENNAI BENCHES "B" :: CHENNAI

BEFORE SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER
AND
SHRI S.S.VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.2720/CHNY/2025

निर्धारण वर्ष / Assessment Year: 2018-19

Income Tax Officer(Exemptions), 301, Annexe Building, Aayakar Bhawan, M.G.Road, Nungambakkam, Ward-1, Chennai – 600034.	V s	Madras Motor Sports Trust, NO.29, Jayalakshmi Estates, Haddows Road, Nungambakkam, Chennai – 600034.
		PAN: AAATM0619B
Appellant / Revenue		Respondent / Assessee

Assessee by	None
Revenue by	Ms.Gouthami Manivasagam – Addl.CIT
Date of hearing	03/03/2026
Date of pronouncement	30/04/2026

आदेश/ ORDER

PER INTURI RAMA RAO, AM :

This appeal filed by the Revenue directed against the order of
ld.Commissioner of Income Tax(Appeal)[NFAC], dated 02.07.2025 passed
under section 250 of the Income Tax Act, 1961 for the A.Y.2018-19.

2. The Revenue raised the following grounds of appeal :

“1. The order of the Id. CIT(A) is contrary to the law and facts of the case

2. Whether the Id. CIT(A) was right in holding that the assessing officer was not justified in disallowing the claim of the assessee during the assessment proceedings. The assessee has offered an income of Rs.2 crores as voluntary donation received in the original return of income filed on 30.10.2018 and in the revised return of income filed on 29.03.2019. But during the course of scrutiny proceedings with an after thought has stated that Rs. 2 crores were advance received during the previous years and the same was written back. Also, the assessee has not produced any material evidence suggesting that the same has been written back. The Ld CIT(A) has not gone into details of the financials submitted by the assessee.

3. The Id. CIT(A) erred in allowing the assessee's argument that the said amount of Rs.2 crores were only advance received and the same was inadvertently shown as income from voluntary donations. It may be seen here that the assessee's accounts were audited and the same was shown as income. This was also claimed as income in the original as well the revised return. Also, the assessee has filed Form 10 on 30.10.2018 accumulating an amount of Rs. 1,28,89,874.

4. The Id. CIT(A) failed to appreciate the fact that if the income of Rs.2 crores were shown as excess of income over expenditure of the assessee and has been taken into the Balance Sheet. Also, if the same is allowed, the entire audited financials of the assessee would be inaccurate.

5. The CIT(A) has allowed the depreciation claimed by the assessee but it is seen that the proviso to sec 2(15) was invoked in the assessee's case for the Asst Years 2009-10 to 2015-16 and the assessee had opted for VSV Scheme 2020 and has paid all the pending tax for the Asst Years 2009-10, 2010-11, 2016-17 and 2017-18. It is only for these years that the assessee has opted for VSVS. Thus, the CIT(A) order cannot be accepted that the assessee has claimed Capital Expenditure during the early years for which the assessee is claiming depreciation.”

3. Briefly the facts of the case are that Respondent Trust is duly incorporated under the Trust Act. It is formed with objects of conducting Motor Car and Two Wheeler racing and other allied activities. It is duly registered under the 12A(a) of the Income Tax Act. The Return of Income

for the Assessment Year 2017-18 was filed on 30.10.2018 disclosing NIL income after claiming examination u/s.11 of the Income Tax Act. Against the said Return of Income, the assessment was completed by National e-Assessment Centre, Delhi (hereinafter called 'AO') vide order dated 10.03.2021 passed u/s.143(3) read with section 143(3A) & 143(3B) of the Income Tax Act at a total income of Rs.3,34,41,608/-. While doing so, the Assessing Officer denied exemption u/s.11 of the Income Tax Act by invoking proviso to section 2(15) of the Income Tax Act by holding that respondent trust is rendering services in relation to trade and received a gross receipt of Rs.2,17,64,250/- from exclusive use of trace and facilities. Accordingly, Assessing Officer brought to tax excess income of Rs.2,64,90,071/- and also brought to tax the depreciation.

