



**IN THE INCOME TAX APPELLATE TRIBUNAL,  
CUTTACK BENCH, CUTTACK**

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

**ITA No.399/CTK/2015**

Assessment Year : 2011-2012

Aliza International (P) Ltd., HIG-19, BDA Housing Colony, Jaydev Vihar, Bhubaneswar.	Vs.	ACIT, Circle-1(2), Aayakar Bhavan, Bhubaneswar.
PAN/GIR No.AAFCA 9579 A		
<b>(Appellant)</b>	..	<b>( Respondent)</b>

Assessee by : Shri Sunil Kumar Mishra, AR  
Revenue by : Shri M.K.Gautam, CIT DR

**Date of Hearing : 13 /10/2022**  
**Date of Pronouncement : 13/10/2022**

**ORDER**

**Per Bench**

This is an appeal filed by the assessee against the order of the Id CIT(A)-1, Bhubaneswar dated 4.6.2015 in Appeal No.0049/14-15 for the assessment year 2011-12.

2. Shri Sunil Kumar Mishra, Id AR appeared for the assessee and Shri M.K.Gautam, Id CIT DR appeared for the revenue.

3. It was submitted by Id AR that the only issue in this appeal is against the action of the Id CIT(A) in confirming the addition of Rs.11,66,666/- relating to peripheral development expenses inasmuch as the said expenditure is a business expenditure within the meaning of section 37 of the I.T.Act. It was submitted by Id AR that the Assessing Officer in page 4 of his order mentions that he is unable to verify whether the peripheral development expenditure is the expenditure incidental to the business and must have been necessitated or justified by commercial expediency or not in the case of the assessee as the assessee has failed to justify the peripheral development expenditure with supporting documents/evidences. He submitted that before the Id CIT(A), it was specifically brought out that the entire expenditure was made as per the instruction of the Bhubaneswar Municipal Corporation (BMC) and the work was directly supervised by the BMC. It was submitted that the Assessing Officer admits that the expenditure had been incurred for the welfare of the local residents. It was the submission that the Id CIT(A) has confirmed the disallowance on the ground that the expenditure has not brought any gains for the business but made for extraneous consideration. It was the submission that admittedly, the expenditure has been incurred on the basis of instruction from BMC. Id AR has also placed before us the copy of the letter of Shri Ananta Narayan Jena, Mayor, BMC, wherein, he thanks the assessee for creating a beautiful piece of land from Kalinga Stadium to Jayadev Vihar Chhak. However, in

the said letter, he also mentions that there is negative attitude of poor performance from the maintenance contractor and BMC is not in a position to sponsor them for further payment and maintenance. It was the submission that the expenditure has been incurred by the assessee at the instruction of the BMC and the assessee is doing the business in Odisha, its office is in Bhubaneswar and this expenditure was in fact business related only. It was the submission that the addition may be deleted.

4. In reply, Id CIT DR submitted that the assessee is not engaged in mining activities. It was the submission that the Notification issued by Govt. of Odisha clearly mentions that the expenditure incurred for peripheral development expenditure must be within 50 kms from the mining area and it should be spent for Education, Communication, Irrigation, Agriculture and Health. It was the submission that the assessee has been unable to show any business connection in respect of incurring of the expenditure. It was the further submission that the Id CIT(A) has categorically given a finding that the expenditure has been incurred for extraneous consideration. It was further submitted that the expenditure should have been incurred through district committee. It was the submission that the order of the Id CIT(A) is liable to be upheld.

5. We have considered the rival submissions. Admittedly, the assessee is not in the business of mining, therefore, the said expenditure cannot be said to be peripheral development expenditure. In such circumstances, we

are left with only issue as to whether the said expenditure was business expenditure or not. The evidence produced by the assessee clearly shows that the expenditure has been incurred at the direction from BMC. The payments have been made by cheque to the contractor sponsored by the BMC. Obviously, the beautification work had been done at the direction of the BMC and a Board is required to put up specifying that the work has been done by a particular individual or company. This is also in the form of advertisement. Here, as it is noticed that the expenditure has been incurred at the instruction of the BMC, we are of the view that it cannot be said the payment has been made for extraneous consideration. This being so, we are of the view that the expenditure is incurred for the purpose of business of the assessee and same is allowable.

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

Order dictated and pronounced in the open court on 13/10/2022.

Sd/-  
**(Arun Khodpia)**  
**ACCOUNTANT MEMBER**

sd/-  
**(George Mathan)**  
**JUDICIAL MEMBER**

Cuttack; Dated 13/10/2022  
B.K.Parida, SPS (OS)

**Copy of the Order forwarded to :**

1. The Appellant : Aliza International (P) Ltd.,  
HIG-19, BDA Housing Colony, Jaydev Vihar,  
Bhubaneswar.
2. The Respondent: ACIT, Circle-1(2), Aayakar  
Bhavan, Bhubaneswar.
3. The CIT(A)-1, Bhubaneswar
4. Pr.CIT-1, Bhubaneswar
5. DR, ITAT, Cuttack
6. Guard file.  
//True Copy//

**By order**

Sr.Pvt.secretary  
**ITAT, Cuttack**