

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA BENCH "A", KOLKATA**

**BEFORE SH. J.SUDHAKAR REDDY, ACCOUNTANT MEMBER &
SH. S.S.VISWANETHRA RAVI, JUDICIAL MEMBER**

ITA No.06/KOL/2017
(ASSESSMENT YEAR-2013-14)

ACIT, Circle-27(1), Haldia, Dubey House, Basudevpur, Khanjachak, Purba Medinipur, PIN-721602.	vs	Sh. Ranjan Nandi, IOCL, Gate No.1, Haldia Oil Refinery, Haldia, Dist.-Purba Medinipur, PIN-721606.
(Appellant)		(Respondent)
Appellant by		Sankar Halder, Addl. CIT Sr. DR
Respondent by		Indranil Banerjee, FCA
Date of Hearing		06.11.2018
Date of Pronouncement		22.11.2018

ORDER

PER S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

This appeal by the Revenue against the order dated 24.10.2016 passed by CIT(A)-7, Kolkata for AY 2013-14.

2. The only issue is to be decided as to whether the CIT(A) is justified in deleting the addition made on account of over pricing of purchase of three cranes in the facts and circumstances of the case.

3. Heard both parties and perused the material available on record. It is noted from the record that the assessee claimed an amount of Rs.2,25,86,100/- as a receipt on account of capital expenditure. According to AO, it is a bonafide rising out of assessee's business and is taxable u/s 28 of the Income Tax Act, 1961 (in short "Act"). The AO by invoking provision u/s 41(1) of the Act, added the aforesaid amount to the total income of the assessee by observing written off as liability no longer

required to pay and is taxable in the hands of the assessee. The CIT(A) while deciding the issue before him in challenge held writing of a liability in relation to purchase of asset itself as effect of reducing cost of asset and the cost should be taken as actually paid. The relevant portion of CIT(A) is reproduced hereunder for ready-reference:-

9. *“Findings of the CIT(A)*

I have perused the assessment order and submissions made by the Ld. A/R of the appellant. It has been observed that the appellant has written back a sum of Rs.2,2,586,100/- during the year on account of cessation of liability in relation to asset. IN my opinion, writing off a liability in relation to purchase of asset itself has effect of reducing the cost of asset and the cost of asset should be taken at the amount actually paid for the same alongwith incidental expenses actually paid for. Assessee’s contention that there is no provision whereby it becomes permissible to alter the cost, incurred in a prior year, to modify the depreciation in a subsequent year, does not hold good, as the depreciation should be calculated on actual cost of the asset. The A.O. has correctly recalculated the depreciation allowable in relation to asset, cost of which is reduced for cessation of liability in respect of the same. The appellant also offered an amount of Rs.48,27,780/- as undisclosed income on account of excess depreciation claimed on these assets in earlier years vide his declaration dated 29.09.2016 under the Income Declaration Scheme, 2016. Therefore, addition made by the A.O. for an amount of Rs.26,63,749/- on account of disallowance of excess claim of depreciation is hereby upheld and all the grounds of the appellant in this behalf are hereby dismissed. However the AO must take into account the declaration made by the assessee under IDS while giving appeal effect.”

4. In view of the above, we find no infirmity in the order of the CIT(A).

Thus, Ground No.1 raised by the Revenue is dismissed.

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

Order pronounced in the open court on 22.11.2018.

Sd/-

**(J.SUDHAKAR REDDY)
ACCOUNTANT MEMBER**

Date:- 22.11.2018

Amit Kumar

Sd/-

**(S.S.VISWANETHRA RAVI)
JUDICIAL MEMBER**

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1. Appellant-ACIT, Circle-27(1), Haldia, Dubey House, Basudevpur, Khanjachak, Purba Medinipur, PIN-721602.
2. Respondent- Sh. Ranjan Nandi, IOCL Gate No.1, Haldia Oil Refinery, Haldia, Dist.-Purba Medinipur, PIN-721606.
3. CIT-Kolkata
4. CIT(Appeals)-Kolkata
5. DR: ITAT -Kolkata Benches

AR/H.O.O
ITAT, KOLKATA