IN THE INCOME TAX APPELLATE TRIBUNAL
"SMC" Bench, Mumbai
Before Shri B.R. Baskaran (AM)

I.T.A. No. 4513/Mum/2015
(Assessment Year 2010-11)

Ernst & Young Merchant Banking Services (P) Ltd. (formerly known as "Ind Global Corporate Finance Ltd.) 14th Floor, The Ruby Senapati Bapat Marg Dadar West Mumbai-400 028.	Vs.	ITO-6(2)(3) Mumbai
(Appellant)		(Respondent)

PAN No.AAACT8134Q

Assessee by	S/Shri M.P. Lohia & Nikhil Tiwari
Department by	Shri Anil Pandey
Date of Hearing	15.7.2016
Date of Pronouncement	15.7.2016

O R D E R

The appeal filed by the assessee is directed against the order dated 10-06-2015 passed by Ld CIT(A)-12, Mumbai and it relates to the assessment year 2010-11.

2. The assessee is engaged in the business of providing corporate advisory services.

3. The first issue urged by the assessee relates to the non-granting of depreciation on Technical knowhow fee acquired in AY 2001-02. With regard to this issue, the Ld A.R submitted that the assessee has challenged the addition confirmed by the Tribunal in the earlier years by filing appeal before Hon'ble High Court of Bombay. He further submitted that the assessee had filed Form

No.8 as per the provisions of sec. 158A of the Act on this issue in the earlier years in order to avoid repetitive appeals and the same has been accepted. He submitted that, in this year also, the assessee has filed Form No.8 and accordingly he prayed that the same may be considered.

4. I heard Ld D.R and perused the record. Having regard to the submissions made by Ld A.R, I restore this issue to the file of the AO with the direction to follow the decision rendered by Hon'ble High Court of Bombay on the identical issue contested in the earlier years, since the assessee has filed a petition in terms of sec. 158A of the Act.

5. The remaining grounds relate to the following issues:-

(a) Non-granting of depreciation on Non-compete fees.

(b) Adoption of wrong figure of total income in the tax computation sheet.

(c) Non allowing of full credit of Tax Deducted at Source.

(d) Non allowing of credit of foreign tax deduction.

I notice that the assessee has moved petition u/s 154 of the Act before the assessing officer way back on 15th April, 2013 and there after, the assessee has filed many remainders in continuance of the same. Hence the Ld CIT(A) did not adjudicate these issues and directed the AO to dispose of the rectification petition expeditiously. The order of Ld CIT(A) is dated 10th June, 2015 and thereafter the assessee has filed two remainders vide its letter dated 30th July, 2015 and 10th May, 2016. The Ld A.R submitted that the assessing officer has not disposed of the rectification petition till date.

6. Since the first issue is restored to the file of the assessing officer, I am of the view that, in the interest of natural justice, the assessing officer should be

directed to dispose of the rectification petition filed by the assessee u/s 154 of the Act. It is surprising that the assessing officer has not disposed of the petition despite the direction given by the Ld CIT(A). The scant respect given by the AO to the order passed by Ld CIT(A) is deplorable. Accordingly I am of the view that a time limit should be fixed for the AO to dispose of the rectification petition filed by the assessee. Accordingly I direct the AO to dispose of the rectification petition filed by the assessee within three months from the date of receipt of this order. I also direct the Ld DR to bring this order to the notice of the concerned Principal Commissioner, who shall ensure that the rectification petition shall be disposed of by the AO within the time frame stated above.

7. In the result, the appeal filed by the assessee is treated as allowed for statistical purposes.

Order has been pronounced in the Court on 15.7.2016

SD/-
(B.R.BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 15/7/2016

Copy of the Order forwarded to :

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

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)
ITAT, Mumbai

PS