

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "E": NEW DELHI**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER
AND
MS. ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 3789/Del/2019
Asstt. Year 2015-16

ACIT, Circle 19(1), New Delhi.	Vs.	M/s Oppo Mobiles India (P) Ltd., 16, Okhla Industrial Area, Phase-I, New Delhi-110020. PAN No.- AABCO9247K
(Appellant)		(Respondent)

Revenue by:	Shri Subhra Jyoti Chakraborty, CIT(DR)
Assessee by:	Shri Ravi Sharma, Adv. Ms. Shruti Khimta, AR
Date of Hearing:	23.01.2024
Date of pronouncement:	23.01.2024

ORDER

PER ASTHA CHANDRA, JM

This appeal filed by the Revenue is directed against the order dated 20.02.2019 of the Ld. Commissioner of Income Tax (Appeals)-7, New Delhi, (**"CIT(A)"**) pertaining to Assessment year (**"A.Y."**) 2015-16.

2. The Revenue has raised the following grounds of appeal:-

"1. Whether the Ld. CIT(A) has erred in law and on the facts and in the circumstances of the case, in deleting the addition of Rs 3,21,27,950/- made by the Assessing Officer on account of disallowance of Brand Ambassador Expenses?"

2 Whether the Ld. CIT(A) has erred in law and on the facts and in the circumstances of the case, in deleting the addition of Rs.

6,69,29,143/- made by the Assessing Officer on account of disallowance of Advertisement and Sales promotion Expenses?

3. Whether the Ld. CIT(A) has erred in law and on the facts and in the circumstances of the case, in deleting the addition of Rs. 1,15,40,748/- made by the Assessing Officer on account of disallowance of Service Centre Expenses?

4 The appellant craves to be allowed to add any fresh ground of appeal and/or delete or amend any of the grounds of appeal.”

3. The facts in brief are that the assessee company is engaged in the business of trading of mobiles, smart phones, storage devices etc., imported from the China based company SKY Region Trading Ltd. The assessee company was incorporated in immediately preceding year. For A.Y. 2015-16, it e-filed its return on 29.09.2015 declaring loss of Rs. 1,04,28,42,566/-. The case was selected for complete scrutiny through CASS. Statutory notice(s) were issued/ served upon the assessee. In response thereto, details along with supporting evidence were submitted during assessment proceedings which were examined by the Ld. Assessing Officer (AO) on test check basis.

3.1 The Ld. AO found that the assessee had debited provision of warranty of Rs. 1,15,40,748/- to P & L account. He disallowed the same u/s 37(1) of the Income Tax Act, 1961 (**the “Act”**) saying that it is a liability which is contingent in nature and added the same to the income of the assessee.

3.2 The Ld. AO further found that the assessee has claimed Advertisement and Sales Promotion expenses of Rs. 61,24,28,282/- in P & L account. This included expenditure of Rs. 4,28,37,266/- given to Actor Hritik Roshan and Actor Sonam Kapoor. He disallowed 75% thereof amounting to Rs. 3,21,27,950/- and added the same to the income of the assessee saying that it is capital expenditure incurred towards intangible asset i.e. brand building. He gave the following reasoning:

“The assessee is in the business of trading in mobile and accessories with the brand name “OPPO” and very new in India. The assessee has hired Actor Hritik Roshan and Actor Sonam Kapoor for advertisement of its brand. The assessee has been promoting its brand name through its brand ambassador, being actor or model named “Hritik Roshan” and “Sonam Kapoor”. The expenditure incurred by the assessee is only for building its brand which will give enduring benefits to the assessee. Accordingly the expenditure incurred by the assessee on brand ambassador will be considered as deferred revenue expenditure.”

3.3 The Ld. AO also noticed that Advertisement and Sales Promotion expenses included expenses on neon sign board or hoarding etc. According to him, expenditure on big glow sign board displaying the advertisement of “OPPO” means that brand name is being advertised and not the features of products. In his opinion, the expenditure of Rs. 13,38,58,286/- incurred in the last quarter of the F.Y. 2014-15 will give benefit in coming years also. He, therefore, disallowed 50% thereof amounting to Rs. 6,69,29,143/- and added the same to the income of the assessee.

3.4 Accordingly, the Ld. AO completed the assessment on total loss of Rs. 88,39,24,210/- in the order passed on 31.12.2017 u/s 143(3) of the Act.

