

disposed of by this common order for the sake of convenience and brevity, though the quantum may differ.

2. The common grievance of the Revenue in both these appeals relates to the deletion of addition on account of expenditure incurred for acquiring an intangible asset in the form of technical know-how. The Assessing Officer treated the same as capital expenditure and the first appellate authority treated them as revenue expenditure.

3. At the very outset, the counsel for the assessee stated that the issue is squarely covered in favour of the assessee and against the revenue by the order of the Tribunal in assessee's own case for assessment year 2009-10. The ld. DR fairly conceded to the submissions made by the ld. counsel for the assessee.

4. We have given thoughtful consideration to the orders of the authorities below qua the issue. We find force in the contention of the ld. counsel for the assessee. We find that identical issues were considered by the Tribunal in ITA Nos. 6603/DEL/2014 and 6923/DEL/2014 for assessment year 2009-10. The relevant finding of the Tribunal reads as under:

“16. The 3rd ground in the appeal of the revenue was against the order of the Ld. CIT (A) deleting the addition of Rs. 9819356/- on account of technical know-how is fees paid to the parent company of the assessee which was held by the Ld. AO as capital expenditure and whereas the claim of the assessee is that it is revenue expenditure.

17. The Ld. departmental representative vehemently relied upon the order of the Ld. assessing officer. It was vehemently contested that technical know-how fees paid by the assessee is a capital expenditure in nature the assessee in exploiting it for the purpose of manufacturing of the goods. It was therefore submitted that the technical know-how is purchased by the assessee from its company.

18. The Ld. authorized representative relied upon order of the Ld. CIT (A). He further relied upon the agreement dated 18/4/2008 which is placed at page No. 132 – 149 of the paper book. He further stated that the statement of the production, sales and the claims is also placed at page No. 150 of the paper book which proves that expenditure is related with the sales of the assessee. He further stated that in the annual accounts of the assessee placed at page No. 1632.82 of the paper book the assessee has also treated the technical know-how expenditure is revenue in nature. The brief facts shows that the assessee is already engaged in the business of manufacturing paper machine fabrics and other industrial fabrics and related products. The assessee obtained a technical know-how in respect of manufacturing of paper

maker felts and other industrial fabrics. According to the agreement entered into by the assessee the remuneration was paid for at the rate of 5% on the sale price of the product. The Ld. CIT (A) has considered the various clauses of the agreement and held that the know-how was to remain the sole and exclusive property of the provider and the appellant company is required to fully exploit the same. Further the technical know-how was also to be Page | 7 paid in relation to the sales affected by the assessee company. It is also required to be noted that assessee is engaged in the same business for which technical know-how is by the assessee and it is not at its an altogether a new line of business which is developed. The Ld. departmental representative could not point out any infirmity in the order of the Ld. CIT (A). In view of above facts we do not find any reason to disturb the finding of the Ld. CIT (A) in allowing the claim of the assessee of technical know-how fees paid to its parent company as revenue in nature. In the result ground No. 3 of the appeal of the revenue is dismissed.”

5. Respectfully following the findings of the co-ordinate bench, we decline to interfere with the finding of the ld. CIT(A). Appeals filed by the Revenue are accordingly dismissed.

6. In the result, the appeals of the Revenue in ITA Nos. 1196 & 1197/DEL/2015 stand dismissed.

The order is pronounced in the open court on 07.06.2018.

Sd/-

**[N.K. CHOUDHRY]
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 07th June, 2018

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi