

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

श्री रविश सूद, न्यायिक सदस्य एवं
श्री मधुसूदन सावडिया, लेखा सदस्य के समक्ष ।
BEFORE SHRI RAVISH SOOD, JUDICIAL MEMBER AND
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / **ITA No.285/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2018-19)

M/s. Singareni Collieries Co. Ltd., Kothagudem. PAN:AAACT8873F	Vs.	Dy. Commissioner of Income Tax, Circle 13(1), Hyderabad.
(Appellant)		(Respondent)

आ.अपी.सं / **ITA No.307/Hyd/2024**
(निर्धारण वर्ष / Assessment Year: 2018-19)

Dy. Commissioner of Income Tax, Circle 13(1), Hyderabad.	Vs.	M/s. Singareni Collieries Co. Ltd., Kothagudem.
(Appellant)		(Respondent)
निर्धारिती द्वारा / Assessee by:	Shri M.V. Anil Kumar, Advocate and Shri C.H.Venkatesh, C.A.	
राजस्व द्वारा / Revenue by:	Ms.U. Mini Chandran, CIT-DR	
सुनवाई की तारीख / Date of hearing:	25/08/2025	
घोषणा की तारीख / Pronouncement:	10/09/2025	

आदेश/ORDER

PER MADHUSUDAN SAWDIA, A.M.:

These cross appeals are filed by M/s. Singareni Collieries Co. Ltd. ("the assessee") and the Revenue, feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals),

National Faceless Appeal Centre (NFAC), Delhi (“Ld. CIT(A)”), dated 30.01.2024 for the A.Y. 2018-19.

2. The brief facts of the case are that the assessee is a public sector undertaking engaged in the business of mining of coal. The assessee filed its return of income for the assessment year 2018–19 on 30th September 2018, admitting a total income of Rs.1963,50,31,315/-. The case of the assessee was selected for complete scrutiny and, accordingly, notice under section 143(2) was issued to the assessee. After considering the submissions of the assessee, the Learned Assessing Officer (“Ld. AO”) made various additions under different heads amounting to Rs.349,84,44,466/- and completed the assessment under section 143(3) read with section 144B of the Income Tax Act, 1961 (“the Act”) on 29th September 2021, assessing the total income at Rs.2313,34,75,781/-.

3. Aggrieved with the order of the Ld. AO, the assessee filed an appeal before the Ld. CIT(A). The Ld. CIT(A) partly allowed the appeal of the assessee.

4. Aggrieved with the order of the Ld. CIT(A), both the assessee as well as the Revenue are in appeal before this Tribunal.

ITA No.285/Hyd/2024 (Assessee's appeal)

5. The assessee has raised the following grounds of appeal :

1. Your appellant submits CIT(A) ought to have understood that the Assessing Officer compared openings stocks in the Consolidated Financial Statements with that of the Standalone Financial Statements of SCCL in the Annual Report while arriving at difference in value of opening stock aggregating to Rs.6,91,00,000/-, ought to have deleted the addition.
2. Your Appellant submits that the CIT(A) without application of mind confirmed the addition of Rs. 6,91,00,000 being difference in Opening Stocks for want of evidence, ignoring the fact that the Assessing Officer compared wrong opening stocks in two different financial Statements, in the Consolidated Financial Statements with that of the Standalone Financial Statements of SCCL in the same Annual Report, ought to have deleted the addition.
3. Your Appellant submits that the provision of section 40A(9) are not applicable to the facts of the case, being reimbursement/grant of deficit in the actual expenditure incurred by schools run by Singareni Educational Society, which is welfare expenditure, as per the Coal Wages Agreement, the addition may be deleted.
4. Your Appellant submits that the CIT(A) ought to have appreciated the fact that there is no voluntary contribution to the society, nor it is the case of the assessing Officer that there is transfer of substantial funds while retaining control over the funds, the provision of section 40A(9) of the Income Tax Act, 1961 are applicable, the addition may be deleted.
5. Your Appellant submits that it is an undisputed fact from the account of the society that the funds paid are to mitigate the deficit of funds in running the Scholls or colleges for the year in question as per the obligation vested on Your Appellant as per the Coal Wages Agreement. It is therefore incurred in the course of business and for the purpose of business, cannot be disallowed under section 40A(9) and is allowable under section 37 of the Income Tax Act, 1961.
6. Your Appellant submits that the CIT(A) as well as the Assessing Officer ignored the fact that the payments made to Singareni Educational Society in the past have been allowed as business expenditure u/s 37, ought not to have disallowed Rs. 38,15,00,000/- under section 40A(9) of the Income Tax Act, 1961.

