

**In the Income-Tax Appellate Tribunal,
Delhi Bench 'C', New Delhi**

**Before : Shri H.S. Sidhu, Judicial Member And
Shri L.P. Sahu, Accountant Member**

**ITA No. 6831/Del./2014
Assessment Year: 2010-11**

A.C.I.T., Circle 30(1), New Delhi. (Appellant)	vs.	M/s. India Farm Forestry Development Cooperative Ltd., IIFCO House, 34, Nehru Place, New Delhi. (PAN-AAAAI0323F) (Respondent)
---	-----	--

Appellant by	Shri Arun Kumar Yadav, Sr. DR
Respondent by	Shri Rahul Kochar, Advocate

Date of Hearing	05.09.2017
Date of Pronouncement	06.09.2017

ORDER

Per L.P. Sahu, A.M.:

This is an appeal filed by the Revenue against the order of Id. CIT(A)-XXIII, New Delhi dated 17.10.2014 for the assessment year 2010-11 on the following ground :

"1. On the facts and circumstances of the case the Ld. CIT(A) has erred in deleting the addition of Rs.4,28,22,481/- on account of project expenses merely on the submission of the assessee without appreciating that business expenses is only allowable as per Income Tax Act when it is incurred wholly and exclusively for the purpose of business. Expenses incurred for the charitable purposes can be termed as noble but they cannot be allowed to be deducted while computing taxable income."

2. We have heard the arguments advanced by the parties in view of the orders of the authorities below and materials available on record. In the

captioned appeal, there is only one issue regarding admissibility of project expenses – whether capital or revenue in nature. The Id. Assessing Officer disallowed the expenditure observing as under :

“The case of assessee can be examined on these lines. There is no business expediency in the expenditure. The assessee has incurred the project expenses in implementing various schemes for social upliftment of farmers and weaker section of society. The expenditure is intact in the nature of donation but not covered U/s 80G of the Income-tax Act, 1961. Accordingly, it is an item to be considered below the line and is not an admissible deduction since not laid out wholly and exclusively for the purpose of business. In the earlier years i.e. A.Y. 2008-09 & 2009-10, this issue was examined in details and after detailed discussion in both A.Y.s, the claim of assessee in respect of project expenses was not treated as revenue expenditure and same was disallowed u/s 37(1) of the Income Tax Act, 1961. The Ld. CIT Appeal has deleted the addition made on account of treating project expenses as capital expenses in A. Y.2008-09 & 2009-10. The department has already filed appeal before the Hon'ble ITAT in both the A. Ys., and decision on the appeals filed are still pending.

In view of the above facts and circumstances, I hold that the project expenses of Rs. 4,28,22,481/- does not fulfill the condition of section 37(1) and cannot be treated as Revenue Expenditure. The expenses should be claimed by assessee below the line and should not be charged to P&L A/c. Accordingly, the expenses of Rs. 4,28,22,481/- is disallowed and will be added in the income of assessee U/s 37(1) of the Income-tax Act, 1961.”

It is, however, seen that in the appeals of the Revenue filed before the ITAT for A. Yrs. 2008-09 and 2009-10, the Tribunal in ITA Nos. 1700 & 4796/Del./2012 has decided the issue in the identical facts and circumstances, as under :

7. *Having gone through the orders of the authorities below, we find that following note (assessment year 2008-09) was filed before the authorities below on the objectives and project of the society to establish its contention by the assessee that the purpose was not to earn profit but to help the ruler poor:*

“Nature of Project Expenses Debited in Profit & Loss account:

IFFDC has debited Project Expenses of Rs.3,18,74,470.70 (Rupees Three Crore Eighteen Lakhs Seventy Four Thousands Four Hundred Seventy and Seventy Paise only) which are purely of Revenue nature. During 2007-08 IFFDS has implemented several projects in different states with the Financial support from IFFCO, State Govts. ICAR, RUDA, etc. The major activities includes Farming System Development - distribution of seed, agriculture implements, Vegetable Cultivation seed distribution, sapling distribution, green shed net etc., Training

