

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH 'B', HYDERABAD**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA No. 1424/H/2019 Assessment Year: 2016-17		
Telangana State Power Generation Corporation Ltd., Hyderabad.  PAN - AAFCT 0257Q  (Appellant)	Vs.	Asst. Commissioner of Income-tax, Circle - 2(2), Hyderabad.  (Respondent)
Assessee by:		Shri M. Chandramouleswara Rao
Revenue by:		Shri YVST Sai CIT DR
Date of hearing:		17/03/2021
Date of pronouncement:		14 /06/2021

**ORDER**

**PER L.P. Sahu, AM:**

This appeal filed by the assessee for AY 2016-17 is directed against the CIT(A) - 2, Hyderabad's order, dated 21/08/2019 involving proceedings u/s 143(3) of the Income Tax Act, 1961 ; in short "the Act".

2. Brief facts of the case are that the assessee company filed its original return of income for A.Y. 2016-17 on 29.09.2016 with provisional financials and filed revised Return of Income 29.03.2018 declaring total income of NIL under normal provisions and Rs. 68,60,35,517/- under MAT provisions. The case was

selected for Scrutiny under CASS and assessment u/s 143(3) was completed on 24.12.2018 by determining the total income of Rs. 331,75,48,852/- under normal provisions and Rs. 400,86,84,369/- under MAT provisions. The A.O disallowed investment allowance U/s 32AC of Rs. 319,08,63,958/-, disallowed other income for 80IA of Rs. 3,77,42,894/- and made disallowance u/s 14A of Rs. 9,40,42,000/-.

3. The subject matter of appeal is only regarding disallowance of investment allowance u/s 32AC of Rs. 319,08,63,958/-. The AO for making this disallowance, observed in his order as under:

*4.1 For the year under consideration, the assessee claimed to have installed new machinery of the order of Rs.2, 127 crores in new projects taken up at (i) Lower Jurala Hydro Electric Project, (ii) Kakatiya Thermal Power Project-II, (iii) Kothagudem TPS- VII stage and (iv) Pulichintala HES. On the said new machinery, the assessee claimed investment allowance u/s 32AC at Rs.310.09 crores being 15% of the new machinery installed during the year.*

*4.2 During the course of hearings, the assessee was asked to substantiate their entitlement to the said allowance u/s 32AC, the assessee vide note dated 05.10.2018 submitted that the activity of generation of power amounted to production of an article or thing. Extending their argument, the assessee submitted that for the purpose of manufacture, an element of transformation is a pre-requisite, and in the case of electricity generation, the hydel power and thermal power plant, the water and coal gets converted into electricity through the*

*manufacturing process. It is the submission of the assessee that since electricity is generated/produced, can be measured in units, transmitted, capable of being delivered and income can be earned from sale of electricity (it does not matter it is tangible or intangible form of energy), generation of power can be treated as manufacture of an article or thing. In support, the assessee referring to the following case laws submitted as under:*

*"Further it is to bring to your kind notice that the issue as to whether the generation of power amounts to production of an article or goods was examined by ITAT B-Bench, Kolkata in the case of M/ s Damodar Valley Corporation v. DCIT, Circle (9), Kolkata and held that generation and distribution of electricity is akin to the manufacturing and hence the assessee is eligible for additional depreciation u/ s 32(1)(ii)(a) of the Act.*

*Commissioner of Sales Tax v. MP Electricity Board ( AIR 1970 SC 732) State of AP v. National Thermal Power Corporation Ltd ( 127 STC 280 SC)*

*In the above decisions it 'has been held by the Apex court that the generation of power amounts to production of (goods'. Attention is specifically drawn to the decision of the Supreme Court in the case of Madhya Pradesh Electricity Board (Supra). In the decided case the State Electricity Board generated and distributed electricity energy to various consumers. The question posed before the Supreme Court was whether the activity of generation, sale and supply of electricity comes within the purview of the Sales Tax Act. The assessee in that case contended before the Court that (electricity; generated was not goods as it did not have any physical existence or attributes or mas which goods possess. The Supreme Court observed that the term (goods' has to be understood in a wider sense and merely because electric energy is*

*not tangible or cannot be moved it does not cease to be 'goods'.*

*4.3 The submissions made and the case laws relied by the assessee are considered. The moot point for consideration is whether the assessee is entitled to claim the incentive available u/ s 32AG.*

