

**आयकर अपीलीय अधिकरण, इंदौर न्यायपीठ, इंदौर**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**INDORE BENCH, INDORE**  
**BEFORE MS. MADHUMITA ROY, JUDICIAL MEMBER**  
**AND**  
**SHRI B.M. BIYANI, ACCOUNTANT MEMBER**

*(Conducted through Virtual Court)*

**ITA Nos.50 & 51/Ind/2022**  
**Assessment Years: 2018-19 & 2019-20**

Pandav Inn, 1, Arvind Road, Panchmari, Hoshangabad	<b><u>बनाम/</u></b> Vs.	CPC, Bengaluru
(Appellant / Assessee)		(Respondent / Revenue)
<b>PAN: AANFP9544M</b>		
Assessee by	None	
Revenue by	Shri Ashish Porwal, Sr. DR	
Date of Hearing	14.09.2022	
Date of Pronouncement	19.09.2022	

**आदेश / O R D E R**

**Per B.M. Biyani, A.M.:**

Feeling aggrieved by appeal-order passed in Appeal No. NFAC/2017-18/10019066 and NFAC/2018-19/10019067, both dated 03.12.2021, by learned Commissioner of Income-Tax (Appeals)-National Faceless Assessment Centre [**Ld. CIT(A)**], which in turn arise out of intimations of assessment dated 19.06.2019 and 01.05.2020 passed by learned CPC, Bengaluru [**Ld. AO**] u/s 143(1) of the Income-tax Act, 1961 [**the Act**] for AY 2018-19 and AY 2019-20 respectively, the assessee has filed these two appeals. Since the issue involved is identical in both of these appeals, except

the difference of figures, they were heard together and are being disposed of by this consolidated order.

2. At the time of hearing none appeared on behalf of assessee. However, considering the nature of issue and small amounts involved, the appeals were proceeded. We have heard the Ld. DR who has vehemently argued the case on behalf of revenue and advanced his contentions. We have also perused and considered the material held on record in the light of legal provisions.

3. The registry has informed that that both of these appeals were required to be filed by 04.02.2022 but the same were actually filed on 07.03.2022, after a delay of 31 days. It is observed that the delay has occurred due to Covid-19 Pandemic. Reliance is placed on the order of Hon'ble Supreme Court in **Suo Motu Writ Petition (C) No. 3 of 2020 read with Misc. Applications**, by which suo motu extension of the limitation-period for filing of appeals w.e.f. 15.03.2020 under all laws has been granted. Hence there is no delay in fact. We confronted the Ld. DR who agreed. In view of this, the appeals are proceeded with for hearing, there being no delay.

4. The crux of grievance of assessee is such that the Ld. AO has, by applying the provisions of section 143(1)(iv), made disallowance u/s 40A(3) of Rs. 2,35,032/- in AY 2018-19 and Rs. 1,57,319/- in AY 2019-20 on account of electricity-bills paid by assessee in cash, but the disallowance is bad and not justified.

5. Short facts *qua* the issue are such that while processing return of assessee, Ld. AO observed that the auditors have reported cash-payment of electricity bills in Form No. 3CD against the space provided for reporting of disallowance u/s 40A(3). Accordingly, the Ld. AO made addition while passing intimation of assessment. Being aggrieved, the assessee carried matter to Ld. CIT(A). The assessee's claim before lower authorities was that no disallowance can be made since the payment was made to Madhya

Pradesh Madhya Kshetra Vidyut Vitran Company Limited (MPMKVVCL), an undertaking of Govt., which fits in “Govt.” itself, and hence exempted from the rigour of section 40A(3), more particularly because of the specific exception provided in Rule 6DD(b) of Income-tax Rules, 1962. The assessee further argued that in any case the issue involved is debatable and cannot form part of adjustment u/s 143(1)(iv). However, the assessee could not succeed before lower authorities and, that is why, has come before us by way of this appeal.