4. Aggrieved, the assessee carried the matter in appeal before the Ld. CIT(A), who deleted the disallowance of Rs. 3,21,27,950/- on account of brand ambassador expenses by observing and recording the following findings:

“4.2 I have carefully considered the assessment order and written submission filed by the Ld. AR. The appellate company appointed Actors Hritik Roshan and Sonam Kapoor through M/s Exceed Entertainment Pvt. Ltd. vide Product Endorsement Agreement Dated 13.01.2014 for advertising its product in consideration of Rs.3,40,00,000/- and Rs. 1,35,00,000/- plus service tax respectively that comes to Rs.5,33,71,000/- for a term of one year.

4.3. *The total agreement value of Rs.5,33,71,000/- was recognized in books on the basis of period of agreement following the accrual method of account. In preceding assessment year, assessee debited Rs. 1,05,33,756/- on accounts of Brand Ambassador expenses. During the year under consideration, Assessee has debited Rs.4,28,37,266/- on account of brand ambassador expenses under the head of Profit & loss a/c "Advertisement and sales promotion expense".*

44. *During the course of assessment proceedings, the appellant had given a detailed note on reasonability of expenses vide letter dated 19.12.2017, copy of product endorsement agreements with brand ambassadors vide reply dated 12.12.2017 and copy of ledger vide letter dated 06.12.2017.*

4.5. *During the year under consideration, artists promoted products and their features some of the products name are OPPO Mobile- FIND 7, FI, F1S, NI, NI Mini, JOY, YOYO. NEC) 3 and F1S Diwali edition Artists promoted OPPO Mobiles products through Launch event appearance, prints shoots, TVG Shoots and Digital video shoots.*

4.6 *The AO had taken a view that the assessee has been promoting its brand name only instead of products. The expenditure incurred by the assessee is only for building its brand which will give enduring benefits to assessee and disallowed 75% of Rs 4,28,37,266/- as capital expenditure incurred toward intangible assets i.e. brand building or in nature of deferred expenditure - allowable over a period of time.*

4.7 *The appellant submitted that the AO is incorrect in holding that assessee has been promoting its brand name only instead of products and the expenditure incurred will be considered as deferred revenue expenditure or capital expenditure because in so far as the Income-tax Act is concerned, there is no provision under the Act to say that the revenue expenditure is deferred revenue expenditure.*

4.8 *From the facts of the case it is seen that the expenditure incurred by the assessee is not creating any enduring benefit of an asset but is rather helping the assessee in augmenting its sales and resultantly its profit. Even if it is presumed that the building of brand image is giving advantage of enduring benefit to the assessee, still it would be on revenue account as there is no creation of a tangible or intangible asset of enduring nature to the assessee.*

4.9 *The Hon'ble Supreme Court in the case of Empire Jute Co. Ltd. v. CIT [1980] 124 ITR 1, has held that no tests for distinguishing between capital and revenue expenditure is paramount or conclusive. There is no all-embracing formula which can provide a ready solution to the problem, whether it is a capital expenditure or revenue expenditure. Their Lordships have held that even tests of enduring benefit at times gets failed as not each and every advantage of enduring nature can be of capital field. The most celebrated observations of their Lordships on this account are reproduced herein below:*

“There may be cases where expenditure, even if incurred for obtaining advantage of enduring benefit, may, none the less, be on revenue account and the test of enduring benefit may break down. It is not every advantage of enduring nature acquired by an assessee that brings the case within the principle laid down in this test. What is material to consider is the nature of the advantage in a commercial sense and it is only where the advantage is in the capital field that the expenditure would be disallowable on an application of this test. If the advantage consists merely in facilitating the assessee's trading operations or enabling the management and conduct of the assessee's business to be carried on more efficiently or more profitably while leaving the fixed capital untouched, the expenditure would be on revenue account, even though the advantage may endure for an indefinite future. The test of enduring benefit, is therefore, not a certain or conclusive test and it cannot be applied blindly and mechanically without regard to the particular facts and circumstances of a given case”

4.10. Further, such a payment has also to be seen from the context of business necessity or expediency also. If the outgoing expenditure is so intricately related to carrying on or the conduct of the business that it may be regarded as integral part of the profit-earning process and not for an acquisition of an asset or a right of the permanent character, the possession of which is condition of the carrying on of the business, the expenditure may be regarded as revenue expenditure

4.11. Thus, from the facts of the case, it is not that these expenses incurred by the assessee has resulted in any kind of addition or augmentation of any profit-making asset. In the result, the ground taken by the appellant is allowed.”