*4.4 The Income Tax Act provides various incentives in different sections to the companies engaged in the business of manufacture or production of any article or thing. The section in relation to investment allowance reads as under:*

*"32AC. (1) Where an assessee, being a company, engaged in the business of manufacture or production of any article or thing, acquires and installs new asset after the 31st day of March, 2013 but before the 1st day of April, 2015 and the aggregate amount of actual cost of such new assets exceeds one hundred crore rupees, then, there shall be allowed a deduction,-*

*(a) .*

*(b) for the assessment year commencing on the 1st day of April, 2015, of a sum equal to fifteen per cent of the actual cost of new assets acquired and installed after the 31st day of March, 2013 but before the 1st day of April, 2015, as reduced by the amount of deduction allowed, if any, under clause (a)".*

*4.5 Before going into the discussion further, it is relevant to refer to the case law relied upon by the assessee in the case of Damodar Valley Corporation and NTPC (supra). Both these decisions are given in the context of allowability of additional depreciation u/ s 32(I)(iia). Various judicial pronouncements on the issue make it clear that in order to find out whether any assessee is entitled for*

*any particular deduction, each case is required to be examined in the light of facts and circumstances of that very case and the very provisions of the Act. In the light of above observations, let us examine the incentives provided by the Income Tax Act to power generation companies and the intention of Legislation behind providing such incentives.*

*4.6 Section 32 (1 )(iia) provides for additional depreciation to incentivize the promotion of capital goods industry, engaged in the business of manufacture or production of any article or thing, and this section came into force vide Finance Act 2002. Though the proviso relating to allowing additional depreciation u/s 32(1)(iia) starts with the words 'engaged in the business of manufacture of an article or thing' akin to the proviso 32A9(1) 'where an assessee, being a company, engaged in the business of manufacture or production of any article or thing' the incentive of additional depreciation was not considered for power generation companies. However, the said incentive of additional depreciation was extended to the power generation companies by an amendment to the section. 32(1)(iia) by including the power generation companies in the said proviso with effect from 01.04.2013 by the Finance Act, 2012. In the Memorandum to Finance Act, 2012, the reasons for extending the benefit of additional depreciation to power generation companies was spelt out as under:*

*Under the existing provisions, the benefit of initial depreciation is not available on the new machinery or plant installed by an assessee engaged in the business of generation or generation and distribution of power. In order to encourage new investment by the assessees engaged in the business of generation or generation -and distribution of power, it is proposed to amend this section to provide that an assessee engaged in the business of generation or generation and distribution of power*

*shall also be allowed initial depreciation at the rate of 20% of actual cost of new machinery or plant (other than ships and aircraft) acquired and installed in a previous year. This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years.*

*4.7 From the above, it can be seen that while bringing the provisions for additional depreciation under section 32(i)(ii) into existence, the power generating companies were not considered initially. It is only by an amendment to section 32(i)(ii), the power generating units were included to get the benefit of additional depreciation. It is referring to this position and provisions of section 32(l)(ii) only, the Courts in Damodar Valley Corporation and NTPC cases decided in the issue in favour of the assessee.*

*4.8 Now coming to section 32AC, as per Memorandum to Finance Act, 2013, this section was introduced as a measure to promote socio-economic growth. «Incentive for acquisition and installation of new plant or machinery by manufacturing company. In order to encourage substantial investment in plant or machinery, it is proposed to insert a new section 32AC in the Income Tax Act to provide that where an assessee, being a company, (a) is engaged in the business of manufacture of an article or thing; and (b) invests a sum of more than Rs.100 crore in new assets (Plant or machinery) during the period beginning from 1st April, 2013 and ending on 31st March, 2015." In the said Memorandum, the power generating companies were not included. In the absence of specific inclusion of power generating units into the purview of section 32AC, the benefits mentioned in section 32(l)(ii) cannot be extended to power generation companies. Therefore, the case laws relied upon by the assessee, which were rendered in the context of 32(l)(iia) cannot be applied to provisions of section*

*32AC and accordingly, the claim of investment allowance claimed by the assessee at Rs.301.09 crores is disallowed and added to the income returned."*

3. Aggrieved by the order of AO, the assessee preferred an appeal before the CIT(A), who confirmed the order of AO after considering the submissions of the assessee, which were extracted in his order at pages 7 to 15.

