

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'B' NEW DELHI**

**BEFORE SHRI G. D. AGRAWAL, PRESIDENT
AND
SHRI K.N. CHARY, JUDICIAL MEMBER**

ITA No. 454/DEL/2016 (A.Y 2011-12)

ACIT, Circle-15(2), C.R. Building, New Delhi	Vs	Lumax Automotive Systems Ltd., 63-64, Gokhle Market, Delhi
(APPELLANT)		PAN-AAACL6930D (RESPONDENT)

Appellant by	Ms. Ashima Neb, Sr. DR
Respondent by	None

Date of Hearing	29.04.2019
Date of Pronouncement	30.04.2019

ORDER

PER G.D. AGRAWAL, V.P.

This is an appeal filed by the Revenue against the order dated 27.11.2015 passed by the CIT(A)-5, Delhi.

2. At the time of hearing before us none appeared on behalf of the assessee neither there is any request for adjournment has been made therefore, we proceeded to hear the appeal *ex parte qua* the assessee. In this appeal by the Revenue, following grounds have been raised:-

"i. That the order of the learned CIT(A)(Appeals) is erroneous & contrary to facts & law.

ii. On the facts and circumstances of the case, the learned CIT(Appeals) has erred in deleting the addition of Rs. 1,05,80,372/- on account of retrenchment/retirement of the employees of the company not being the allowable expenditure u/s 37(1) of the I.T. Act, 1961 as not being exclusively for the purpose of the business."

2. We have heard the learned DR and perused the material placed before us.

3. We find that this issue is squarely covered in favour of the assessee by the decision of ITAT in assessee's own case for Assessment Year 2009-10 vide ITA No. 1823/Del/2014. That the Assessing Officer himself while disallowing the retrenchment compensation paid has recorded the finding that the facts of the year under appeal are identical to Assessment Years 2009-10 and 2010-11. The relevant portion of his finding reads as under:-

“On similar grounds and for similar reasons the claim of the assessee was rejected in the earlier assessment year 2009-10 and also in assessment year 2010-11. The assessee has not been able to justify the change in facts and circumstances of those years when the said claim was not permitted to it, qua the facts and circumstances of the above assessment year 2011-12 and therefore on the same grounds the claim of Rs. 1,05,80,372/- is disallowed and accordingly an addition is being made to the Total Income of the assessee on this account.”

4. In view of above, since the facts of the year under consideration are admitted to be identical to assessment year 2009-10. The decision of ITAT in assessment year 2009-10 would be squarely applicable wherein the ITAT has upheld the order of the CIT(A) wherein he has deleted the disallowance made by the Assessing Officer on account of retrenchment compensation.

5. Respectfully following the decision of ITAT in assessee's own case, we upheld the order of CIT(A) and dismissed the appeal filed by the Revenue.

6. In result, Revenue's appeal is dismissed.

Order pronounced in the Open Court on 30th April, 2019.

**Sd/-
(K.N. CHARY)
JUDICIAL MEMBER**

**Sd/-
(G. D. AGRAWAL)
VICE PRESIDENT**

Dated: 30/04/2019
SH

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI

		Date	
1.	Draft dictated on	29.4.2019	PS
2.	Draft placed before author		PS
3.	Draft proposed & placed before the second member		JM/AM
4.	Draft discussed/approved by Second Member.		JM/AM
5.	Approved Draft comes to the Sr.PS/PS		PS/PS
6.	Kept for pronouncement on		PS
7.	File sent to the Bench Clerk		PS
8.	Date on which file goes to the AR		
9.	Date on which file goes to the Head Clerk.		
10.	Date of dispatch of Order.		
11.	Date of uploading	30.4.2019	