4.1 The Ld. CIT(A) considered the issue of disallowance of Rs. 6,69,29,143/- on account of Advertisement and Sales Promotion expenses in para 5 of the appellate order. He ruled in favour of the assessee by recording the following findings:

“5.2 I have carefully considered the assessment order and written submission filed by the Ld AR. During the impugned year, the appellant incurred advertisement and business promotion expenses which were incurred for facilitating appellant's operation of providing mobile trading and services.

5.3 The AO held that the assessee has incurred advertisement expenses on big glow sign board displaying the advertisement of "OPPO" which means the Brand name is being advertised not the feature of Product. Big Glow Sign board displaying the name of "OPPO" cannot presume to be having temporary benefits. The expenditure incurred on advertisement or sales promotion will give enduring benefits to the assessee and therefore cannot be considered as revenue expenditure. Specially the expenditure

incurred in the last quarter of the F.Y 2014-15 will also give benefits in coming years also and therefore 50% of the Advertisement and sales promotion expenses incurred in the last quarter was disallowed.

5.4. The appellant submitted that incurring expenditure on advertisement and sales promotion where the assessee had not acquired any fixed capital asset but incurred for earning better profits and for facilitating assessee's operation of providing cellular mobile services and hence were allowable as business expenses.

5.5. The Audited books of account along with vouchers were produced before the AO and he had failed to point out any specific expenditure was for acquiring business assets and any expenditure has enduring benefit. The disallowance was made on ad-hoc basis without bringing any evidence and material on record.

5.6 The appellant relied on the apex court decisions in the case of Empire Jute Co. Ltd. [1980] 124 ITR 1(SC) and Alembic Chemical Works Co. Ltd. [1989] 177 ITR 377(SC)

5.7 The appellant submitted that the Issue raised by the AO that Expenditure gives an enduring benefit to the Assessee. In the case of Alembic Chemical Works Co. Ltd., [1980] 177 ITR 377(SC). The Apex court held that:

"There is also no single definite criterion which by itself, is determinative whether a particular outlay is capital or revenue. The once for all payment test is also inconclusive. What is relevant is the purpose of the outlay and its intended object and effect, considered in a common sense way having regard to the business realities. In a given case, the test of 'enduring benefit might break down In CIT v. Associated Cement Co. Ltd. JT 282 (2) 287 this Court said:

As observed by the Supreme Court in the decision in Empire Jute Co. Ltd. v. CIT [1980] 124 TERI (SC) that there may be cases where expenditure, even if incurred for obtaining an advantage of enduring benefit, may, nonetheless, be on revenue account and the test of enduring benefit may break down. It is not every advantage of enduring nature acquired by an assessee that brings the case within the principles laid down in this test. What is material to consider is the nature of the advantage in a commercial sense and it is only where the advantage is in the capital field that the expenditure would be disallowable on an application of this test."

5.8. In CIT VS Spice Distribution Ltd (2015) 374 ITR 0030 (Delhi HC) -

"Business expenditure - Advertisement expenditure Whether deferred revenue expenditure. -- Assessee was engaged in the service of trading of mobile handsets, its accessories and mobile repairing. For the purpose of business, it had incurred expenditure on advertisement. AO treated said expenditure as deferred revenue expenditure and 25% of the said amount was allowed in the year, observing that balance amount would be allowed

in next three years. CIT(A) allowed assessee's appeal which was upheld by Tribunal. Held: IT Act does not have any concept of deferred revenue expenditure. There are a number of decisions that advertisement expenditure normally is and should be treated as revenue expenditure. Keeping in view nature and character of assessee's business, every year expenditure has to be incurred to make and keep public informed, aware and remain in limelight. This requires continuous and repeated publicity and advertisements to remain in public eye, to do business by attracting customers. It is an expenditure of trading nature Impugned order of Tribunal allowing advertisement expenditure as revenue expenditure does not call for interference"

