

आयकर अपीलीय अधिकरण, कटक न्यायपीठ, कटक

IN THE INCOME TAX APPELLATE TRIBUNAL CUTTACK BENCH CUTTACK
श्री जार्ज माथन, न्यायिक सदस्य एवं श्री अरुण खोड़पिया लेखा सदस्य के समक्ष ।

**BEFORE SHRI GEORGE MATHAN, JUDICIAL MEMBER
AND
SHRI ARUN KHODPIA, ACCOUNTANT MEMBER**

ITA No.297/CTK/2016

(निर्धारण वर्ष / Assessment Year :2009-2010)

DCIT, Circle-1(1), Bhubaneswar

.....Revenue

Versus

M/s Odisha Hydro Power Corporation Ltd.,
OSPHWC Building, Bhoi Nagar, Vani Vihar,
Bhubaneswar-751002

PAN No.AAACO 2575 P

..... Assessee

AND

ITA No.281/CTK/2016

(निर्धारण वर्ष / Assessment Year :2009-2010)

M/s Odisha Hydro Power Corporation Ltd.,
OSPHWC Building, Bhoi Nagar, Vani Vihar,
Bhubaneswar-751002

PAN No.AAACO 2575 P

..... Assessee

Versus

DCIT, Circle-1(1), Bhubaneswar

.....Revenue

Shri Dillip Kumar Mohanty/Pradyumna Kumar Sahu/Sunima Panda, ARs for the assessee

Shri M.K.Gautam, CIT-DR for the Revenue

Date of Hearing : 22/06/2022
Date of Pronouncement : 22/06/2022

आदेश / O R D E R

Per Bench :

These are the cross appeals filed by the revenue and assessee against the order of the Id. CIT(A)-1, Bhubaneswar, dated 26.05.2016 passed in I.T.Appeal No.0356/14-15 for the assessment year 2009-2010.

2. It was submitted by the Id. AR that the AO had disallowed the expenditure relating to software expenditure. It was the submission that the expenditure was revenue in nature and consequently the issue is covered by the decision the Hon'ble Delhi High Court in the case of CIT Vs. Amway India Enterprises, reported in 346 ITR 341 (Delhi).

3. It was submitted by the Id. CIT-DR that the revenue is in appeal against the action of Id. CIT(A) in deleting the addition of Rs.34,81,882/- in respect of software expenditure capitalised by the AO on which depreciation had been granted @60%. It was the submission that the software gives enduring benefit to the assessee, therefore, the same is liable to be treated as capital expenditure.

4. We have considered rival submissions.

5. A perusal of the decision of Hon'ble Delhi High Court in the case of Amway India Enterprises(supra), shows that the software expenses are to be treated as revenue expenditures. In these circumstances, following the principle of law laid down by the Hon'ble Delhi High Court in the case of Amway India Enterprises (supra), software expenses incurred by the assessee is directed to be held as revenue expenditure. Consequently, the appeal of the assessee is allowed and the appeal of the revenue stands dismissed.

6. In the result, appeal of the assessee is allowed and the appeal of the revenue stands dismissed.

Order dictated and pronounced in the open court on 22/06/2022.

Sd/-

(अरुण खोड़पिया)
(ARUN KHODPIA)

लेखा सदस्य/ ACCOUNTANT MEMBER

Sd/-

(जार्ज माथन)
(GEORGE MATHAN)

न्यायिक सदस्य / JUDICIAL MEMBER

कटक Cuttack; दिनांक Dated 22/06/2022

Prakash Kumar Mishra, Sr.P.S.

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant-
2. प्रत्यर्थी / The Respondent-
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कटक / DR,
ITAT, Cuttack
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

(Assistant Registrar)

आयकर अपीलीय अधिकरण, कटक/ITAT, Cuttack