

**IN THE INCOME TAX APPELLATE TRIBUNAL  
KOLKATA BENCH 'd', KOLKATA**

**[Before Shri P.M. Jagtap, AM and Shri S.S. Viswanethra Ravi, JM]**

**I.T.A. No. 1349/Kol/2015  
Assessment Year: 2006-07**

***M/s. Nezone Tubes Ltd.....Appellant***  
***Ashoka House, 3A, Hare Street***  
***Kolkata - 700001***  
***[Pan : AABCN2550L]***

***D.C.I.T., Cir -3 Kolkata.....Respondent***  
***Aayakar Bhawan***  
***Kolkata - 69***

**Appearances by:**

*Shri V.N. Purohit, FCA appearing on behalf of the Assessee.*

*Shri Kalyan Nath, Sr. DR appearing on behalf of the Revenue.*

Date of concluding the hearing : September 13, 2017

Date of pronouncing the order : September 20, 2017

**ORDER**

**Per P.M. Jagtap, AM**

This appeal filed by the assessee is directed against the order of Ld. CIT (Appeals) – 5, Kolkata dated 26.08.2015 and in the solitary ground raised therein, the assessee has challenged the action of the Ld. CIT (a) in directing the AO to reduce the amount of capital subsidy received under West Bengal Govt. Incentive Schemes amounting to Rs. 14,25,000/- from the cost of assets for the purpose of allowing depreciation.

2. The assessee in the present case is a company which is engaged in the business of manufacturing of ERW MS Black, Galvanised Tubes and Steel Tape. The return of income for the year under consideration was filed by it on 17.10.2006 declaring a total income of Rs.

1,69,88,324/- During the year under consideration, a sum of Rs. 14,25,000/- was received by the assessee as capital investment subsidy from WBIDC and the same was claimed to be exempt from tax being in the nature of capital receipt. In the assessment completed u/s 143(3) vide an order dated 31.07.2008, the said receipt was treated by the AO as revenue in nature and the amount of Rs. 14,25,000/- was added by him to the total income of the assessee.

3. Against the order passed by the AO under section 143(3), an appeal was preferred by the assessee before the Ld. CIT (A) and after considering the submissions made by the assessee as well as the relevant case laws on the issue, the Ld. CIT (A) allowed the claim of the assessee that the capital investment subsidy received by the assessee from WBIDC was a capital receipt not chargeable to tax. He however held that the said amount was liable to be reduced from the cost of the concerned assets for the purpose of computing depreciation allowable to the assessee. Aggrieved by the order of the Ld. CIT (A), the assessee has preferred this appeal before the Tribunal.

4. We have heard the arguments of both the sides and also perused the relevant material available on record. It is observed that the issue involved in this appeal of the assessee is squarely covered in favour of the assessee by the decision of the Coordinate Bench of this Tribunal rendered in the case of Bhagwati Sponge Pvt. Ltd vs DCIT vide its order dated 08.07.2016 passed in ITA No. 1672 & 1646/K/2014 wherein it was held, after considering the objects of the

West Bengal Incentive Schemes as well as the relevant Judicial President on the issue, that the amount of capital subsidy under the said incentive schemes could not be reduced from the cost of the concerned assets for the purpose of allowing depreciation. Respectfully following the said decision of the Coordinate Bench of this Tribunal, we reverse the impugned order of the Ld. CIT (A) and direct the AO not to reduce the amount of capital subsidy from the cost of the concerned assets for the purpose of allowing depreciation.

**5. In the result, the appeal of the assessee is allowed.**

Order Pronounced in the Open Court on 20<sup>th</sup> September, 2017.

Sd/-  
(S.S. Viswanethra Ravi)  
JUDICIAL MEMBER

Sd/-  
(P.M. Jagtap)  
ACCOUNTANT MEMBER

**Dated: 20/09/2017**

Biswajit, Sr. PS

Copy of order forwarded to:

1. M/s. Nezone Tubes Ltd., Ashoka House, 3A, Hare Street, Kolkata  
- 700001
2. DCIT, Circle-3, Kolkata.
3. The CIT(A)
4. The CIT
5. DR

True Copy,

By order,

Sr. P.S. / H.O.O.  
ITAT, Kolkata