5.9. *In CIT Vs Salora International Ltd. (2009) 308 ITR 0199 (Del-HC) -*

"Capital or revenue expenditure Advertisement expenditure Launching of products- Assessee had incurred advertising expenditure of certain amount for launching of its products. AO was of the view that such expenditure was of an enduring nature and, therefore, treated one-third as "capital expenditure" and one allowed the two-thirds of the said amount as "revenue expenditure" to the assessee. CIT(A) allowed the entire amount alter treating the expenditure as "revenue expenditure". The findings of GTO) were confirmed by the Tribunal. Held: Justified. The Tribunal held that there was a direct nexus between the advertising expenditure and the business of the assessee and that the assessee had to incur such expenditure to meet the competition in the Indian market for selling its products in India. A finding was returned that unless the assessee made its products known to the market, its business would suffer. Consequently, the Tribunal held the entire expenditure on advertising to be of a revenue nature and allowed the same. The Tribunal also noted the decision of Supreme Court in the case of Empire Jute Co. Ltd. 124 ITR (SC) wherein the Supreme Court held that there could be cases where the expenditure even if it was incurred for obtaining of a benefit of an enduring nature may, nevertheless, be on the revenue account and, in such cases, the test of "enduring benefit" may break down. Derision of the Tribunal did not call for any interference and, therefore, no substantial question of law arose."

5.10. *CIT Vs Pepsico India Holding (P) Ltd. (2012) 21 taxmann.com 165 Delhi (Del High Court)*

"Section 37(1) of the Income-tax Act, 1961-Business expenditure Allowability of assessed incurred certain expenditure on advertising and marketing of its products and chimed it as business expenditure - Assessing Officer disallowed expenditure incurred on glow signs and neon signs holding that same was of capital nature Whether since expenditure in question was in fact in furtherance of business of assessee and, thus, had direct nexus with its business, and by putting neon signs and glow signs, no assets of permanent nature was created, it was on allowable business expenditure Held, yes.

5.11. *Further, the test of enduring benefit applied by the AO was considered by the Apex Court in Empire Jute Co. Ltd. v. CIT (1980) 124 (TR*

1 to hold that it is not a conclusive test in all cases so that such expenditure is always on capital account. The Court observed that what is to be examined is the nature of advantage obtained in the commercial sense by incurring the expenditure. If the expenditure consists of merely facilitating the assessee to carry on business more profitably leaving the fixed capital untouched, it would be on revenue account. The entire expenditure, the Court observed, has to be looked at from a businessman's point of view. In the present facts, the expenditure on account of corporate advertisement is to essentially maintain the corporate image and not create a corporate image. Further, the impugned order holds on facts that the corporate advertisement expenditure, facilitates the business having a direct impact on sales and profitability of the appellant.”

4.2 The disallowance of Rs. 1,15,40,748/- on account of Service Centre expenses has been dealt by the Ld. CIT(A) in para 8 of his appellate order. For the reasons recorded by him in para 8.2 to 8.10 of the order, reproduced below, the Ld. CIT(A) deleted the impugned disallowance.

“8.2 I have carefully considered the assessment order and written submission filed by the Ld AR. The appellant company is engaged in business of trading of mobiles. To enhance sales and profitability, assessee provided the standard warranty for one year. Warranty is an integral part of the sale price of the value of product and as per accrual concept as well as the matching concept of the accounting assessee company has charged warranty expenses in the relevant year.

8.3 During the course of assessment proceedings, the appellant had given a detailed note on expenditure incurred on service centre and provision for warranty vide letter dated 19.12.2017 and copy of ledger vide letter dated 06.12.2017. The actual expenditure on service centres is Rs. 4,12,97,565/- out of which provision of warranty is Rs. 1,15,40,748/- The AO's contention that there are no actual expenses on warranty of mobiles is incorrect.

8.4. During the year under consideration, the assessee made provision for warranty and debited Rs. 1,15,40,748/- as provision for warranty. The total cost of service centres actually incurred by the assessee for the year ended on 31.03.2015 is Rs 4,12,97,565/- which is approx. 1.96% of the total sales of mobile phones against expenditure of Rs 31,81,839 for the period ended 31.03.2014 which was 6.63% of the total sales of mobile phones. The expenditure is reduced from 6.63% to 1.96% only because of increase in volumes.

8.5. The appellant company has created a provision of warranty and charged it to profit and loss account as assessee provided standard warranty in which mobile would be repaired or replaced free of charge, when some defect/non-working of product is claimed by the customers of company. The provision is

in the nature of claims made by the ASP (Authorised Service Providers) who provide the services to the customers.

8.6. It was submitted that this provision was made by the assessee on account of warranty claims likely to arise on the sales effected by the appellant and to cover up that expenditure. The provision for warranty was based on the basis of past event and on the reasonable estimation. The company has a proper accounting system for capturing relationship between the nature of the sales, the warranty provisions made and the actual expenses incurred against it subsequently.

