

**INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "F": NEW DELHI  
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER  
AND  
SHRI VIMAL KUMAR, JUDICIAL MEMBER**

**ITA No. 47/Del/2024  
(Assessment Year: 2017-18)**

PPAP Automotive Limited, 54 Okhla Industrial Estate, Phase III, South East Delhi, New Delhi-110020 (Appellant) <b>PAN:AAACP5144P</b>	Vs. DCIT, Circle-19(1), New Delhi	(Respondent)
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Assessee by :	Shri Vikash Singh, CA
Revenue by:	Shri Kanv Bali, Sr. DR

Date of Hearing	20/09/2024
Date of pronouncement	08/10/2024

**ORDER**

**PER M. BALAGANESH, A. M.:**

1. The appeal in ITA No.47/Del/2024 for AY 2017-18, arises out of the order of the National Faceless Appeal Centre (NFAC), Delhi [hereinafter referred to as 'ld. NFAC)', in short] in Appeal No. ITBA/NFAC/S/250/2023-24/1058800334(1) dated 15.12.2023 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 04.01.2020 by the Assessing Officer.

2. The assessee has raised the following grounds of appeal before us:-

*"1. The order passed by the Ld. CIT (A) is bad in law, wrong on facts and against the principles of natural justice.*

*2. That the Ld. CIT(A) has erred in law and on facts in confirming the disallowance of Rs. 88,67,134/- being 25 percent of the expenditure incurred towards royalty made by the Ld. AO by holding the same as capital expenditure.*

*3. That the Ld. CIT(A) has erred in confirming the aforesaid disallowance by ignoring the explanation and evidences brought on record by the appellant*

*company and the fact that no advantage of enduring nature has accrued to the appellant company.*

*4. That the Ld. CIT(A) has confirmed the disallowed royalty holding that the same is partly of capital nature without considering the various judicial pronouncements of the courts wherein it has been held that where royalty is paid as a percentage of annual sales then in such cases royalty is to be allowed in full as a revenue expenditure.*

*5. The Ld. CIT(A) has confirmed the disallowance out of Royalty paid holding that the aforesaid payment is partly capital in nature without appreciating the fact that a similar disallowance of royalty was made in earlier assessment years which has already been deleted by the Honourable CIT(A) and Honourable ITAT in full and therefore no disallowance is warranted in Assessment year 2017-18. The Ld. CIT(A) has erred in not following the decision of the Hon'ble ITAT in the appellant's own case for AY 2005-06, AY 2006-07, AY 2007-08, AY 2008-09, AY 2009-10, AY 2010-11, AY 2011-12 and AY 2012-13, wherein in identical circumstances, it has been held that entire royalty paid represents revenue expenditure."*

3. We have heard the rival submissions and perused the material available on record. The assessee company is engaged in the business of manufacturing and trading of PVC Profiles used in automobiles, refrigeration, and other industries. The return of income for the Asst Year 2017-18 was filed by the assessee declaring total income of Rs. 34,47,66,600/- on 1.11.2017. The assessee entered into an agreement with M/s Tokai Kogyo Co. Ltd., Japan and M/s Nissen Chemitech Corporation, Japan to procure technical assistance relating to know how, training, education and obligation of technology. The agreement was entered into on 01.11.2000 and the same was effective up to 31.10.2005, which was renewed from time to time for further period. Before the lower authorities, the assessee submitted the renewed agreement that is relevant for the year under consideration. Pursuant to this agreement, the assessee was required to make royalty payment at an agreed percentage of net sale price. This royalty payment was claimed as deduction by the assessee company. The Id AO disallowed 25% of such royalty payment holding the same as capital in nature. This issue is no longer res integra in view of the decision rendered in assessee's own case by the order of this tribunal for various years. The relevant operative portion of the tribunal order for assessment year 2005-06 in ITA No. 374/Del/2009 dated 30.04.2010 is reproduced herein below:-

*"4. We have considered the rival contentions and gone through the terms and conditions of the agreement entered into by the assessee. We found that assessee was required to pay annually royalty at the rate of 2% of the items manufactured under this agreement and sold during the term of the said agreement. Such royalty was to be computed on half yearly basis. As the royalty payment is determined annually on the basis of quantity and value of production, the expenditure so incurred by the assessee is essentially recurring and revenue in nature. However, the AO has treated 25% of such payment as capital in nature. The expenditure so claimed is charged on the products manufactured by the assessee company and the same is not incurred for acquiring a process or design or technology which can be utilized by the assessee for years to come so as to categorize such expenditure as Capital in nature. Nothing was brought on record by the learned DR to controvert the findings of the CIT(A) recorded at pages 5 & 6 of appellate order. We therefore do not find any reason to interfere in the order of CIT(A) for allowing the entire payment of royalty as revenue expenditure."*

4. Further, we find that the same disallowance was deleted by the Tribunal from AYs. 2005-06 to 2012-13. For Assessment years 2013-14 to 2015-16, no appeals were preferred by the revenue on account of low tax effect. In view of the aforesaid decisions of this Tribunal, the grounds raised by the assessee are allowed.

5. In the result appeal of the assessee is allowed.

Order pronounced in the open court on 08/10/2024.

-Sd/-  
**(VIMAL KUMAR)**  
**JUDICIAL MEMBER**

-Sd/-  
**(M. BALAGANESH)**  
**ACCOUNTANT MEMBER**

Dated: 08/10/2024  
A K Keot

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

ASSISTANT REGISTRAR  
ITAT, New Delhi