

IN THE INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "A" : DELHI]

BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
A N D
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

आ.अ.सं./I.T.A Nos. 5930 TO 5934/Del/2019

निर्धारणवर्ष /Assessment Years: 2014-15 TO 2017-18 & 2013-14

DCIT, Central Circle : 31, New Delhi.	<u>बनाम</u> Vs.	M/s. A.D. Hydro Power Ltd. 40-41, Bhilwara Bhawan, Community Centre, New Friends Colony, New Delhi - 110 025.
		PAN No. AAECA6200D
अपीलार्थी / Appellant		प्रत्यर्थी / Respondent

निर्धारितकीओरसे /Assessee by :	Shri P. K. Jain, C. A.;
राजस्वकीओरसे / Department by :	Shri Amaresh Singh, [CIT] - D. R.;

सुनवाईकीतारीख/ Date of hearing :	21/06/2022
उद्घोषणाकीतारीख/Pronouncement on :	13/07/2022

आदेश / O R D E R

PER C. N. PRASAD, J. M. :

1. These appeals are filed by the Revenue against the common order of the Id. Commissioner of Income Tax (Appeals)-30 {hereinafter referred

to CIT (Appeals)] New Delhi, dated 30.04.2019 for assessment years 2013-14 to 2017-18.

2. In all these appeals the following common grounds of appeal have been raised by the Revenue:-

“1. Whether on the facts and in the circumstances of the case, the Ld. CIT (A) was legally justified in treating the income earned from Carbon Credits as capital receipt ignoring the facts that Carbon Credit is a revenue receipt and has been treated as income from other sources.

2. Whether on the facts and in the circumstances of the case, the Ld. CIT (A) was legally justified in excluding the income earned from sale of Carbon Credit from MAT provision while computing book profit u/s 115JB of the Income Tax Act.”

3. At the outset, the ld. Counsel for the assessee submits that both the above grounds have been decided in favour of the assessee in the case of its Holding company M/s. Malana Power Company Limited for assessment years 2009-10 to 2011-12 and 2013-14 holding that Carbon Credit income as capital receipt neither taxable under normal provisions of the Act nor taxable under Section 115JB of the Income Tax Act, 1961 (the Act) vide orders dated 27.04.2018 in ITA. Nos. 2281, 3100/Del/2013; ITA. Nos. 3957, 4685/Del/2015; ITA. Nos. 1550, 2319/Del/2015 and order dated 4.05.2022 in ITA. Nos. 5055/Del/2019 for assessment year 2013-14.

4. The ld. DR supported the orders of the authorities below.

5. Heard rival submissions perused orders of the authorities below and the decision relied on by the assessee in the case of its Holding company M/s. Malana Power Company Limited and find that the grounds in the appeals before us are squarely covered in favour of the assessee wherein it has been held that income from sale of Carbon Credits is

capital in nature. It was further held that since the income/profits from the sale of Carbon Credits is essentially in the nature of capital receipts and it cannot be brought to tax under the provisions of minimum alternate tax under Section 115JB of the Act. While holding so the Tribunal followed the decision of the Jaipur Bench of the Tribunal in the case of Shree Cements Ltd. reported in 49 taxmann.com 274. We observe that the ld. CIT (Appeals) following the order of the co-ordinate bench of the Tribunal in the case of M/s. Malana Power Company Limited, which is the Holding company of the assessee decided the grounds in favour of the assessee holding that sale of Carbon Credits is capital receipt not exigible to tax under normal provisions of the Act and also while computing the book profits under Section 115JB of the Act, we see no infirmity in the order passed by the ld. CIT (Appeals). The same is sustained. Grounds raised by the Revenue are rejected.

6. In the result, all the appeals filed by the Revenue are dismissed.

Order pronounced in the open court on : 13/07/2022.

Sd/-
(PRADIP KUMAR KEDIA)
ACCOUNTANT MEMBER

Sd/-
(C. N. PRASAD)
JUDICIAL MEMBER

Dated : 13/07/2022.

MEHTA

आदेश की प्रतिलिपि अग्रेषित / Copy of Order Forwarded to:-

1. राजस्व / Revenue
2. आवेदक / Assessee

3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त- अपील / CIT (A)
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, DELHI /
DR, ITAT, DELHI
6. गार्ड फाइल / Guard file.

By order

ASSISTANT REGISTRAR

ITAT, New Delhi.

Date of dictation	12.07.2022.
Date on which the typed draft is placed before the dictating Member	12.07.2022.
Date on which the typed draft is placed before the Other Member	13.07.2022.
Date on which the approved draft comes to the Sr. PS/PS	13.07.2022.
Date on which the fair order is placed before the Dictating Member for pronouncement	13.07.2022.
Date on which the fair order comes back to the Sr. PS/PS	13.07.2022.
Date on which the final order is uploaded on the website of ITAT	13.07.2022.
Date on which the file goes to the Bench Clerk	13.07.2022.
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	