

**IN THE INCOME TAX APPELLATE TRIBUNAL PANAJI BENCH, PANAJI**

**BEFORE SHRI SHAMIM YAHYA, AM AND SHRI RAM LAL NEGI, JM**

ITA No.324/Pan./2017  
(Assessment Year: 2008-09)

M/s. Balaji Mines and Minerals Private Limited Salgaocar Bhavan, Altinho, Panaji, Goa-403 001	Vs.	Asst. CIT-1, Margao Range, Goa
PAN/GIR No. AAACB 7003 P		
<b>(Appellant)</b>	:	<b>(Respondent)</b>
<b>Appellant by</b>	:	Shri P. J. Pardiwalla
<b>Respondent by</b>	:	Shri Y. V. Raviraj
<b>Date of Hearing</b>	:	15.11.2018
<b>Date of Pronouncement</b>	:	14.01.2019

**ORDER**

Per Shamim Yahya, A. M.:

This is an appeal by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)– Panaji, pertaining to assessment year 2008-09.

2. The grounds of appeal raised by the assessee reads as under:

1. i. The Ld. CIT(A) erred in confirming the disallowance of compensatory afforestation expenditure Rs. 4,31,215 made by the assessing officer by holding that such expenditure was towards acquiring a right of enduring nature even when no right to land was transferred to the appellant.

ii. In doing so, the learned CIT(A) failed to appreciate that such expenditure was incurred wholly and exclusively for the appellant's business by facilitating appellant's trading operations and hence a revenue expenditure allowable u/s. 37 of the ITA.

3. Brief facts of the case are that in the assessment order, the Assessing Officer (A.O. for short) has treated the compensatory afforestation expenditure incurred by the assessee as capital expenditure and has disallowed the same. The expenditure was in the nature of clearance which led to a shorter approach road. The learned CIT-A has also upheld the A.O.'s action, However, he allowed the depreciation at the rate of 10%.

4. Against the above order, the assessee is in appeal before us.
5. We have heard both the counsel and perused the records. Learned counsel of the assessee submitted that the payment by the assessee to Forest Department for the compensatory afforestation is a revenue expenditure, He submitted that the same has been so held by ITAT as well as the Hon'ble Bombay High Court at Goa (in Tax Appeal No. 66 of 2012) in the case of Dy. CIT vs. Timblo Pvt. Ltd. vide order dated 5/11/12.
6. Per Contra, the ld. Departmental Representative (ld. DR for short) relied upon the order's of authorities below.
7. Upon careful consideration we find that the issue is duly covered in favour of the assessee by the Hon'ble High Court decisions cited above. Accordingly, we set aside order's of authorities below and decide the issue in favour of assessee.
8. In the result, this appeal by the assessee stands allowed.

*Order pronounced by listing the result on the Notice Board of the Bench under  
Rule 34(4) of the Appellate Tribunal Rules, 1963.*

**Sd/**

**Sd/-**

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**RAM LAL NEGI  
JUDICIAL MEMBER**

**SHAMIM YAHYA  
ACCOUNTANT MEMBER**

DATED: 14.01.2019

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The CIT(A);
- (4) The CIT, Panji City concerned;
- (5) The DR, ITAT, Panji;
- (6) Guard file.

Roshani, Sr. PS

By Order

(Sr. P.S./P.S.)  
ITAT