4. Still aggrieved, the assessee is in appeal before the ITAT by raising the following grounds of appeal:

*1. On facts and circumstances of the case the Ld. Commissioner of Income Tax (Appeals) has erred in sustaining the rejection of the claim by the Assessing Officer for grant of Investment Allowance u/s 32AC both under regular provisions as well as under MAT provisions of the IT Act contending that Powe Generation is not covered by 32AC. The Ld. Commissioner O Income Tax (A) ought to have considered the fact that the Hon'ble ITAT, Chennai in ACIT Coimbatore Vs M. Satish Kumar in ITA No.718/Mds/2012, Order Dt.28.09.2012 has declared that Generation of Electricity is akin to "Manufactur activity " even before the amendment to Section 32(1)(ia).*

*2. Such other ground and that may be urged during the hearing of the appeal."*

5. Before us, the ld. AR of the assessee filed written submissions in support of assessee's case, which are as under:

*The Appellant is a State Government Public Sector Undertaking engaged in the business of generation of electricity. It filed its Income Tax Return (Revised) declaring " Nil" Income under Regular Provisions and Rs 68,60,35,517/- under MAT Provisions .*

*In the scrutiny assessment, The Ld. Assessing Officer amongst other additions to the income/ disallowances of the claims, has disallowed the claim made for Rs. 319,08,63,958/- investment allowance U/s. 32AC of Income Tax Act. 1961. The Ld. Assessing Officer denied the claim of Investment Allowance u/s 32AC solely on the ground that generation of power cannot be treated as a manufacturing activity and the benefits mentioned under that section rot be extended to power generating companies as such companies have not been specifically m:luded in this section. In the appeal, the ld. Commissioner of Income Tax (Appeals) bas appealed the disallowance of Investment allowance and stated that power generation companies are not included specifically in the purview of Section 32AC.*

*In the appeal before the Ld. Commissioner of Income Tax (Appeals), It was Submitted that-*

*(i ) To be eligible for deduction U/s 32AC, The assessee must be a company engaged the business of manufacture or production of any article or thing,*

*(ii) It should acquire and install new asset during the previous year and such investment should exceed 25 Crores and such company assessee will be eligible of sum equal actual cost of new asset.*

*The appellant submitted that, it is satisfying all the required attributes specified in section 32AC and that it is generating "ELECTRICITY". The Hon'ble Supreme Court in the case of CST Vs Madhya*

*Pradesh State Electricity Board reported in A-1 1970 (SC-732) and in the case of State of AP Vs NTPC reported in 127 SIC 280(SC), has held that electricity is a "Good".*

*The Appellant further submitted before the Ld. CIT (A) that, the issue whether "Electricity" is a "Commodity" or a "Good" has been settled by a catena of Judicial Pronouncements of various high courts and Supreme Court and it is held to be "a Good". The Appellant is relying upon the following decisions which have adjudicated that the "Electricity" is "a Good" and "generation of electricity" is a 'Manufacture',*

*It is submitted before the Ld. CIT(A) that, the Hon'ble ITAT, B- Bench- Chennai in the case of ACIT Vs Mr. M Satheesh Kumar, Coimbatore in ITA No. 718&1ds12012 Order Dt:28.09.2012 has stated that "Although the said amendment ( to section 32 (1)(ia) is effective from 04.04.2013, but it gives impetus to the View that generation of electricity is a manufacturing process and qualifies for the benefit U/s 32(1)(ia) and it upheld that the order of CIT(A) and allowing deduction to electricity generating companies for A Y 2008-09 is upheld by dismissing revenue appeal being devoid of merit, The Hon'ble ITAT in the Satheesh Kumar case has held that generation of electricity is a manufacturing process much earlier to the amendment brought out to include electricity generating companies for benefit U/s 32(1)(1ia).*

*The Appellant placed reliance on the judgement of Hon'ble AC Central Excise, New Delhi Vs Ballarpoor Industries Ltd (1990) 77 STC 282 (SC), to submit that com is a raw material for production of electricity. It further relied on the judgement of Hon'ble Odisha High Court in the ~.1Se of Orient Paper & Industries Ltd VS Odisha State Electricity Board (1989) 41ELT 552(ORI). for the proposition*

