

IN THE INCOME TAX APPELLATE TRIBUNAL, RANCHI BENCH, RANCHI

**BEFORE SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER
AND SHRI GIRISH AGRAWAL, HON'BLE ACCOUNTANT MEMBER**

**ITA Nos.384 & 385/Ran/2018
Assessment Year: 2013-14 & 2014-15**

M/s. Uranium Corporation of India Ltd. Jadugoda Mines, Jadugoda, East Singhbhum-832102, Jharkhand. PAN: AAACU 2207 N (Appellant)	vs	ACIT, Circle - (3), Jamshedpur (Respondent)
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Present for:

Appellant by : Shri P.K. Barman with Arijit Bhattacharjee, AR
Respondent by : Smt. Rinku Singh, CIT, DR

Date of Hearing : 03.05.2023

Date of Pronouncement : 11.05.2023

ORDER

PER SONJOY SARMA, JM:

The captioned appeals are filed by the assessee are directed against the order of Id. CIT(A), Jamshedpur vide order dated 07.10.2016 and 12.09.2017 respectively for the A.Y. 2013-14 & 2014-15. The assessee has raised following grounds of appeal for each of the assessment year under consideration:

A.Y. 2013-14

"i. For that the learned lower authorities are not justified in disallowing Rs. 2,23,90,022/- under the head corporate social responsibility u/s 37(1) of the Income-tax Act, 1961 as the same was altogether in the past allowed by the Income Tax Department/Hon'ble ITAT and consequently the addition of Rs. 2,23,90,022/- is liable to be deleted in to-to."

ii. For that the appellant craves leave to add, alter, amend, modify, substitute, delete and/or rescind all or any of the grounds of appeal on or before the final hearing, if necessity so arises."

A.Y. 2014-15

"i. For that the learned lower authorities are not justified in disallowing Rs. 2,37,03,000/- under the head corporate social responsibility u/s 37(1) of the Income-tax Act, 1961 as the same was altogether in the past

allowed by the Income Tax Department/Hon'ble ITAT and consequently the addition of Rs. 2,37,03,000/- is liable to be deleted in to-to."

ii. For that the appellant craves leave to add, alter, amend, modify, substitute, delete and/or rescind all or any of the grounds of appeal on or before the final hearing, if necessity so arises."

2. Brief facts of the case are that the assessee is a company and engaged in the business of mining and processing of uranium ore and filed its return of income on 28.09.2013 by declaring total income of Rs. 148,22,48,030/-. The return of income filed by the assessee was duly processed u/s 143(1) of the Act on 11.03.2015. Immediately after it, the case of the assessee was selected for scrutiny through CASS which was followed by notices u/s 143(2) and 142(1) of the Act which were duly served upon assessee and in response to such notices, the AR of the assessee appeared before the AO from time to time and filed the details as asked for from the assessee. The ld. AO while considering the submission made by the assessee, he disallowed a sum of Rs. 2,23,90,022/- made by the assessee under the head of corporate social responsibility (CSR) and Rs. 1,36,000/- under the head of donation made to the various parties by the assessee.

3. Aggrieved by the above order, assessee preferred an appeal before the ld. CIT(A) wherein the appeal of the assessee was partly allowed.

4. Dissatisfied with the above order, assessee has filed the instant appeal before this Tribunal.

5. For the sake of convenience, we first take up ITA No. 384/Ran/2018 filed by the assessee for the A.Y. 2013-14. At the outset, ld. AR submitted before the bench that the issue is covered in favour of the assessee by the order of Hon'ble Tribunal in the case of assessee in ITA No. 160/Ran/2016 passed on 02.05.2018, wherein Hon'ble Tribunal held that corporate social responsibility expenditure incurred by the assessee are allowable as revenue expenditure. On the other hand, ld. DR supported the order passed by the authorities below.

6. We have heard the rival submission of the parties and gone through the facts of the case. After taking note that the assessee had debited under the head of CSR, an amount of Rs. 2,23,90,022/- and same was incurred under the direction of Department of Public Enterprise, Ministry of Heavy Industries & Public Enterprise, Govt. of India on the basis of guidelines issued to the assessee from time to time. The ld. AR drew our attention to the order of co-ordinate bench in assessee's own case in ITA No. 160/Ran/2016 dated 02.05.2018 for the A.Y. 2013-14 wherein on the similar issue, the Tribunal allowing the expenditure under the head of CSR held as under:

"7. After hearing the rival contentions and perusing the papers on record and orders of the authorities below as well as the case-law cited, we hold as follows:-

8. The amendment by way of introduction of Explanation to Section 37(1) of the Act, w.e.f. 01/04/2015, has no retrospective effect and cannot be applied to the impugned Assessment Year 2009-10. The genuineness of the expenditure incurred by the assessee is not in dispute. The only issue to be considered as to whether the expenditure in question is incurred wholly and exclusive for the purpose of business. It is not the case of the Assessing Officer that the expenditure is capital in nature or that it is personal in nature.