6. The submission made by assessee to Ld. CIT(A), as noted in the order of Ld. CIT(A) for AY 2018-19, is reproduced below for a ready reference:

*“It is submitted that the entire addition/adjustment has been made u/s 40A(3).*

*During the relevant year the assessee debited Rs. 3,51,900/- to its Profit & Loss Account as electricity charges. Out of the aforesaid amount total Rs. 2,35,032/- were cash payments for electricity bills to MPMKVVCL the details of which are as under*

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*The accounts of the assessee are audited and it was specifically mentioned in Form No. 3CD to the audit report that the above cash payments were made to MPEB/MPMKVVCL. Madhya Pradesh Madhya Kshetra Vidyut Vitran Company Limited (MPMKVVCL) was incorporated as a wholly owned Government Company on 31/05/2002, the same has been notified vide Order No 5555/Rs/4/13/2001 dated 01/07/2002 of the Government of Madhya Pradesh Therefore, MPMKVVCL is a wholly-owned Government Company and the payment of above electricity bills was made to the government and the payments made were not disallowable as per Rule 6DD(b). Moreover, section 40A(3) was introduced to plug-in tax evasion mechanisms. It is not meant to disallow genuine and undisputed payments and that too to the government company. Further the payments having been made to a government company the same were not disallowable in terms of Rule 6DD(b) of the Income Tax Act. The disallowance made is disputable and not prima-facie disallowable u/s 143(1).*

*In CIT vis Devendrappa M Kalal (2013) 219 Taxmann 122 (Karnataka) it was held that payment made to government concern (viz Railways) in cash in excess of amount prescribed u/s 40A(3) would be allowable.*

*In CIT vis Arvind Mills Ltd (2015) 228 Taxmann 358 (Gujarat) it was*

*held that Octroi Duty paid by the assessee to municipal corporation on goods transported within municipal limits does not come under provisions of section 40A(3) read with Rule 6DD(b).*

*In CIT vis SRC Aviation (P) Ltd (2013) 218 Taxmann 62 (Mag) (Delhi) it was held that payment made in cash to Airport Authority is not disallowable u/s 40A(3).*

*In Smt. Sapna Sanjay Raisonni v/s ITO (2016) 159 ITD-1 (Pune Trib) it was held that Maharashtra State Road Transport Corporation is a "State" for purposes of section 40A(3).*

*It is therefore submitted that the addition / adjustment of Rs 2,35,032/- made u/s 143(1) was uncalled for. The addition made is therefore requested to be deleted."*

Identical submission was made for AY 2019-20.

7. The Ld. CIT(A), however, did not accept the contention of assessee that the payee is a Govt. and therefore upheld the disallowance by making following observations:

*"4.4. Coming to the argument of the appellant that the Impugned payments were made to an entity exempted under rule 6DD(b), it is seen that the said rule provides that no disallowance under section 40A(3) is to be made where the payment is made to the Government and, under the rules framed by it, such payment is required to be made in legal tender. Since the said rule does not specify the entities that will come under the umbrella of "Government", it's connotation is to be adopted as per general parlance. The appellant has stated that Madhya Pradesh Madhya Kshetra Vidyut Vitran Company Limited (MPMKVVCL) was incorporated as a wholly-owned Government Company on 31/05/2002, the same has been notified vide Order NO.5555/RS/4/13/2001 dated 01/07/2002 of the Government of Madhya Pradesh. Therefore, MPMKVVCL is a wholly-owned Government Company. This only means that the payee is a Government Company registered under Companies Act 1956 In the case of Chander Mohan Khanna vs NCERT [1991 SCC(4)578], the Apex court had observed that substantial degree of state control of an institution, Corporation or agency does not render such bodies as "State" under the article 12 of the Constitution. The relevant extracts are as under:*

*There are only general principles but not exhaustive test to determine whether a body is an instrumentality or agency of the Government. Even in general principles, there is no cut and dried formula which would provide correct division of bodies into those which are instrumentalities or agencies of the Government and those which are not*

*The powers, functions, finances and control of the Government are some of the indicating factors to answer the question whether a body is "State" or not. Each case should be handled with care and caution. Where the financial assistance from the State is so much as to meet almost entire expenditure of the institution or the share capital of the corporation is completely held by the Government, it would afford some indication of the body being impregnated with governmental character. It may be a relevant factor if the institution or the corporation enjoys monopoly status which is State conferred or State protected. Existence of deep and pervasive State control may afford an indication. If the functions of the institution are of public importance and related to governmental functions, it would also be a relevant factor. These are merely indicative indicia and are by no means conclusive or clinching in any case. See Sukhdev Smgh v. Bhagat Ram, [1975J 1 see 421: R.D. Shetty v. International Airport Authority, [1979J3 see 489: Ajay Has/a v Khalid Mujib Sehravardhi, [1981J1 see 722 and Sam Prakash Rekl7! v Union of India, [1981 J1 sec 449 article 12 should not be stretched so as to bring in every autonomous body which has some nexus with the Government within the sweep of expression "State". A wide enlargement of the meaning must be tempered by a wise limitation. It must not be lost sight of that in the modern concept of Welfare State: Independent institution, corporation and agency are generally subject to State control. The State control does not render such bodies as "State" under Article.*

*12. The State control, however vast and pervasive is not determinative. The financial contribution by the State is also not conclusive. The combination of State aid coupled with an unusual degree of control over the management and policies of the body, and rendering of an important public service being the obligatory functions of the State may largely point out that the body is "State". If the Government operates behind a corporate veil, carrying out governmental activity and governmental functions of vital public importance, there may be little difficulty in identifying the body as "State" within the meaning of 12 of the Constitution.*

*4.5. As may be seen from para 12 above, Honourable Apex court have observed that though the extent of state control or financial contributions may not in themselves be conclusive tests, if the government carries out any governmental activity or function of vital public importance through the agency of a company that may be **little** difficulty in identifying the body as 'State' Within the meaning of article 12 of the Constitution. Considered from this perspective, the payee in the instant case does not appear to be performing any governmental activity per se though it is engaged in providing public utility services.*

*Further the website of the said company indicates as under:*

*Madhya Pradesh Madhya Kshetra Vidyut Viteren Company Limited (MPMKVVCL) was corporate as a wholly owned Government Company*

*on 31st May 2002 under the Companies Act 1956 the same has been notified Vide order No 555S/RS/4113/2001 dated 5<sup>th</sup> July 2002 of the Government of Madhya Pradesh The Company undertakes the activities of supply in the areas covered by the Commissioners of Bhopal, Hoshangabad, Gwalior and Chambal The Company obtained certificate of commencement of business on 16th July 2002 from Registrar of Companies Madhya Pradesh and Chhattisgarh, Gwalior Subsequently vide Government of Madhya Pradesh notification No 3679/FRSI/8/13/2002 dated 31/05/2005, the Company has been provided functional autonomy With effect from 01062005 The CIN Number of Company is U401 09MP2002SGCO 15119 The Government of Madhya Pradesh vide its order no 2671/12/13 dated 29th March. 2012 had transferred all the shares of the Company to M.P. Power Management Company Limited and subsequently our Company is now a subsidiary of M.P. Power Management Company Limited Jabalpur.*

*From the above it is clear that currently the state government does not have any financial or administrative control of the company and it is made a subsidiary of MP power Management Co. Ltd. Jabalpur.”*

8. Therefore, the controversy between parties can be fit into a narrow compass i.e. whether the payment made by assessee to “Madhya Pradesh Madhya Kshetra Vidyut Viteran Company Limited (MPMKVVCL)” falls within the realm of Rule 6DD(b) and exempted from the rigour of section 40A(3)? In this regard, we refer a very recent **order dated 21.02.2022 of Hon’ble Amritsar Bench of ITAT in the case of DCIT Vs. Vinod Arora, ITA No. 489/ASR/2017, Assessment-Year 2014-15, reported in (2022) 137 taxmann.com 450**. The relevant paras of the decision, directly holding the same issue, are reproduced below:

*“6. Controversy involved in the present appeal lies in a narrow compass, i.e., as to whether or not the CIT(A) is right in law and the facts of case, in concluding, that the cash payments made by the assessee towards purchase of wine to the aforementioned undertakings of the Government, viz. (i) M/s Rajasthan State Ganganagar Sugar Mills Ltd; and (ii) M/s Rajasthan State Beverages Corporation Ltd., which as per him were to be considered as an arm of the State Government that had received the payment in legal tender, i.e., in Indian currency, would by virtue of the exception carved out in rule 6DD(b) of the Income-tax Rules, 1962 be saved from the disallowance contemplated in sec. 40A(3) of the Act? Before proceeding any further, we deem it fit to cull out the provisions of sub-section (3) of section 40A of the Act, which reads as under:*

*"(3) Where the assessee incurs any expenditure in respect of which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees, no deduction shall be allowed in respect of such expenditure."*

*However, the legislature in all its wisdom had carved out certain exceptions in rule 6DD of the Income-tax Rules, 1962, wherein, payments towards certain expenses, though made not as per the mandate of the provisions of section 40A(3) of the Act, would still be saved from the disallowance therein contemplated. As per rule 6DD(b), where a payment is made by an assessee to the Government and, under the rules framed by it, such payment is required to be made in legal tender, then, no disallowance of such payment would be called for u/s 40A(3) of the Act. For the sake of clarity rule 6DD(b) is culled out as under:*

*"6DD. No disallowance under sub-section (3) of section 40A shall be made and no payment shall be deemed to be the profits and gains of business or profession under sub-section (3A) of section 40A where a payment or aggregate of the payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft, exceeds twenty thousand rupees in the cases and circumstances specified hereunder, namely :—*

*(a) .....*

*(b) where the payment is made to the Government and, under the rules framed by it, such payment is required to be made in legal tender; "*

*In our considered view, for the purpose of adjudicating the issue in hand, i.e., as to whether or not the payment in question made by the assessee would be covered by the exception carved out in rule 6DD(b) (supra), we have to first adjudicate on the issue as to whether the aforementioned entities to whom payments have been made by the assessee for purchase of wine, viz. (i) M/s Rajasthan State Beverages Corporation Ltd ; and (ii) M/s Rajasthan State Ganganagar Sugar Mills Ltd., would fall within the meaning of "Government", as provided in the aforesaid rule. We find that the issue as to whether or not a corporation could be said to be an instrumentality or agency of the Government had after exhaustive deliberations been looked into and adjudicated upon by a co-ordinate Bench of the Tribunal, viz. ITAT, Pune Bench "B", Pune in the case of Smt. Sapna Sanjay Rasoni v. ITO [2016] 70 taxmann.com 7/159 ITD 1, Pune. In the aforesaid order, it was observed by the Tribunal that if a body was found to be an instrumentality or the agency of the Government, then, it would be an*

authority included in the term "State" under article 12 of the Constitution of India. After referring to article 12 of the Constitution of India, it was observed by the Tribunal that the definition of "the State" therein provided, though inclusive and not exclusive, included, viz. (a). the Government and Parliament of India; (b). the Government and the Legislature of each of the States; (c). all local and other authorities within the territory of India; and (d). all local and other authorities under the control of the Government of India. Observing, that the term "other authorities" used in article 12 was neither defined in the Constitution of India nor in any other statute, the Tribunal had drawn support from the interpretation of the said term by the Hon'ble Supreme Court in the case of *Som Prakash Rekhi v. Union of India* AIR 1981 SC 212, wherein the Hon'ble Apex Court had culled out certain tests for determining as to when a corporation should be said to be an instrumentality or agency of the Government, which read as under :

- "1. If the entire share capital of the corporation is held by the Government, it would go a long way towards indicating that the corporation is an instrumentality or agency of the Government.
2. Existence of deep and pervasive State control may afford an indication that the corporation is a State agency or instrumentality.
3. Whether the Corporation enjoys monopoly status which is State conferred or State protected.
4. If the functions of the corporation are of public importance and closely related to governmental functions. It would be a relevant factor in classifying the corporation as an instrumentality or agency of the Government.
5. If a department of a Government is transferred to a corporation, it would be a strong factor supporting this inference of the corporation being an instrumentality or agency of the Government."

Also, we find that the aforesaid order of the Tribunal had thereafter been followed by the ITAT, Bench "A", Kolkata in the case of *Narayan Rice Mill v. CIT* [IT Appeal No. 732 (Kol.) of 2015, dated 7-6-2017].

**7.** In the backdrop of our aforesaid deliberations, and applying the aforesaid tests laid down by the Hon'ble Apex Court in the case of *Som Prakash Rekhi* (supra), we are of the considered view, that as both of the aforesaid undertakings, viz. (i) *M/s Rajasthan State Ganganagar Sugar Mills Ltd*; and (ii) *M/s Rajasthan State Beverages Corporation Ltd.*, are State Government Companies wherein 100% shareholding is held by the State Government; there is an existence of deep and pervasive control of the State Government on the said undertakings,

*and the full control of their working, policy and framework is vested with the State Government, therefore, they can safely be brought within the meaning of "State". As regards the requirements contemplated in rule 6DD(b) that the payment is required to be made in legal tender, we find that the term "legal tender" has not been defined in the Income-Tax Act. However, the dictionary meaning of "legal tender" as mentioned in "Aiyer's Law Terms and Phrases", is "the coinage of a country in which debts may be paid and which the creditor is bound to accept". The dictionary meaning of the coin is; "metal used for the time being as money and stamped and issued by the authorities of the state in order to be used." Therefore, it can be said that "legal tender" means the currency of a state which is to be used as money. Backed up our aforesaid observations, we are of the considered view, that as in the case of the assessee before us the payments in question to the aforementioned State Government undertakings have been made by the assessee in Indian currency, therefore, it can safely, or in fact inescapably be concluded that the same have been made in legal tender. In the backdrop of our aforesaid deliberations, we are of the considered view that the payments made by the assessee to the aforementioned Government undertakings, viz. (i) M/s Rajasthan State Ganganagar Sugar Mills Ltd; and (ii) M/s Rajasthan State Beverages Corporation Ltd., which could safely be held as a part of the Government would fall within the realm of the exception carved out in clause (b) of rule 6DD of the Income-Tax Rules, 1962, qua, the applicability of the provisions of sec. 40A(3) of the Act. We, thus, in terms of our aforesaid observations finding no infirmity in the view taken by the CIT(A), who had rightly concluded that as the payments in question made by the assessee to the State Government entities in legal tender were covered by the exception contemplated in rule 6DD(b) of the Income-tax Rules, 1962, therefore, the same could not have been disallowed u/s 40A(3) of the Act, uphold his order."*

9. A careful reading of the above decision clearly demonstrates that the Hon'ble Bench has considered the verdict of section 40A(3), Rule 6DD(b) as also the relevant judicial precedents and thereafter held that the payment made to a Govt. entity is not disallowable under section 40A(3). In order to apply this decision of Hon'ble ITAT, we only need to verify whether the payee to which the assessee has made payment i.e. Madhya Pradesh Madhya Kshetra Vidyut Viteren Company Limited (MPMKVVCL), can be said to be a Govt. entity or not? On a careful scrutiny of the facts noted in the order of Ld. CIT(A), we observe that the assessee had submitted to Ld. CIT(A) – *"The accounts of the assessee are audited and it was specifically mentioned in Form No. 3CD to the audit report that the above cash payments were made to*

*MPEB/MPMKVVCL. Madhya Pradesh Madhya Kshetra Vidyut Vitran Company Limited (MPMKVVCL) was incorporated as a wholly owned Government Company on 31/05/2002, the same has been notified vide Order No 5555/Rs/4/13/2001 dated 01/07/2002 of the Government of Madhya Pradesh. Therefore, MPMKVVCL is a wholly-owned Government Company and the payment of above electricity bills was made to the government and the payments made were not disallowable as per Rule 6DD(b).” Thus, the assessee has strongly claimed that the payment was made to “MPMKVVCL”, which is a government entity. This claim of assessee is exactly same as approved by Hon’ble ITAT in **DCIT Vs. Vinod Arora (supra)**. Therefore, the case of assessee is squarely covered by the decision and once can safely conclude that the disallowance u/s 40A(3) was not called for as held by Hon’ble ITAT.*

10. However, we would also like to address the following concern raised by Ld. CIT(A) in his order:

*“Further the website of the said company indicates as under:*

*Madhya Pradesh Madhya Kshetra Vidyut viteren Company Limited (MPMKVVCL) was corporate as a wholly owned Government Company on 31st May 2002 under the Companies Act 1956 the same has been notified Vide order No 5555/RS/4113/2001 dated 5<sup>th</sup> July 2002 of the Government of Madhya Pradesh The Company undertakes the activities of supply in the areas covered by the Commissioners of Bhopal, Hoshangabad, Gwalior and Chambal The Company obtained certificate of commencement of business on 16th July 2002 from Registrar of Companies Madhya Pradesh and Chhattisgarh, Gwalior Subsequently vide Government of Madhya Pradesh notification No 3679/FRSI/8/13/2002 dated 31/05/2005, the Company has been provided functional autonomy With effect from 01/06/2005, the CIN Number of Company is U401 09MP2002SGCO 15119. The Government of Madhya Pradesh vide its order no 2671/12/13 dated 29th March. 2012 had transferred all the shares of the Company to M.P. Power Management Company Limited and subsequently our Company is now a subsidiary of M.P. Power Management Company Limited Jabalpur.*

*From the above it is clear that currently the state government does not have any financial or administrative control of the company and it is made a subsidiary of MP power Management Co. Ltd. Jabalpur”*

Now, the question arises whether post-29<sup>th</sup> March, 2012, consequent upon transfer of shares of *Madhya Pradesh Madhya Kshetra Vidyut viteren Company Limited (MPMKVVCL)* to M.P. Power Management Company Limited, MPMKVVCL can still be treated as a “Govt. entity” or not? In this regard, we may gainfully refer the order of **Authority for Advance Ruling, Madhya Pradesh, No. 11/2018, No.13/2018/A.A.R./ R-28/38 dated 27th August, 2018**, in which a company named “Madhya Pradesh Paschim Kshetra Company Ltd. (MPPKVVCL)” which is identical to Madhya Pradesh Madhya Kshetra Vidyut viteren Company Limited (MPMKVVCL), *had been held to be a “Govt. entity” by observing as under:*

*“7.1. First of all we must look in the contention that the Applicant is a government entity or not. As per Notification No. 31/2017 - Central Tax (Rate), Dated 13/10/2017 issued under CGST Act, 2017 and corresponding notification under MPGST Act, 2017. “Government Entity” is defined as under –*

*“Government Entity” means an authority' or a board or any other body including a society', trust, corporation, i) set up by an Act of Parliament or State Legislature; or ii) established by any Government, with 90 per cent, or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority. ”.*

***7.2. The Company Madhya Pradesh Paschim Kshetra Company Ltd. (MPPKVVCL) is wholly owned subsidiary of M.P. Power Management Co. Ltd., carried out function of distribution of Electricity in the area of Indore and Ujjain Commissionerate as entrusted by the Government of Madhya Pradesh vide order no. 5555/RS/4/13/2001, Bhopal, Dated - 01/07/2002. Further, the holding Company M.P. Power Management Co. Ltd. is wholly owned by the Government of Madhya Pradesh.***