*that Electricity is a good and generation of electricity involves manufacturing process.*

*In view of the above decisions and the interpretations applied by the judicial authorities, it was submitted before CIT(A) that the contentions of the Assessing Officer that the provisions of section 32(l)(ia) has not granted the additional depreciation allowance to the power generating companies until an amendment to include power generating companies for grant of concession was brought out by Finance Act. 2012 w.e.f 01.04.2013. was a narrow interpretation of the provisions of section 32(l)(ia) and has no justification and lacks any judicial authority support, The Hon'ble ITAT has referred to number of decisions of various benches of Tribunal, High Courts and The Hon'ble Supreme Court and after analysing has held that power generation tantamount to " Production".*

*The Ld. Assessing Officer and also The Ld. CIT(A) have denied " Investment Allowance U/s. 32AC" to the Appellant Power Generating Company contending that, the legislature only amendment sec 32(1 )(ia) which was for an additional incentive by including the business of generation, transmission or distribution of power but did not amended the-section 32i\C Which also forms an additional incentive and only refers to manufacture or production of article or thing and explicitly does not mentioned" Or the business of ....." and thus the intent of not granting benefit concluded as explicit nature leaving no ambiguity in this regard. Thus The Ld. CIT(A) upheld the Assessment Order denying Investment Allowance u/s 32AC to the Appellant, engaged in the power generation business.*

*The Appellant humbly submit that the activity which is considered as "Manufacturing / Production" of an article or thing u/s, 32(1 )(ia) CUIU10t be so consider when it comes to granting of incentive to a*

*company engaged in the business of manufacture or production of article or thing.*

*The Hon'ble Income Tax Appellate Tribunal, Delhi 1-2 Bench in ITANo.12 DEL/2020 order Dt. 21.09.2020 in the case of Vedanta Ltd Vs The ACTT, Circle - 26(2). New Delhi has considered the issue of denial of Investment allowance u/s 32AC to the power generation business company. The Hon'ble Tribunal has very elaborately discussed as to whether power generation can be considered as manufacturing I production of an article or thing and analysed the number of decisions of various judicial authorities ranging from IT AT to Supreme Court-of India and concluded that generation of electricity is tantamount to manufacture or production of an article or thing. (Copy of ITA T order is enclosed).*

*Paras 73 to 81 of the above mentioned ITAT order in Vedanta Ltd is very relevant for deciding whether 3 company engaged ill generation of electricity can be consider as a company in production/ manufacturing of activities. The relevant extracts from the order of The Hon'ble ITAT in Vedanta Ltd case is reproduced below.*

*"78. we have given thoughtful consider to rival contentions .....*

*79. In so-far as disallowance made on the ground that the generation of power does not amount to manufacture or production of goods, in our considered opinion, this issue is no longer res Integra and has been conclusively settled by the Hon'ble Apex Court in the case of Commissioner of Sales Tax, MP Vs. Madhya Pradesh State Electricity Board 2 SCR 939. Wherein it has been held that "Electric energy" would be cover under the definition of 'good'.*

80. *The Hon'ble Jurisdictional High Court of Delhi in the case of NTPC Sail Power Company in ITA No 129012018 had the occasion to consider a similar issue. Relevant finding of the Hon'ble High Court read as under:*

*"6. Section 32(l)(iia) of the Act as it stood at the relevant time" read as follows:*

*'32. Depreciation:*

*(1) In respect of depreciation of (2)*

*(iia) In the case of any new machinery or plant (other than ships and craft). Which has been acquired and installed after the 31st day of March, 2005. by an assessee engaged in the business of manufacture or production of any article or thing, a further sum equal to twenty per cent of the actual cost of such machinery or plant shall be allowed as deduction under clause (ii)."*

*7. Learned counsel for the assessee has drawn our attention to the Judgment of the Karnataka High Court dated 16.09.2014 in ITA. No.08/2D14 [Commissioner of Income Tax Vs. The Hutti Gold Mines Co, Ltd. wherein the question of additional depreciation was considered and it was held as follows:*

*"3. The material 011 record shows that the assessee is generating electricity through windmill as a second line of business. It is a product of the assessee company. It is covered under the words "article" or "thing". which is tradable I identifiable. In other words. the electricity falls within the definition: pi Sale of Goods Act. 1930, and process of generation of electricity is akin to manufacture or production of an "article" or "thing". The power generated need not necessarily be used in the production of assessee's own products namely*

*mining and extraction of gold. The use of electricity in the manufacturing activity of the core business of the assessee is not a precondition for the grant of additional depreciation under the statute. Therefore, we do not see any merit in his appeal. Accordingly, this appeal is rejected.*

*4. However, we have not gone into the question of applicability of Section 32(1)(ia) of the Income Tax Act; 1961, and the question as to whether clarificatory or not is kept open to be decided at proper time."*

*Although the Karnataka High Court held that it was not going into the question of Section 32(1)(ia) and the question of whether the subsequent amendment was clarificatory, the analysis of the Court is in our view also applicable to the interpretation of the said provision for the purposes of the present dispute.*

*8. Similarly, it is clear that electricity has been held to be "goods" for the purposes of sales tax in the Constitution Bench judgment of the Supreme Court in State of Andhra Pradesh Vs. TPC Lid AIR 2002 SC 1895. The Supreme Court. in that judgment held as follows:*

*"20. Before we deal with the constitutional aspects let us first state what electricity is, as understood in law, and what are its relevant characteristics. It is settled with, the pronouncement of this Court in Commissioner of Sales Tax, Madhya Pradesh Indore. Madhya Pradesh Electricity Board. Jabalpur - 1969(2) SCR 939 that electricity is goods. The definition of goods as given in Article 366 (12) of the Constitution was considered by this Court and it was held that the definition in terms is very wide according to which "goods" means all kinds of moveable property. The term "moveable-property" when, considered with reference to "goods" as defined for the purpose of sales-tax cannot be taken*

*in a narrow sense and merely because electrical energy is not tangible or cannot be moved or touched like, for instance. a piece of wood or a book it cannot cease to be moveable property when it has all the attributes of such property. It is capable of abstraction, consumption and use which if done dishonestly is punishable under-Section 39 of the Indian Electricity Act, 1910. If there can be sale and purchase of electrical energy like any other moveable object, this Court held that there was no difficulty in holding that electric energy was intended to be covered by the definition of "goods". However. A.N.G rover, J., speaking; for three-Judge Bench, of this Court went on to observe that electric energy can be transmitted. transferred, delivered, stored, possessed etc. In the same way as any other moveable property". In this observation we agree with Grover. J., on all other characteristics of electric energy except that it can be stored the observation must be held to be erroneous or by oversight. The science and technology till this day have not been able to evolve any methodology by which electric, energy can be preserved or stored."*

*9. The Tribunal's judgment in NTPC Vs. DCIT [relied upon in the orders of the CIT(A) as well as the Tribunal in the present case] followed this judgment of the Supreme Court to hold that electricity has, all the necessary trappings of "articles" or things" and the benefit of additional depreciation cannot be denied.*

*10, As held by the Constitution Bench. electricity is capable of abstraction, transmission, transfer, delivery, possession, consumption and use like any other movable property. Following the same logic, to deny the benefit of additional depreciation to a generating entity on the basis that electricity is not an "article" or "thing" is in our view an artificially restrictive meaning of the provision. The benefit of additional depreciation under Section 32(I)(ia)*

*has, therefore, been rightly granted to the assessee by the concurrent judgments of the CIT(A) and the Tribunal.*

*11. We also note that, w.e.f from 01.04.2013, the provision has been amended by the 'Finance Act, 2012 and assessees engaged in the generation of power have expressly been included in the ambit thereof.*

*12. For the above reasons, the Court is of the opinion that no substantial question of law arises. The appeal is dismissed."*

*81. In light of the decision of the Hon'ble Supreme Court in the case of Sesa Goa and NTPC Sail Power Co. Pvt Ltd [supra], we direct the Assessing Officer to allow the claim of deduction u/s 32AC of the Act. This ground is, accordingly, allowed.*

*The Hon'ble ITAT has considered similar and identical facts of the present Appellant in the case Vedanta Ltd (Supra) and held that power generating companies are eligible for incentives u/s 32AC and such power generation is to be considered as manufacturing activity.*

*The issue of the present appellant is completely covered by the ratios of the above judicial decisions and humbly pray the Hon'ble Tribunal to grant Investment Allowance U/s.32AC to the Ham Power Generating Company."*

6. The ld. DR, on the other hand besides relying on the orders of authorities below, he further submitted that the deduction provision should be should be strictly interpreted . In the section 32AC there is no specific for power generation company. IN support of his arguments he placed reliance on the judgment of the

Hon'ble Supreme Court in the case of N C Budharaja and Co., [1993] 204 ITR 412 (SC) and Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Co. and Ors: (2018) 95 Taxmann.com 327 (SC).

6.1. In the rejoinder the AR of the assessee submitted that the case laws relied by the Ld CIT Dr. is not applicable in the present facts of the case. The Hon'ble Supreme Court has decided that the electricity is "goods" then there is no room for further discussion that the assessee is not entitled for Investment Allowance as per U/s 32AC of the Income Tax Act. 1961.

7. We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities. We find that the written submissions cited supra before us by the ld. AR of the assessee were also submitted before the CIT(A), but, the CIT(A) ignoring the written submissions of the assessee, confirmed the order of AO making disallowance on account of investment allowance u/s 32AC. We find force in the written submissions filed by the ld. AR of the assessee. In the case of Vedanta Ltd. (supra), the ITAT, Delhi Bench relying on the judgement of the Hon'ble Supreme Court in the case of Sesa Goa and NTPC Ltd, directed the AO to allow the claim of deduction u/s 32AC of the Act.

7.1 In the case of ACIT, Coimbatore Vs. M. Satish Kumar, the ITAT, Chennai Bench in ITA No. 718/Mds/2012, dated 28/09/2012, on which reliance placed by the Assessee in its ground of appeal, has held as under:

*“9. We have heard the submissions made by the respective parties and have also examined the judgements orders relied on by the A.R. of the assessee. A perusal of the judgements clearly show that generation of electricity is akin to manufacturing of a new product. In the instant case, electricity which may not be seen with the eyes, however, its effect can be seen and felt. The electricity can be transmitted, transferred, delivered, stored, possessed etc. The Hon'ble Supreme Court in the case of the CST Vs. Madhya Pradesh Electricity Board (supra) has held that electricity falls within the definition of goods under the provisions of [Sale of Goods Act, 1930](#). The Delhi Bench of the Tribunal in the case of NTPC Ltd. (supra) after a detailed examination of several judgements, Acts, Constitution of India, has concluded that the process of generation of electricity is akin to manufacture of an article or thing.*

*10. In view of the above, we are of the considered opinion that generation of electricity is a manufacturing activity. The assessee is involved in the manufacturing activity and fulfills the conditions as laid down under [section 32\(1\)\(iia\)](#). The Government vide [Finance Act, 2012](#) has amended the provisions of [section 32\(1\)\(iia\)](#) to include the business of generation or generation and distribution of power, eligible for benefit under [section 32\(1\)\(iia\)](#). Although the said amendment is with effect from 1.4.2013 but it gives impetus to the view that generation of electricity is a manufacturing process and qualifies for the benefits under [section 32\(1\)\(iia\)](#). In view of the above, the order of the CIT(A) is upheld and the appeal of the Revenue is dismissed being devoid of merit. Order pronounced in the*

*open court on Friday, the 28th day of September, 2012 at Chennai."*

7.2 As the issue in dispute is similar to the issue decided by the ITAT, Delhi in Vedanta Ltd. and the Chennai Bench has decided that generation of electricity is a manufacturing activity decision cited supra, The electricity can be transmitted, transferred, delivered, stored, possessed etc. The Hon'ble Supreme Court in the case of the CST Vs. Madhya Pradesh Electricity Board (supra) has held that electricity falls within the definition of goods under the provisions of [Sale of Goods Act](#), 1930. Therefore, respectfully following the above judgements, we set aside the order of CIT(A) and direct the AO allow the assessee's claim of deduction u/s 32AC of the Act. Accordingly, the ground raised by the assessee on this issue is allowed.

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

Pronounced in the open court on 14<sup>th</sup> June, 2021.

Sd/-  
(S.S. GODARA)  
JUDICIAL MEMBER

Sd/-  
(L.P. SAHU)  
ACCOUNTANT MEMBER

Hyderabad, dated 14<sup>th</sup> June, 2021  
kv

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4	<i>Pr. CIT - 2, Hyderabad.</i>
5	<i>ITAT, DR, Hyderabad.</i>
6	<i>Guard File.</i>