

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

**BEFORE SHRI AMIT SHUKLA, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER**

ITA No.6080/Del./2017
Assessment Year: 2014-15

M/s. Hindustan Tin Works Ltd., M.L. Puri & Co., 407, New Delhi House, 27, Barakhamba Road, New Delhi	Vs.	DCIT, Circle-11(2), New Delhi
PAN :AAACH2597Q		
(Appellant)		(Respondent)

Appellant by	Shri Madur Aggarwal, Adv.
Respondent by	Shri F.R. Meena, Sr.DR

Date of hearing	17.12.2020
Date of pronouncement	17.12.2020

ORDER

PER O.P. KANT, AM:

This appeal by the assessee is directed against order dated 16/08/2017 passed by the learned CIT(Appeals)-35, New Delhi [in short 'the Ld. CIT(A)'] for assessment year 2014-15 raising following grounds:

1. *That on the facts and in the circumstances of the case and in law the Learned Commissioner of Income Tax (Appeal) erred in dismissing the appeal of appellant company and retaining disallowance of Rs.4,82,677/-in the order passed by Ld. Deputy Commissioner of Income Tax Circle-n(2) New Delhi u/s 143(3) of the Income Tax Act, 1961.*

2. *That Ld. CIT (Appeal)-35 New Delhi grossly erred in law and on facts while sustaining a disallowance of Rs. 4,82,677/- treating a business expenditure debited under the head "Can-viroment Expenses A/c" as "Corporate Social responsibilities" expenditure.*
3. *That the order passed by the Ld. CIT (Appeal) New Delhi, being erroneous in law and on facts to the extent of aforesaid disallowance.*
4. *The appellant craves leave to add or amend any ground of appeal.*

2. Briefly stated facts of the case are that the assessee was engaged in the business of manufacturing of Tin Cans/printed Lac sheets/components and trading in tinplate. For the year under consideration the assessee filed return of income on 30/09/2014 declaring total income of ₹ 11,54,33,330/-. The return of income filed by the assessee was selected for scrutiny assessment and statutory notices under the Income-tax Act, 1961 (in short 'the Act') were issued and complied with. The assessment under section 143(3) of the Act was completed on 30/11/2016 after making certain additions/disallowances. Aggrieved with the order of the Assessing Officer, the assessee filed appeal before the learned CIT(A) who partly allowed the appeal of the assessee. Aggrieved with the sustenance of disallowance of ₹ 4,82,677/- debited under the head "Canviroment Expenses Account", the assessee is before the Tribunal, raising the grounds as reproduced above.

3. Before us, both the parties appeared through Videoconferencing facility. The learned counsel of the assessee submitted that issue in dispute is covered by the order of the Tribunal in assessment year 2012-13 and 2013-14 and, therefore, disallowance need to be deleted.

4. The learned DR, on the other hand, relied on the order of the lower authorities.

5. We have heard rival submission of the parties on the issue in dispute and perused the relevant orders of the lower authorities as well as the orders of the Tribunal. The assessee incurred following expenses under the head "Canviroment week expenses":

Date of Voucher	Nature of Expenses	Amount In IN R
31/05/2013	Association Fee for conducting event known as Canviroment Week	35,000
01/06/2013	Conveyance expenses	1600
23/08/2013	Media Covering expense	30,899
09/09/2013	Website maintenance expenses <i>www.canvironmentweek.com</i>	15,730
11/09/2013	Sponsorship expenses	2,06,180
22/11/2013	Bus Hiring for event	10,100
23/11/2013	Media Expense	35,955
30/11/2013	Auditorium fee	49,618
04/03/2014	Health Camp for Rig Packers	97,595
	Total	4,82,677

6. According to the assessee, above expenditure was related to promotion and spreading awareness about sustainability and environmentally friendliness of metal packaging. The funds were also used to uplift the lives of rag pickers, who were the best route of the contributor of recycling of Cans by providing with their health checkup camp. In view of the above, according to the assessee, expenses were incurred for the purpose of the business. However, according to the Assessing Officer expenditure being not incurred directly related to earning of the income, it was not incurred wholly and exclusively for the purpose of the business, and accordingly disallowed the same. The Assessing Officer also

relied on the order of the Ld. CIT(A) for assessment year 2013-14. The Ld. CIT(A) upheld the disallowance holding the same as not incurred wholly and a scrutiny for the purpose of the business.

7. We find that Tribunal in ITA No. 5906/Del/2016 for assessment year has deleted the disallowance of expenditure of same nature observing as under:

“6. We have heard both the parties and perused all the relevant material available on record. The Tribunal in A.Y. 2012-13 held as under:

“16. Hon’ble Karnataka High Court in case cited as CIT & Anr. Vs. Infosys Technologies Ltd. - (2014) 360 ITR 714 allowed the expenditure incurred by Infosys Technologies Ltd. on account of CSR by installing traffic signal near the establishment to ease the traffic congestion u/s 37(1) of the Act by holding that such expenses can be held to be expanded wholly and exclusively for the purpose of business u/s 37(1) of the Act.

17. In this case, the assessee claimed expenditure of Rs. 15,22,874/- under the head ‘Can-viroment Week’ expenses having details as under:-

<i>Date of voucher</i>	<i>Nature of expenses</i>	<i>Amount</i>
<i>14.07.2011</i>	<i>Website expenses</i>	<i>27,575</i>
<i>08.12.2011</i>	<i>Health check-up of Rag Pickers</i>	<i>37,303</i>
<i>26:12.2011</i>	<i>Film Making</i>	<i>1,35,000</i>
<i>12.01.2012</i>	<i>Organizing Can-Viroment Week Programme</i>	<i>13,22,970</i>
	<i>Total</i>	<i>15,22,874</i>

18. So, we are of the considered view that keeping in view the totality of the aforesaid circumstances, the Id. CIT(A) has rightly deleted the disallowance made by the AO on account of CSR by following the decision rendered by Hon’ble Karnataka High Court as well as following the rule of consistency. So, ground no. 2 is determined against the Revenue. ”

The issue in the present Assessment Year is also identical. The Assessing Officer as well as CIT(A) ignored the fact that the said expenditure was incurred relating to promotion and spreading awareness about sustainability and environmentally friendliness of metal packaging which is important to canmaking industry. Thus,

the expenses incurred by the assessee are coming under purview of Section 37(1) of the Income Tax Act, 1961. Therefore, the appeal of the assessee is allowed.”

8. The Explanation -2 has been inserted below the section 37 (1) of the Act with effect from 01/04/2015 i.e. assessment year 2015-16. According to the said Explanation, corporate social responsibility expenditure incurred shall not be deemed to be incurred wholly and exclusively for the purpose of business or profession. This amendment being effective from assessment year 2015-16, is not applicable in the instant assessment year. Thus, respectfully following the order of the Tribunal (supra), we delete the addition in dispute in the year under consideration. The grounds of the appeal accordingly allowed.

9. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 17th December, 2020.

**Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER**

**Sd/-
(O.P. KANT)
ACCOUNTANT MEMBER**

Dated: 17th December, 2020.

RK/-(D.T.D.S.)

Copy forwarded to:

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

Asst. Registrar, ITAT, New Delhi