

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCHES "E" : DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER  
AND  
SHRI O.P. KANT, ACCOUNTANT MEMBER

ITA.No.1742/Del./2016  
Assessment Year 2011-2012

DCIT (International Taxation), Circle-1, Aayakar Bhawan, 13A-Subhash Road, Dehradun.	VS	M/s. Enventure Global Technologies C/o. Nangia & Co., 3 <sup>rd</sup> Floor, NCR Plaza, New Cantt. Road, Dehradun. PAN AABCE2647K
(Appellant)		(Respondent)

For Revenue :	Ms. Pranita M. Biswal, CIT-D.R.
For Assessee :	Shri Amit Arora, C.A. And Shri Vishal Mishra, C.A.

Date of Hearing :	25.03.2019
Date of Pronouncement :	02.04.2019

**ORDER**

**PER BHAVNESH SAINI, J.M.**

This appeal by Revenue has been directed against the Order of the Ld. CIT(A)-2, Noida, Dated 29.01.2016, for the A.Y. 2011-2012, on the following ground :

- (i) *“Whether on the facts and in the circumstances of the case and in law, the CIT(A) has erred in holding that the compensation received on account*

*of loss of equipment in hole is not includible in the taxable receipts of the assessee under section 44BB of the Act when the decision of the Hon'ble High Court Uttarakhand at Nainital (ITA No. 58 of 2006) on a similar issue involving ONGC and different assessee, Schlumberger Asia Services Limited has not attained finality as the department has filed a SLP in the Hon'ble Apex Court.”*

2. The Ld. CIT(A) noted in his findings that similar issue involved in the case of ONGC, a different assessee M/s. Schlumberger Asia Services Ltd., the jurisdictional High Court held that “*compensation for destruction and loss of capital asset which were utilised on a rig owned by ONGC was capital receipt and not taxable as revenue receipt under section 44BB of the Income Tax Act, 1961*”. The Ld. CIT(A) following the judgment of the Hon'ble Delhi High Court held that the compensation received on account of loss of equipment in hole is not includable in the taxable receipts of the assessee under section 44BB of the Income Tax Act, 1961.

3. Learned Counsel for the Assessee submitted that the decision of the Hon'ble Uttarakhand High Court in the case of CIT, Dehradun vs. Schlumberger Asia Services Ltd., New Delhi, have been confirmed by the Hon'ble Supreme Court by dismissing the SLP of the Revenue vide Order dated 05.07.2013. Copy of the Judgment of Hon'ble Uttarakhand High Court and Order of the Hon'ble Supreme Court are filed on record.

4. The only point raised by the Revenue in Departmental Appeal is that the decision in the case of M/s. Schlumberger Asia Services Ltd., has not attained finality. Since the SLP of the Department in this case have been dismissed by the Hon'ble Supreme Court, therefore, the issue stand concluded in favour of the assessee. Departmental Appeal has no merit and the same is accordingly dismissed.

5. In the result, appeal of the Department dismissed.

Order pronounced in the open Court.

Sd/-  
(O.P. KANT)  
ACCOUNTANT MEMBER  
Delhi, Dated 02<sup>nd</sup> April, 2019.  
VBP/-

Sd/-  
(BHAVNESH SAINI)  
JUDICIAL MEMBER

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'E' Bench, Delhi
6.	Guard File.

// BY Order //

Assistant Registrar : ITAT Delhi Benches :  
Delhi.