Corporate Social Responsibilities is a duty cast on the assessee and the expenditure incurred in fulfilling this duty cannot be considered as expenditure not relatable to the business of the assessee. In fact, the Government had recognised the necessity of making it compulsory for companies to fulfil the Corporate Social Responsibility. Hence it brought about amendment in the Companies Act. The assessee mines Uranium, which results in deterioration of environment and also affects the health of the persons residing in and around the mines of the assessee. Certain expenditure is incurred by the company to alleviate the difficulties of the public in that mining area. Expenditure incurred by the assessee for various purposes, is its responsibility towards the society and is necessarily relatable to the business of the assessee. The ITAT, Visakhapatnam Bench of the Tribunal in the case of M/s. Rashtriya Ispat Nigam Ltd. vs. JCIT being ITA No. 13/Vizag/2013, Assessment Year 2004-05, dt. 22/11/2017, while adjudicating a similar issue held as follows:-

55. We have heard both the parties, perused the materials available on record and gone through the orders of the authorities below. The company has incurred expenditure on community development activities for the development of downtrodden people and community as a whole. It has incurred expenditure on school located in the surrounding places and imparting education in teluguto the wards of the Visakhapatnam Steel Plant employees and poor people living in nearby colonies and conducting medical camps in many villages. The company has a corporate responsibility and company required to spend certain amount towards corporate responsibility. As per the judicial rulings relied upon by the assessee in the case of Madras Refineries Limited 266 ITR 170, the Hon'ble Madras High Court held as under:

CIT v. Madras Refineries Ltd. [2004] 266 JTR 1701138 Taxman 261 (Mad).

'The concept of business is not static. It has evolved over a period of time to include within its fold the concrete expression of care and concern for the society at large and the people of the locality in which the business is located in particular. Being known as a good corporate citizen brings goodwill of the local community, as also with the regulatory agencies and the society at large, thereby creating an atmosphere in which the business can succeed in a greater measure with the aid of such goodwill. Monies spent for bringing drinking water as also for establishing or improving the school meant for the residents of the locality in which the business is situated cannot be regarded as actually outside the ambit of the business concerns of the assessee, especially when the undertaking owned by the assessee is one which is to some extent a polluting industry. Hence, expenditure incurred by the assessee for establishing drinking water facilities to the residents in the vicinity of its refinery and for providing aid to the school run for the benefit of the children of those residents was allowable as deduction.'

The ratio decided on the expenditure incurred on schools also speaks in favour of the company as submitted below.

(i) ITAT VS. Hill(B) and Co.(P) Ltd. (1983) 142 ITR 0185, It is held that an expenditure to give facilities to the labourers and their children was motivated by considerations of commercial expediency. The donations made to a school were rightly held to be allowable expenditure.

(ii) In the case of CIT Vs. India Radiators Ltd., (1999) 236 ITR 0719, Madras High Court and in the case of Chambal fertilizers & Chem. Ltd. Vs. ACIT, Tax world, December Vol.XUV Part C.P.195, the Income Tax Appellate Tribunal, Jaipur Bench also held that expenditure on school where children of the employees are studying is allowable.

57. The Ld. CIT(A) allowed the appeal of the assessee placing the reliance on Madras Refineries Limited. There was no dispute with regard genuineness of the expenditure. Since the company has spent the sums towards the educational medical camps for the

people who are re-located the same is allowable expenditure. It is obligation on the part of the company to give support to the people who are displaced due to setting up of the industry by losing their landed property and assets. The company is discharging its obligation for the same purpose. Therefore, following the decision of Hon'ble Madras High Court in the case of CIT Vs. Madras Refineries Limited, we hold that the CIT(A) has rightly allowed the appeal of the assessee and accordingly uphold the order of the Ld.CIT(A) and dismiss the appeal of the revenue.

58. In the result, the appeal of the revenue is dismissed.”

9. Respectfully following the proposition of law that are laid down in these cases to the facts of this case, we uphold the order of the Assessing Officer and allow this ground of the assessee.

10. In the result, appeal of the assessee is allowed.”

7. We respectfully follow the above ratio laid down by the co-ordinate bench of this Tribunal in assessee's own case for the A.Y. 2009-10 and to remain with consistent view taken therein, we allow the ground taken by the assessee and direct the AO to allow Rs. 2,23,90,022/- under the head of CSR claimed by the assessee.

8. Since we allow the appeal filed by the assessee challenging the impugned order passed by the ld. CIT(A) in ITA No. 384/Ran/2018 and the reasons stated above, our decision shall mutantis mutandis apply to the other appeal being ITA No. 385/Ran/2018 as well and consequently the same is also allowed.

9. In the result, both the appeals of the assessee are allowed.

Order pronounced in the open court on 11.05.2023

Sd/-

Sd/-

**(GIRISH AGRAWAL)
ACCOUNTANT MEMBER**

**(SONJOY SARMA)
JUDICIAL MEMBER**

Copy to:

1. The Appellant: M/s. Uranium Corporation of India Ltd.
2. The Respondent: ACIT, Circle-3, Jamshedpur.
3. The CIT,
4. The CIT (A)
5. The DR .

//True Copy//

By Order

Assistant Registrar
ITAT, Kolkata Benches, Kolkata