on different crafts like Handicraft Bamboo craft stitching, meenakari, pottery etc., watershed Development - soil and water conservation activities pond deepening, construction of Stop-dam etc., Liver stock Development distribution of improved breed of goat and poultry, vaccination camps etc. Training and capacity building of community, self help group development, Micro-enterprises development etc. All these activities were conducted to improve the livelihoods of the rural community, upliftment of backward/poor people in tribal/rural areas at different locations in various States. These activities were implemented in consultation with community and community is using these for further use and up-scaling. The IFFDC has been receiving grants/reimbursement of expenses from various institutions including Government Organizations to implement their programs. The assessee society (IFFDC) is also finished. The beneficiaries in large numbers enjoy the fruits of projects/programmes of the funding agency. The assessee society (IFFDC) is neither the project funding agency nor the beneficiary of project's benefits 'executed by them. To Project Expenses represents the amount spent by the assessee society against the grant received from various institutions or reimbursement of expenses made on behalf of the funding agencies. The grant received by IFFDC against the project expenses is also credited as income. Thus, the assessee society (IFFDC) has no basis to capitalize the project expenses of Revenue nature in their books."

7.1 Considering the above submissions, the Learned CIT(Appeals) has given following findings in the assessment year 2008-09:

"5. I have carefully considered the above submissions and have gone through the annual report and details of various projects undertaken by IFFDC Ltd. To state a few examples, the Society has carried out afforestation of waste lands in Uttar Pradesh, Rajasthan and Madhya Pradesh, constructed anicuts, check dams and irrigation ponds for recharging ground water and enabling agriculture in seven states, provided technology intervention for agriculture and capital husbandry, established primary livelihood cooperatives, and rehabilitated marginalized and ostracized communities such as the Kanjar tribe. The Society received the Times of India Social Impact Awards for the reasons that, "through watershed development, crop improvement methods, afforestation etc, IFFDC has had a substantial impact on livelihoods in Rajasthan, UP and MP. Its equitable and general focus participated approaches are estimated to have benefited 3.8 lac people ". It is evident that the appellant, which represents fertilizer company IFFCO's Corporate Social Responsibility Wing, has its primary purpose of working with rural communities and enabling them to manage their land and resources through self help groups. The Assessing Officer has mistakenly considered the purpose of the business to be the trading of fertilizers, to which all expenditure must be directed. Moreover, I am in agreement with the appellant's contention that the assets created, namely forests on waste land, check dams, ponds, etc. become the property of the villages, managed through village communities, and the appellant society only provides expertise and funding. Hence, I am unable to uphold the findings

of the Assessing Officer that the expenditure had not been incurred wholly and exclusively for the purpose of the business, and that alternatively it was capital in nature. The net project expenditure of Rs.3,18,74,074 is held to have been incurred solely for the furtherance of the enterprise. The appellant, therefore, succeeds at ground of appeal No.2.

7.2 On above consideration, we find that the Assessing Officer has treated the claimed expenditure as capital in nature keeping in mind that the purpose of business of the assessee society is trading of fertilizers, which is not correct rather the assets created namely forest on waste land, check dams ponds etc. became the property of the villages managed through village community and the assessee society only provided expertise and funding to them. Considering material aspects of the case, we are of the view that the Ld. CIT(Appeals) has rightly hold that the Assessing Officer was not correct in holding that expenditure were not incurred wholly and exclusively for the purpose of the business and that alternatively it was capital in nature. We thus do not find infirmity in the first appellate order on the issue also because in earlier assessment years 2004-05 to 2007-08 when assessments were framed under sec. 143(3) of the Act similar expenditure have been accepted. Similar are the facts of the case in the assessment year 2009-10. The finding of the Ld. CIT(Appeals) is thus upheld. The ground No. 1 of the appeals is accordingly rejected.”

3. In view of the above, we find that the issue under consideration is squarely covered in favour of the assessee by the aforesaid decision of ITAT as reproduced above. Therefore, respectfully following the decision of co-ordinate bench, we find no merits in the appeal of the Revenue and accordingly, the same is liable to be dismissed.

4. In the result, the appeal of the Revenue is dismissed.

Order pronounced in the open court on 06.09.2017.

Sd/-
(H.S. Sidhu)
Judicial member

Sd/-
(L.P. Sahu)
Accountant Member

Dated: 06.09.2017

aks