

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

**BEFORE SH. ANIL CHATURVEDI, ACCOUNTANT MEMBER  
AND SH. AMIT SHUKLA, JUDICIAL MEMBER**

(THROUGH VIDEO CONFERENCING)

ITA No.6245/Del/2017  
Assessment Year : 2014-15

ACIT Circle – II, Faridabad.  PAN : AABCP 0441 Q	Vs.	Voith Paper Fabrics Pvt. Ltd., Plot No.113/114A, Sector – 24, Faridabad.
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>

Assessee by	Shri Govind Singhal, Sr. DR
Revenue by	Shri S. K. Agarwal, Adv. Shir Manuk Giri, Adv.

Date of hearing:	16/02/2021
Date of Pronouncement:	16/02/2021

**ORDER**

**PER AMIT SHUKLA, JM:**

This appeal filed by the Revenue is directed against the order dated 06.07.2017 of the Commissioner of Income Tax (Appeals)-Faridabad relating to Assessment Year 2014-15.

2. The relevant facts as culled from the material on records are as under :

3. Assessee is a company stated to be engaged in business of manufacturing of industrial felts and paper machine. Assessee filed its return of income for A.Y. 2014-15 on 30.11.2014 declaring total income at Rs.20,85,99,970/-. The case was selected for scrutiny and thereafter assessment was framed u/s 143(3) of the Act vide order dated 09.12.2016 and the total income of the assessee was determined at Rs. 23,61,56,953/-.

4. Aggrieved by the order of AO, assessee carried the matter before the CIT(A) who vide order dated 06.07.2017 in Appeal No.10955/2016-17 allowed the appeal of the assessee. Aggrieved by the order of CIT(A), Revenue is now before us and has raised the following grounds of appeals:

- (i) *“Whether on the facts and in the circumstances of the case, the Ld CIT(A) was right on facts and in law in deleting the addition of Rs.2,75,56,953/- which was made by the AO capitalizing the expenses of Technical Know How Fees paid to its parent company M/s. Voith Paper Fabrics GmbH & Co. KG even when it is apparent from the aim and objective of the technical knowhow agreement and the nature of services rendered that right to use of the know-how was an integral part of profit making process and brought enduring benefits to its business.*
- (ii) *That the appellant craves for the permission to add, delete or amend the grounds of appeal before or at the time of hearing of appeal.”*

5. During the course of assessment proceedings, AO noted that assessee had debited Rs.3,10,29,391/- as ‘Technical Know How Fees/Royalty’. The assessee was asked to explain as to why the aforesaid expenses not be capitalized. Assessee made the

submissions which were not found acceptable to AO. AO noted that assessee had entered into a “Technical Know-How Agreement” with Voith Paper Fabrics GmbH & Co. KG, whereby Voith would provide know-how and technical assistance to the assessee for the manufacture of paper maker felts and other industrial fabrics in India. As per the agreement assessee was required to pay to Voith, royalty @5% on the net ex-factory sale price of products. The aforesaid royalty payment was termed as “technical know-how fees” in the Profit and Loss account and claimed as allowable expenditure. AO was of the view that the aim and object of the expenditure revealed that assessee had obtained absolute right to use the know-how and the benefits derived by the assessee was of enduring nature as well as increase in functional capacity of the manpower which ultimately increases the production of the company. He was therefore of the view that the acquisition of know-how was capital expenditure and would fall within the ambit of section 32 of the Act. He further noted that this expenditure was disallowed in the assessment of the assessee for A.Y. 2010-11, 2011-12, 2012-13 & 2013-14 and the facts of the case in the year under consideration are identical to that of the earlier years. He therefore, relying on the aforesaid order of his predecessor held that the expenditure incurred by the assessee on technical know-how fees to be a capital expenditure. He however allowed the depreciation amounting to Rs.34,72,408/- on such expenditure held by him as capital expenditure and thus made net disallowance of Rs.2,75,56,983/-.

6. Aggrieved by the order of AO, assessee carried the matter before the CIT(A) who after noting the fact that the issue in the year under consideration are identical to that of A.Y. 2010-11 & 2011-12 and following the orders of earlier years allowed the claim of the assessee. Aggrieved by the order of CIT(A), Revenue is now before us.

7. Before us, Learned DR supported the order of AO and further submitted that against the order of the Tribunal, Revenue has preferred appeal in the High Court and the matter is yet to be decided.