7. Your Appellant submits that the CIT(A) erred in confirming the addition of Rs. 1,416,771,423/- towards lower amount disallowed under section 40A(9) though it was brought to the knowledge of the Assessing Officer that the same was already disallowed by your appellant and formed part of disallowance of RS.9334312325 disallowed in ITR6 under SCHEDULE BP-A23. Hence it results in double disallowance and also double taxation, the addition may be deleted.
 8. Your Appellant submits that the CIT(A) erred in confirming the addition of Rs. 1,49,588/- towards non deduction of TDS though it was brought to the knowledge of the Assessing Officer that the same was already disallowed by your appellant and formed part of disallowance of RS.9334312325 disallowed in ITR6 under SCHEDULE BP-A23. Hence it results in double disallowance and also double taxation, the addition may be deleted.
 9. Your Appellant submits that the CIT(A) erred in confirming the addition of Rs. 5,73,480/- towards violation of section 40A(3) though it was brought to the Knowledge of the Assessing Officer that the same was already disallowed by your appellant and formed part of disallowance of RS.9334312325 disallowed in ITR6 under SCHEDULE BP-A23. Hence it results in double disallowance and also double taxation, the addition may be deleted.
 10. Your Appellant submits that the CIT(A) erred in confirming the addition of Rs. 116,782,251/- towards CWIP written off though it was brought to the Knowledge of the Assessing Officer that the same was already disallowed by your appellant and formed part of disallowance of RS.9334312325 disallowed in ITR6 under SCHEDULE BP-A23. Hence it results in double disallowance and also double taxation, the addition may be deleted.
 11. Your appellant submits that the CIT(A) erred in confirming an addition of Rs.119,60,27,729/- u/ s 40a(ia) ignoring submissions made before the Assessing Officer and evidence filed by your appellant that the payments were made to banks and public financial institutions to which TDS provisions were not applicable and as far as the payments made towards interest on land compensation, TDS was already deducted as per law, details were submitted. Hence, the provisions of section 40a(ia) are not applicable, addition may be deleted.
 12. Your appellant submits that the CIT(A) erred in confirming an addition of Rs.1,07,15,618/- under section 43B, ignoring the fact that claim was in respect of payments made during the year on account disallowances made in earlier years u/s 43B of Income Tax Act, ignoring the proof of payment and the same was certified by the tax auditor in the Form 3CD forming part of Tax Audit Report u/ s 44AB of Income Tax Act, for this year. The addition is not warranted and may be deleted.
6. Ground Nos. 1 and 2 of the assessee's appeal relate to the addition of Rs.6,91,00,000/- made by the Ld. AO on account of the

difference in the value of closing stock. The Ld. AO, while framing the assessment, compared the value of closing stock as per the standalone financial statements with the value of closing stock as per the consolidated financial statements, and noticed a difference of Rs.6,91,00,000/-. He accordingly made the addition in the hands of the assessee. In this regard, the Learned Authorised Representative (“Ld. AR”) submitted that the assessee, as per the requirement of the Companies Act, has prepared both standalone financial statements as well as consolidated financial statements. The consolidated financial statements are prepared by consolidating the financials of the subsidiary company with that of the assessee. It was pointed out that the Ld. AO compared the value of closing stock between the standalone and consolidated statements and treated the difference of Rs.6,91,00,000/- as undisclosed income. The Ld. AR invited our attention to page nos. 2 and 3 of the assessment order and submitted that the difference represents the value of closing stock of the subsidiary, which, when consolidated, is naturally added to the stock of the assessee. Therefore, no escapement of income arises in the assessee’s hands, and the addition deserves to be deleted.

7. Per contra, the Learned Departmental Representative (“Ld. DR”) submitted that the assessee’s contention requires verification from the standalone financial statements of the subsidiary, the standalone financial statements of the assessee, and the consolidated financial statements. Since such verification was not carried out at the assessment stage, the Ld. DR prayed for the matter to be remanded to the file of the Ld. AO for the necessary verification.

8. We have heard the rival submissions and perused the material available on record. The addition has been made merely on the basis of difference between standalone and consolidated financial statements. The explanation of the assessee is that such difference arises on account of consolidation of the subsidiary’s closing stock, which, if found correct, would not warrant any addition in the assessee’s hands. Since this factual aspect requires verification with reference to the financial statements of both the assessee and its subsidiary, we deem it appropriate to remit this issue to the file of the Ld. AO. Accordingly, we direct the Ld. AO to verify the assessee’s contention by examining the standalone financial statements of the subsidiary, the standalone financial statements of the assessee, and the

consolidated financial statements. If, upon such verification, it is found that the difference of Rs.6,91,00,000/- indeed pertains to the closing stock of the subsidiary, then the Ld. AO shall delete the addition. The assessee shall be afforded reasonable opportunity of being heard in this regard. Accordingly, the ground nos. 1 and 2 of the assessee's appeal are allowed for statistical purposes.

