

**आयकर अपीलीय अधिकरण 'ए' न्यायपीठ चेन्नई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'A' BENCH, CHENNAI**

**माननीय श्री महावीर सिंह, उपाध्यक्ष एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON'BLE SHRI MAHAVIR SINGH, VICE PRESIDENT AND**  
**HON'BLE SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./ ITA No.927/Chny/2019  
(निर्धारण वर्ष / Assessment Year: 2013-14)

<b>M/s. Nippo Batteries Company Ltd.</b> (now known as Indo National Ltd.) No.77, Pottipatti Plaza, 4 <sup>th</sup> Floor, Nungambakkam High Road, Chennai – 600 034.	<b>बनाम</b> / Vs.	<b>ACIT</b> Corporate Circle-4(2), Chennai.
स्थायी लेखा सं./जीआइ आर सं./PAN/GIR No. AAACI-2291-L		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

अपीलार्थी की ओरसे/ <b>Appellant by</b>	:	Shri R. Vijayaraghavan (Advocate)-Ld. AR
प्रत्यर्थी की ओरसे/ <b>Respondent by</b>	:	Shri AR. V Sreenivasan (Addl. CIT) –Ld. DR
सुनवाई की तारीख/ <b>Date of Hearing</b>	:	19-10-2022
घोषणा की तारीख / <b>Date of Pronouncement</b>	:	19-10-2022

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year (AY) 2013-14 arises out of the order of learned Commissioner of Income Tax (Appeals)-8, Chennai [CIT(A)] dated 15-10-2018 in the matter of an assessment framed by Ld. Assessing Officer [AO] u/s.143 r/w s. 92CA of the Act on 29-12-2016. The grounds taken by the assessee as under:

The order of the learned ACIT fixing the total income of the Appellant at Rs.3,67,25,9107- is not legally correct and proper.

The appellant objects to the following disallowances:-

a) Disallowance of depreciation of Rs.8,434/-:

The appellant objects to the disallowance of depreciation of Rs.8,434/- claimed towards deficit of the additional depreciation of previous year as not correct and proper. 32 (1) (iia)

b) Disallowance u/s 40 (a)(3) of Rs.47,000/-:

A The appellant objects to the disallowance of Rs.47,000/- applying the provisions of Section 40AB of the Act u/s 40 (a)(3).

c) The weighted deduction claimed at 200% under the provisions of Section 35 (2)(A)(B) -Rs.21.89.730/-:

The appellant objects to the disallowance of Rs.21,89,730/- being 200% deduction and is eligible division towards Research and Expenditure allowable under the provisions of Section 35 (2)(A)(B).

The learned Officers below ought to have seen that the appellant is having Research & Development^ Division at its factory at Nellore.

The appellant submits that the learned assessing officer erred in disallowing the basic expenditure of Rs.10,94,865/-incurred by the appellant towards Research & Development expenses.

The learned AO erred in observing "However, assessee has failed to furnish any evidence for existence of in Research & Development Wing and its eligibilities to claim such deduction in the form of Certificate of quantum of expenditure ratified by the Director General of Income Tax as required under the provisions of the Act. Hence, the entire expenditure of Rs.21,89,730/- is disallowed and added to the income returned".

The learned Officers below ought to have seen that Research & Development activities of the appellant have been approved by the Concerned Department of the Central Government.

The learned Officers below ought to have seen that the details of expenses relating to Research & Development have been furnished during the scrutiny assessment proceedings.

The learned officers below have not properly appreciated the various facts and circumstances relating to the claim of Research & Development and its weighted deduction.

The observations and inferences of the learned Officers below are not correct both in law and on facts.

The appellant objects to the levy of interest u/s 234B of Rs.35,44,311/-.

The appellant craves leaves to file any additional grounds of appeal, if necessary.

As is evident three issues arises out of this appeal i.e., i) Disallowance u/s. 32(1)(iia) of the Act; ii) Disallowance u/s. 40(A)(3) for Rs.47,000/-; iii) Weighted deduction u/s. 35(2)(A)(B) for Rs. 21.89 Lacs. Having heard the rival submissions and after due consideration of relevant material on record, our adjudication would be as under.

2.1 The assessee being resident corporate assessee is stated to be engaged in manufacturing of Alkaline & Lithium Dry Cells and trading in Torch lights etc.

2.2 The assessee claimed additional depreciation for Rs.8,434/- towards deficit of additional depreciation of previous year. The Ld. AO held that the same did not pertain to this year and accordingly, the same was disallowed.

2.3 The Tax Auditor reported disallowance u/s. 40A(3) for Rs.47,000/-, which was not considered in the computation statement. Accordingly, the same was disallowed.

2.4 The assessee claimed weighted deduction u/s 35(2AB) at 200% towards Research and Development expenditure. However, the assessee could not furnish adequate evidences to show that it was eligible to claim such expenditure. Accordingly, the entire amount was disallowed and added to the income of the assessee.

2.5 During appellate proceedings, the assessee could not make any submissions. Accordingly, the additions were confirmed and the appeal was dismissed. Aggrieved, the assessee is further appeal before us.

3. So far as the disallowance u/s 40A(3) is concerned, the same stand confirmed since the same has been reported by Tax Auditor and no new material has been placed before us. Regarding R & D expenditure, the limited submission of Ld. AR is that the deduction of actual expenditure should be allowed u/s 37(1). Considering the same, we remit the alternative plea of Ld. AR to the file of Ld. AO. The Ld. AO is directed to examine the claim u/s 37(1) with a direction to the assessee to substantiate the same. The depreciation is stated to be an additional depreciation of earlier year and covered by the provisions of

Sec. 32(1)(iia). Reliance has been placed on the decision of Hon'ble High Court of Madras in **Brakes India Ltd. vs. DCIT (TCA No.551 of 2013 dated 14.03.2017)**. Considering the same, we direct Ld. AO to bring on record factual matrix of the same and re-adjudicate this issue.

4. The appeal stand partly allowed for statistical purposes.

Order pronounced on 19<sup>th</sup> October, 2022.

Sd/-  
(MAHAVIR SINGH)  
उपअध्यक्ष / VICE PRESIDENT

Sd/-  
(MANOJ KUMAR AGGARWAL)  
लेखक सदस्य / ACCOUNTANT MEMBER

चेन्नई / Chennai; दिनांक / Dated : 19-10-2022  
EDN/-

**आदेश की प्रतिलिपि ँ ग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/Appellant 2. प्रत्यर्थी/Respondent 3. आयकर आयुक्त (अपील)/CIT(A) 4. आयकर आयुक्त/CIT 5. विभागीय प्रतिनिधि/DR 6. गार्ड फाईल/GF