4. Being aggrieved by the above assessment order, an appeal was filed before the Id.CIT(A) who vide impugned order allowed the additional claim of the respondent trust that an amount of advance written off back of Rs.2 crores as income cannot be taxed and further held that the respondent trust was entitled to depreciation as the same was not allowed as an application of income in earlier years.

5. Being aggrieved by the order of Id.CIT(A), Revenue is in appeal before us in the present appeal. The Id.CIT-DR submits that the respondent trust themselves offered the income of Rs.2 crores as voluntary donation in the original return of income. However, a claim was made during the course of assessment proceedings that the said amount represents advance received during the previous year and same was returned back and shown as part of income. The claim made during the course of assessment proceedings was denied by the Assessing Officer placing reliance on the decision of Hon'ble Supreme Court in Goetze India Ltd., Vs. CIT(2006) 284 ITR 323. However, the Id.CIT(A) wrongly allowed the depreciation without verification of assessment record of earlier years.

6. When the matter was called for hearing, none appeared on behalf of the respondent assessee trust. Therefore, after hearing Id.DR we proceeded to dispose of the appeal on merits.

7. We heard Id.Sr.Departmental Representative for the Revenue and perused the material available on record. The Ground No.1 and 2 challenges the correctness of findings of the Id.CIT(A) directing the Assessing Officer not to tax sum of Rs.2 crores being the amount stated to be advances written

off credited into the Profit and Loss Account. This claim was denied by the Assessing Officer on the ground that the same was offered to tax in the Return of Income filed by the respondent assessee trust and the claim cannot be entertained placing reliance on the decision of Hon'ble Supreme Court in Goetze India Ltd., vs. CIT(2006) 284 ITR 323. However, the Id.CIT(A) allowed this ground of appeal.

8. Now the law is well settled to the extent that the decision of Hon'ble Supreme Court in the Goetze India Ltd. Vs. CIT (2006) 284 ITR 323 (SC) is confined to the power of Assessing Officer alone. There are no fetters on the appellate authorities to entertain a new claim, because the principle of estoppel have no application in tax proceedings. In this regard, reliance can be placed on the decision of Hon'ble Gujarat High Court in the case of CIT Vs. Mitesh Impex [2014] 225 Taxman 168, Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd. vs. Commissioner of Income-tax [1998] 229 ITR 383(SC). The reliance can be also placed on the decision of Hon'ble Bombay High Court in the case of CIT Vs. Pruthvi Brokers and Shareholders 349 ITR 336 and also the Hon'ble Madras High Court in the case of Ramco Cements Vs. DCIT [2015] 373 ITR 146 and also the Hon'ble

Delhi High Court in the case of CIT Vs. Sam Global Securities Limited 360 ITR 682, CIT Vs. Britannia Industries Ltd.,[2017] 396 ITR 677 (Cal).

9. However, the ld.CIT(A) had not examined the true nature of the claim by examining evidence nor the Assessing Officer had given an opportunity to rebut the claim made by the assessee. In view of the above legal position in para 8 above, we are of the considered opinion that these ground of appeal no.1 and 2 are required to be restored to the file of ld.CIT(A) for denovo adjudication on the merits in accordance with law after affording an opportunity of being heard to the appellant.

10. Similarly, Ground No.3 & 4 challenges allowance of depreciation by the ld.CIT(A). The Assessing Officer disallowed the claim for excess depreciation. However, the ld.CIT(A) allowed the claim by holding that the assessment for earlier assessment year depreciation claim was not allowed as an application of income. However, undisputedly, the claim for allowance of depreciation is totally a factual issue which is required to be verified with reference to the past assessment record. There is no discussion in the order of ld.CIT(A) about the verification of past assessment record. Therefore,

these grounds of appeal are also restored to the file of Id.CIT(A) for denovo disposal in accordance with law.

11. In the result, appeal of the Revenue is partly allowed for statistical purpose.

Order pronounced in the open Court on 30th April, 2026.

Sd/-
(SS VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Chennai; दिनांक / Dated : 30th April, 2026

SGR, Sr.PS

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT Chennai/Madurai/Coimbatore/Salem.
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "बी" बेंच, चेन्नई / DR, ITAT Chennai.
5. गार्ड फ़ाइल / Guard File.