8. Learned AR on the other hand, placed on record the copy of the Tribunal order for A.Y. 2009-10, 2010-11, 2011-12 & 2012-13 and pointed that in all those years the issue has been decided in favour of the assessee and the facts in the year under consideration are identical to that of earlier years. He therefore submitted that in view of these facts, no interference to the order of CIT(A) is called for.

9. We have heard the rival submissions and perused the materials on record. The issue in the present ground is with respect to the direction of CIT(A) whereby he has directed the deletion of the disallowance of Rs.2,75,56,983/-. We find that identical issue was decided in assessee's own case by the Co-ordinate Bench of Tribunal in ITA No.6603/Del.2014 for A.Y.

2009-10. The aforesaid order of Tribunal was relied upon by the Co-ordinate Benches of Tribunal while deciding the appeal for A.Y. 2010-11, 2011-12 & 2012-13. The relevant findings for A.Y. 2009-10 as noted by the Co-ordinate bench while deciding the issue in ITA No.1196 & 1197/Del/2015 for A.Y. 2010-11 & 2011-12 order dated 07.06.2018 reads as under:

4. *We have given thoughtful consideration to the orders of the authorities below qua the issue. We find force in the contention of the Id. counsel for the assessee. We find that identical issues were considered by the Tribunal in ITA Nos. 6603/DEL/2014 and 6923/DEL/2014 for assessment year 2009-10. The relevant finding of the Tribunal reads as under:*

*“16. The 3rd ground in the appeal of the revenue was against the order of the Ld. CIT (A) deleting the addition of Rs. 9819356/- on account of technical know-how is fees paid to the parent company of the assessee which was held by the Ld. AO as capital expenditure and whereas the claim of the assessee is that it is revenue expenditure.*

*17. The Ld. departmental representative vehemently relied upon the order of the Ld. assessing officer, it was vehemently contested that technical know-how fees paid by the assessee is a capital expenditure in nature the assessee in exploiting it for the purpose of manufacturing of the goods. It was therefore submitted that the technical know-how is purchased by the assessee from its company.*

*18. The Ld. Authorized representative relied upon order of the Ld. CIT (A). He further relied upon the agreement dated 18/04/2008 which is placed at page No. 132-149 of the paper book. He further stated that the statement of the production, sales and the claims is also placed at page No. 150 of the paper book which proves that expenditure is related with the safes of the assessee. He further stated that in the annual accounts of the assessee placed at page No. 1632.82 of the paper book the assessee has also treated the technical know-how expenditure is revenue in nature. The*

*brief facts shows that the assessee is already engaged in the business of manufacturing paper machine fabrics and other industrial fabrics and related products. The assessee - obtained a technical know-how in respect of manufacturing of paper maker felts and other industrial fabrics. According to the agreement entered into by the assessee the remuneration was paid for at the rate of 5% on the sale price of the product The Ld. CIT (A) has considered the various clauses of the agreement and held that the know-how was to remain the sole and exclusive property of the provider and the appellant company is required to fully exploit the same. Further the technical know-how was also to be Page { 7paid in relation to the sales affected by the assessee company, it Is also required to be noted that assessee is engaged in the same business for which technical know-how is by the assessee and it is not at its an altogether a new line of business which is developed. The Ld. departmental representative could not point out any infirmity in the order of the Ld. CIT (A). In view of above facts we do not find any reason to disturb the finding of the Ld. CIT (A) m allowing the claim of the assessee of technical know-how fees paid to its parent company as revenue in nature, in the result ground No. 3 of the appeal of the revenue is dismissed. ”*

*5. Respectfully following the findings of the co-ordinate bench, we Line to interfere with the finding of the Id. CIT(A). Appeals filed by' Revenue are accordingly dismissed.”*

10. Before us, no distinguishing feature in the facts of the case in the year under consideration has been pointed out by the Revenue. Further no fallacy in the findings has been pointed out by the Revenue before us. Revenue has also not placed any material on record to demonstrate that the order of the Tribunal in assessee's own case in earlier years has been set aside/overruled or stayed by higher judicial forum. In such a

situation, we find no reason to interfere in the order of CIT(A).  
**Thus the ground of appeal of the Revenue is dismissed.**

**11. In the result, appeal of the Revenue is dismissed.**

**Order pronounced in the open court on 16.02.2021**

**Sd/-**

**(ANIL CHATURVEDI)  
ACCOUNTANT MEMBER**

**Sd/-**

**(AMIT SHUKLA)  
JUDICIAL MEMBER**

*Date:- 16.02.2021*

\*Priti Yadav, Sr.PS\*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW DELHI