8.7 In subsequent assessment year, actual claim of Rs. 77,77,420/- instead of charging to profit & loss A/c is set off against the provision for warranty of Rs. 1,15,40,748/- and excess provision is offered for tax ie. Rs.37,63,328/-.

8.8 The appellant relied on the case of M/s Rotork Controls India (P) Ltd. v. CIT. [2009] 180 TAXMAN 422 (SC). the apex court held that a provision is a liability which can be measured only by using a substantial degree of estimation.

8.9 In this regard the Hon'ble, Delhi ITAT in the case of M/s. Rohde & Schwarz India (P) Ltd. for A. Y. 2007-08 & 2008-09 has decided the issue in favour of the appellant, the relevant part of the order is extracted as under:

"Hon'ble Apex Court in judgment cited as Rotork Control India P. Ltd. vs. CIT (2009) 314 ITR 62 settled the issue once for all by holding as under:

"The present value of a contingent liability, like the warranty expense, if properly ascertained and discounted on accrual basis can be an item of deduction under section 37 le. It would depend on the nature of the business, the nature of sales, the nature of sales, the nature of the product manufactured and sold and the scientific method of accounting adopted by the assessee. It would also depend upon the historical trend and upon the number of articles produced.

A provision is a liability which can be measured only by using a substantial degree of estimation. A provision is recognized when: (a) an enterprise has a present obligation as a result of a pas event: (b) it is probable that an outflow of resources will be required to settle the obligation and (c) a reliable estimate can be made of the amount of the obligation. If these condition are not met, no provision can be recognized.

The principle is that if the historical trend indicates that a large number of sophisticate goods were being manufactured in the past and the facts show that defects existed in some the items manufactured and sold, then provision made for warranty in respect of such sophisticated and sold, then provision made for warranty in respect of such sophisticated goods would be entitled to deduction from the gross receipts under section 37."

8.10. Thus, the determination of the amount of provision for warranty should be based on past experience of the company. Further, there is a second condition of writing back the unutilised provision when the warranty period expires In view of the above facts and judicial position, disallowance of Rs. 1,15,40,748/- on account of service centre expenses is deleted This ground of appeal is ruled in favour of the appellant.”

5. The Revenue is dissatisfied and is in appeal before the Tribunal. All the three grounds relate thereto.

6. The Ld. CIT(DR) supported the disallowance made by the Ld. AO. He highlighted the reasons assigned by the Ld. AO for making the impugned disallowances.

7. The Ld. AR submitted that the Ld. AO has incorrectly considered the expenses incurred on brand ambassador as capital in nature giving enduring benefits and that the ambassadors promoted the 'Brand' instead of the 'Products'. He invited our attention to para 2.1 of Product Endorsement Agreement (copy at pages 31 to 55 of the Paper Book) and meaning of the expression 'Product', 'Endorsement' and 'Services' in para 1.2, 1.6 and 1.7 thereof to explain that the Artists promoted products and features of mobile phone such as high resolution camera, sensor functioning, unique style etc. and no enduring benefits arose to the assessee. In fact, the expenditure is integral part of the profit earning process and is being incurred on account of commercial expediency. It is of revenue nature. In support, the decision of Hon'ble Supreme Court in Empire Jute Co. Ltd. (supra), decision of Calcutta High Court in CIT vs. Berger Paints (India) Ltd. 254 ITR 503 and decision of Delhi Tribunal in Sony India Pvt. Ltd. vs. DCIT 114 ITD 448 (Del) and many more including the decision of Hon'ble Delhi High Court in CIT vs. Modi Revlon Private Limited (ITA No. 825/2011) and in CIT vs. Adidas India Marketing (P) Ltd. 195 Taxman 256 (Del) were cited.

7.1 As to the disallowance of Rs. 6,69,29,143/- made by the Ld. AO on account of Advertisement and Sales Promotion expenses, the Ld. AR refuted the argument of the Ld. AO and submitted that audited books of account and details were produced before the Ld. AO. But he could not point out any specific expenditure made for acquiring business assets which could give enduring benefit. The assessee incurred these expenses for enhancing sales, earning profits and facilitating operation of mobile trading and related services. The Ld. AR submitted that the case of the assessee is squarely covered by the decision of the Hon'ble Delhi High Court in CIT vs. Pepsico India Holdings (P.) Ltd. [2012] 21 taxmann.com 165 (Del).