***7.3. The applicant had submitted the copy of Audited Annual Accounts of M/s M.P. Power Management Co. Ltd. for F.Y. 2015-16, during the proceedings. It is evident from the schedule of Equity Share Capital of the Annual Statement that 100% share capital of M/s M.P. Power Management Co. Ltd. is hold by Secretary (Energy), GOMP, Bhopal.***

***7.5. Thus, based on the above facts, it is concluded that the Government of Madhya Pradesh is having full control over the applicant M/s M.P. Paschim Kshetra Vidyut Vitran Co. Ltd. and the applicant is covered under the definition of “Government***

***Entity”.***

Although the aforesaid order by “Authority for Advance Ruling” is given for the purpose of GST but it clearly addresses the concern of Ld. CIT(A) in Para No. 7.2, 7.3 and 7.5 highlighted above in bold letters, according to which, it can be easily discerned that even after transfer of shares as stated by Ld. CIT(A), MPMKVCL continues to be a “Govt. entity”.

11. At this stage, we would like to mention very briefly that originally the electricity sector was handled by Govt. through State Electricity Boards but with the time, the Govt. brought reforms in this sector and developed multi-layered, multi-companies structures for achieving more efficiency. But, however, those companies which trace their origin from the State Electricity Boards, are a wing of State. This proposition has been upheld in many rulings by various Courts including benches of ITAT. We must bear in mind this aspect while taking a decision.

12. We also observe that in following decisions, the Hon’ble Benches of ITAT have deleted the disallowances of cash-payments made to Govt. undertakings / Govt. companies, by critically analysing the provisions of section 40A(3) and Rule 6DD at length and, therefore, the ratio of these decisions is directly applicable to present appeals:

- (i) Sumit Industries Vs. ITO, ITA No. 12/Jodh/2018, Order dated 10.02.2018, ITAT-Jodhpur – Electricity Bills paid in cash to Jodhpur Vidyut Vitran Nigam Ltd. is not disallowed.
- (ii) Shri Daljit Singh, Kolkata Vs ACIT, Circle - 40, ITAT Kolkata, ITA No. 769/Kol/2018, order dated 3 April, 2019 – Electricity Bills paid in cash to CESC Ltd. is not disallowable.
- (iii) CIT Vs. SRC Aviation (P) Ltd. (2013) 218 Taxmann 62 (Mag.), ITAT Delhi – Cash-payment made to Airport Authority is not disallowable u/s 40A(3).

(iv) Smt. Sapna Sanjay Raisonni Vs. ITO (2016) 159 ITD, ITAT Pune – Mahatrasra State Road Transport Corporation is a “State” for the purpose of section 40A(3).

13. In view of above discussion and for the reasons stated above, we are of the considered view that the electricity bills paid in cash by present assessee to *Madhya Pradesh Madhya Kshetra Vidyut Vitran Company Limited (MPMKVVCL)*, do not attract disallowance. Therefore, we are inclined to delete the disallowance made by lower authorities.

**14. In the result, these appeals of assessee are allowed.**

*Order pronounced as per Rule 34 of I.T.A.T. Rules, 1963 on 19/09/2022.*

Sd/-

Sd/-

(MADHUMITA ROY)  
JUDICIAL MEMBER

(B.M. BIYANI)  
ACCOUNTANT MEMBER

**Indore**

Dated : 19.09.2022

Patel/Sr. PS

*Copies to: (1) The appellant  
(2) The respondent  
(3) CIT  
(4) CIT(A)  
(5) Departmental Representative  
(6) Guard File*

*By order*

*Sr. Private Secretary  
Income Tax Appellate Tribunal  
Indore Bench, Indore*

1.	Date of taking dictation	
2.	Date of typing & draft order placed before the Dictating Member	
3.	Date on which the approved draft comes to the Sr. P.S./P.S.	
4.	Date on which the fair order is placed before the Dictating Member for pronouncement	
5.	Date on which the file goes to the Bench Clerk	
6.	Date on which the file goes to the Head Clerk	
7.	Date on which the file goes to the Assistant Registrar for signature on the order	
8.	Date of dispatch of the Order	