

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

ITA No.325/Ind/2024 (AY:2018-19)  
ITA No.326/Ind/2024 (AY:2020-21)

ACIT-1(1) Indore	<b><u>बनाम/</u></b> Vs.	Bridgestone India Private Limited Plot No. A-43, Phase II, M.I.D.C Chakan, Pune <b>(PAN: AABCB2304E)</b>
(Revenue/Appellant)		(Assessee/Respondent)

Assessee by	Shri Sukhsagar Syal, AR
Revenue by	Shri Ram Kumar Yadav, CIT-DR

Date of Hearing	02.01.2025
Date of Pronouncement	27.01.2025

**आदेश / O R D E R**

**Per Bench:**

The captioned two appeals are filed by revenue, the details are as under:

- (i) *ITA No. 325/Ind/2024* is directed against order of first-appeal dated 22.02.2024 passed by learned Commissioner of Income-tax (Appeals), NFAC, Delhi ["CIT(A)"] which in turn arises out of assessment-order dated 20.04.2021 passed by National e-Assessment Centre, Delhi ["AO"] u/s 143(3) r.w.s 144B of the Income-tax Act, 1961 ["the Act"] for Assessment-Year ["AY"] 2018-19.

(ii) ITA No. 326/Ind/2024 is directed against order of first-appeal dated 22.02.2024 passed by learned CIT(A) which in turn arises out of assessment-order dated 28.09.2023 passed by Assessment Unit of Income-tax Department ["AO"] u/s 143(3) r.w.s 144B of the Act for AY 2020-21.

2. The grounds raised in these appeals are identical. Hence grounds of first appeal of AY 2018-19 are reproduced below for reference:

*"1. Whether on the facts and in the circumstances of the case and in the law, the Ld. CIT(A) is justified in allowing assessee's appeal relying the decision of the Hon'ble ITAT in previous years, wherein assessee's appeal was allowed without controverting the findings given by the Assessing officer in assessment order, especially wherein it was established that in view of the law, the receipt received by the assessee company in form of subsidies or incentive is revenue receipts, not capital receipts.*

*2. Whether on the facts and in the circumstances of the case and in the law, the Ld. CIT(A) is justified in allowing assessee's appeal on the basis of the decision of the Hon'ble ITAT in previous years as well as by placing reliance on the decision of the Hon'ble Apex Court in the case of Ponnai Sugars & Chemicals Limited whereas facts and circumstances of the instant case is totally different to the referred case which has been distinguished by the AO in the assessment order in detail as to how facts of the instant case are different."*

3. Having heard the Ld. Representatives of both sides and on perusal of orders of lower authorities, we find that the controversy involved in these two appeals is a recurring issue in assessee's case – Whether the subsidy received by assessee from Govt. of Maharashtra under Packaged Scheme of Incentives, 2007 is capital receipt in nature or revenue receipt in nature? While the assessee claims the same as capital receipt in nature, the revenue claims as revenue receipt in nature. This issue has already been

decided by Benches of ITAT in assessee's own cases for earlier years. The CIT(A) has accordingly followed the decisions of ITAT and decided first-appeals in favour of assessee. For the sake of immediate reference, the order of CIT(A) for AY 2018-19 is re-produced below:

**"Decision on Ground of Appeal No. 1**

*I have gone through the facts of the case and have considered material on record in the case of the Appellant. This appeal challenges the addition of Rs.44,93,91,082/- to total income of the assessee (Rs. 50,62,54,598/- (-) Rs. 5,68,63,918/-) being Industrial Promotion Subsidy ('IPS') received from Government of Maharashtra under Packaged Scheme of Incentives, 2007 ('PSI') treated as revenue in the nature.*

***At the very outset, is noticed that an identical issue arose in assessee's own case in Assessment Years 2015-16, 2016-17 and 2017-18. The Hon'ble Tribunal has decided the issue in favour of the assessee in assessee's own case in ITA No.45/Ind/2021 for AY 2015-16 dated 08/12/2022, in ITA No. 1081/MUM/2021 for AY 2016-17 dated 21/04/2023 and in ITA No. 84/IND/2022 for AY 2017-18 dated 17/07/2023. The copies of the order of the Tribunal have been furnished on record.***

*In this regard the appellant submitted that since the issue is already decided in favor of Appellant by the ITAT in subsequent years, the addition of 44,93,91,082/- made in respect of the IPS received from Government of Maharashtra under PSI 2007, by treating the same as revenue receipt should not be sustained.*

*In the above orders, the Hon'ble ITAT has upheld that the subsidy received by the Appellant under PSI is a capital receipt covered under Explanation 10 to section 43(1) of the Act and is not taxable as revenue receipt.*

*It is trite law that the Assessing Officer has a legal obligation to implement the order of the ITAT strictly and such failure would result in the failure of justice.*

*For the sake of convenience the relevant portions of the orders are reproduced herein under:*

*XXX (scanned orders of ITAT)*

*Respectfully following the aforesaid decision in the appellant's own case on similar issue, the additions of Rs. 44,93,91,082/- is deleted and appeal of the appellant as per ground no. 1 is hereby allowed."*

*[Emphasis supplied]*

4. Since the CIT(A) has followed the pre-existing view of ITAT in favour of assessee and Ld. DR for revenue is not able to show any error or illegality in the approach of CIT(A), we uphold the impugned orders passed by CIT(A). Consequently, these appeals of revenue are devoid of any merit and dismissed.

**5. Resultantly, these appeals are dismissed.**

Order pronounced by putting on notice board as per Rule 34 of ITAT Rules,  
1963 on 27/01/2025

Sd/-  
(DINESH MOHAN SINHA)  
JUDICIAL MEMBER

Sd/-  
(B.M. BIYANI)  
ACCOUNTANT MEMBER

**Indore**

दिनांक/ Dated : 27/01/2025

Patel/Sr. PS

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

By order  
Assistant Registrar  
Income Tax Appellate Tribunal  
Indore Bench, Indore