7.2 Regarding disallowance of Rs. 1,15,40,748/- made by the Ld. AO on account of Service Centre expenses, the Ld. AR pointed out that out of Rs. 1,15,40,748/- debited to P & L account, the assessee actually incurred a sum of Rs. 77,77,420/- in the next year and the excess provision of Rs. 37,63,328/- has been reversed and offered for tax in A.Y. 2016-17. The Ld. AR submitted that warranty is an integral part of sales price of the value of product. The moment there is sale, automatically an obligation on account of warranty arises. The Ld. AR submitted that allowability of warranty expenses at the time of creation of provision is settled by the decision of Hon'ble Supreme Court in Rotork Controls India (P.) Ltd. vs. CIT [2009] 314 ITR 62 (SC). He also referred to the decision of Hon'ble Delhi High Court in CIT vs. Hewlett Packard India Private Limited (2008) 73 Taxman 162 (Del).

8. We have carefully considered the rival submissions and perused the records. It is not in dispute that the assessee debited Rs. 4,28,37,266/- on account of Brand Ambassador expenses under the head of "Advertisement and Sales Promotion expenses" in P & L account. Rational for incurring the expenditure was explained to the Ld. AO with the assistance of Product Endorsement Agreement and recital therein. We have also perused the Product

Endorsement Agreement available at pages 30 to 55 of the Paper Book along with the copy of sample invoices placed at page 56 of the Paper Book. On perusal thereof, the Ld. CIT(A) has recorded finding of fact, with which we agree that the expenditure incurred is not creating any enduring benefit of an asset but is rather helping the assessee in augmenting its sales and resultantly its profit. This finding of fact could not be controverted by the Ld. CIT(DR) by bringing on record any adverse material. We are of the view that the impugned expenditure is of revenue nature, incurred wholly and exclusively for the purpose of assessee business and is allowable deduction u/s 37 of the Act. We therefore decline to interfere with the order of the Ld. CIT(A) on the point and reject ground No. 1 of the Revenue.

9. As regards, the disallowance of Rs. 6,69,29,143/- on account of Advertisement and Sales Promotion expenses made by the Ld. AO, we are not inclined to agree with the view of the Ld. AO that the impugned expenditure will give enduring benefits to the assessee and hence is not of revenue character. We endorse the finding of the Ld. CIT(A) that the expenditure on account of corporate advertisement is to essentially maintain the corporate image and not create a corporate image. These were incurred for enhancing sales, earning profit and facilitating operation of the assessee's business. This is amply demonstrated by the enormous increase in sales during the year as compared to the preceding year. In *Pepsico India Holdings (P.) Ltd.* (supra), the Hon'ble Delhi High Court held that the expenditure incurred on neon signs and a glow signs qualifies for deduction u/s 37(1) of the Act. No contrary decision has been brought to our notice. We therefore concur with the findings of the Ld. CIT(A) and consequently reject ground No. 2 of the Revenue.

10. Coming to the disallowance of Rs. 1,15,40,748/- made by the Ld. AO on account of Service Centre expenses, it may be stated that the assessee had charged provision for warranty of the said amount to P & L account which the

Ld. AO considered as “contingent” in nature. The case of the assessee has been that warranty is an integral part of the sales price of the value of product. The provision for warranty is made in the year in which the goods are sold on the basis of past experience. The moment there is a sale, automatically an obligation of warranty arises. This is a normal industry practice. There is no denial from the Revenue’s side of the assessee’s plea. The Ld. CIT(A) has relied on the decision of ITAT Delhi in M/s Rohde and Schwarz (P) Ltd. in which Hon’ble Supreme Court’s decision in Rotork Controls India (P.) Ltd. (supra) has been cited and followed wherein it is held that provision for warranty is entitled to deduction u/s 37 of the Act. We therefore, have no reason whatsoever to differ with the findings of the Ld. CIT(A). Accordingly, ground No. 3 of the Revenue is also rejected.

11. In the result, appeal of the Revenue is dismissed.

Order pronounced in the open court on 23rd January, 2024.

Sd/-
(N.K. BILLAIYA)
ACCOUNTANT MEMBER

Sd/-
(ASTHA CHANDRA)
JUDICIAL MEMBER

Dated: 23 /01/2024

Pooja, Sr.PS

Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
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	