9. The ground nos. 3 to 6 of the assessee relate to the addition of Rs.38,15,00,000/- made under section 40A(9) of the Act on account of payments made to Singareni Educational Society. In this regard, the Ld. AR submitted that the assessee is engaged in the business of extraction and sale of coal and power generation in the State of Telangana and is primarily governed by the Mines Act, 1952. The operations of the assessee are spread across various remote areas of the state, where workers are employed under difficult working conditions. In order to provide welfare measures to the employees and their families, the assessee has been providing facilities such as housing, hospitals, and educational institutions. The Ld. AR explained that the service conditions of employees are governed by the National Coal Wage Agreement-IX ("NCWA"), which is a settlement entered

into between the management of coal companies and the Joint Bipartite Committee for the Coal Industry (“JBCCI”), consisting of representatives of the Central Government, State Government, and recognised trade unions. Relying on the judgment of the Hon’ble Supreme Court in Mohan Mahto vs. Central Coalfield Limited (2007), 8 SCC 549, as well as the decision of the Hon’ble jurisdictional High Court in the assessee’s own case for A.Y. 2006-07 to 2008-09 in ITA Nos.85, 87 and 88 of 2021 dated 15.02.2024 respectively, it was submitted that the NCWA is a statutory document having the force of law under section 18(3) of the Industrial Disputes Act, 1947. The Ld. AR invited our attention to clause 10.6.1(b) of the memorandum of agreement under the NCWA (page no. 38 of the paper book no.1), wherein it has been specifically provided that where workers contribute to running educational institutions, matching grants will be provided by the coal companies. Accordingly, the assessee established Singareni Educational Society to run schools and colleges for the benefit of employees and their dependents. The Society earns revenue from grants and student fees, but the shortfall in expenditure

is reimbursed by the assessee as per its statutory obligation under the NCWA.

9.1 The Ld. AR further submitted that as per section 40A(9) of the Act, any sum paid under statutory obligation is not hit by section 40A(9) of the Act. He submitted that the reimbursement made by the assessee towards the deficit of Singareni Education Society is a payment covered under the statutory obligation. Hence, the same is not hit by section 40A(9) of the Act. He relied on the coordinate bench decision of this Tribunal in the assessee's own case for AYs 2015-16, 2016-17, and 2021-22 in ITA Nos. 283, 284 & 286/Hyd/2024 dated 12.06.2025, wherein identical issue was decided in favour of the assessee. Accordingly, the Ld. AR prayed before the bench that the addition made by the Ld. AO deserves to be deleted.

10. Per contra, the Ld. DR supported the order of the Ld. AO and submitted that the payment made by the assessee to the Singareni Educational Society is squarely covered under section 40A(9) of the Act, which disallows contributions made by an employer to any fund,

trust or society. It was argued that the disallowance made by the Ld. AO is strictly in accordance with law and should be upheld.

11. We have considered the rival submissions and gone through the orders of the authorities below as well as the paper book filed. As submitted by the Ld. AR, the Hon'ble Supreme Court in the case of Mohan Mahto vs. Central Coalfield Limited (supra) and the Hon'ble jurisdictional High Court in the assessee's own case (supra), has held that the obligations under NCWA are statutory document and are binding. We have gone through the clause no. 10.6.1(b) of the NCWA agreement placed at page no. 38 of the paper book no.1, which is to the following effect :

“ 10.6.1 (a)

(b) Where the workers come forward with their own contribution for the running of educational institutions, matching grants will be given by the Coal Companies.”

11.1 On perusal of above, it is clear that coal companies are under a statutory obligation to provide matching contributions for running educational institutions for their workers. The assessee, in compliance with the said obligation, reimbursed the deficit to Singareni

Educational Society. The payment is thus in the nature of statutory obligation and cannot be regarded as a voluntary contribution. We further note that an identical issue has already been decided in favour of the assessee by this Tribunal in ITA Nos. 283, 284 & 286/Hyd/2024 dated 12.06.2025 for AYs 2015–16, 2016–17, and 2021–22, wherein at para nos. 6 to 8 of the order, the Tribunal has decided the issue in favour of the assessee, which is to the following effect :

“ 6. We have considered the rival contentions as well as the relevant material available on record. The Assessing Officer has disallowed the claim of the assessee by holding that the payment in question made by the assessee to the educational society would not be an allowable expenses u/s 40A(9) of the I.T. Act, 1961 as this payment is not made for the expenses provided u/s 36(1)(iv) &(iv) of the Act. The relevant finding in para 9.2 are as under:

7. The learned CIT (A) has confirmed the order of the Assessing Officer. At the outset, we note that this issue has been now considered and decided by the Hon'ble jurisdictional High Court in assessee's own case for the A.Ys 2006-07 to 2008-09 vide judgment dated 15/02/2024 in ITTA No.85,87 and 88 of 2021 in para 10 to 17 as under:

“10. The contention of the Assessing Officer was that firstly, the benefit so provided being a welfare measure, the expenditure would fall squarely within the ambit of Clause E of sub-section 2 of Section 115WB and hence, it becomes taxable. Second condition was that the NCWA is only a settlement between the employer and employees where there is only a contractual obligation for the employer towards its employees. That it is not a statutory document nor does the settlement have any statutory force of law so as to avail

the benefits under the explanation to Section 115WB(2)(E) both under the un-amended provision and as also under the amended provision.

11. It is necessary at this juncture to take note of the couple of decisions rendered on the said subject issue. The first being the judgment of the Hon'ble Supreme Court in case of Mohan Mahto v. Central Coal Field Ltd. 1, where considering the provisions of NCWA while determining whether it has binding force of law or not, the Hon'ble Supreme Court in paragraph No.2 and paragraph No.10 held as under:

"2. The terms and conditions of the service of the workmen working in coal mines are inter alia governed by a "settlement" known as National Coal Wage Agreement (NCWA) V. Indisputably, the said settlement, in terms of subsection (3) of Section 18 of the Industrial Disputes Act, 1947 is binding on the parties.....".

1 (2007) 8 Supreme Court Cases 549 "10. A settlement within the meaning of sub-section (3) of Section 18 of the Industrial Disputes Act is binding on both the parties and continues to remain in force unless the same is altered, modified or substituted by another settlement.....".

12. A similar issue came up for consideration before the Jharkhand High Court at Ranchi in L.P.A.No.17 of 2018 which has been decided on 23.04.2019 and where the Division Bench of the Jharkhand High Court, in paragraph 6, relying upon the aforesaid judgment of the Hon'ble Supreme Court, held as under:

"6. We are in agreement with the contention of the appellant that National Coal Wage Agreement is statutory in nature. It is an outcome of tripartite agreement among the Coal Company, Labour Unions and Central Government. It has been held by the Hon'ble Supreme Court in Mohan Mahto Vs. Central Coalfields Ltd. reported in (2007) 8 SCC 549, that it has statutory force. Learned Single Judge came to the aforesaid findings due to following facts and reasons which have been depicted in paragraph 7 of the impugned judgment which reads hereunder:

7. (i) Admittedly, after the death of the deceased employee, late Laxmi Ravidas on submission of application for compassionate appointment of her eldest son by Samudri Devi (nominee of the petitioner's father), the Management Company considered the case of the eldest brother of the petitioner, namely, Santosh Ravidas in the year 2004, but, by that time, the said Santosh Ravidas has died, so it cannot be construed that the respondents did not consider the case of the legal heir of the deceased employee, late Laxmi Ravidas for consideration of compassionate appointment. It appears that the mother of the petitioner had applied for appointment of the petitioner on compassionate ground in the year 2011. Due to indecisiveness on the part of the mother of the petitioner, it was not possible on the part of the respondents to consider the case of the petitioner for compassionate appointment.

(ii) It is a settled position that the compassionate appointment is not a matter of right, rather, it is a matter of concession. On perusal of the impugned Annexure-19 to the writ application, the same does not suffer from any infirmity or irregularity so as to warrant interference of this Court.

(iii) So far as the claim of the petitioner for grant of monetary compensation as admissible under the relevant provisions of the N.C.W.A. is concerned, the mother of the petitioner is entitled, provided that she files an application for grant of the same".

13. Two similar issues under the provisions of the Income Tax itself came up before the Nagpur Bench of the Bombay High Court, first in Income Tax Appeal No.40 of 2015. In the case where it was an appeal filed by the Commissioner of Income Tax against M/s. Western Coalfields Ltd., Nagpur, the Division Bench took the following stand:

"6. Two additional questions, to be looked into here are:

(i) Whether on the facts and in the circumstances of the case in law, the ITAT is justified in holding that the expenditure of Rs.342.42 lacs

on account of donation to educational institutions is an allowable expenditure under corporate social responsibility even though it is only application of income?

(ii) Whether on the facts and in the circumstances of the case in law, the ITAT is justified the disallowance of contract charges of Rs.6,25,000/- paid to Nagindevi Agarwal u/s.40(a)(ia) of Income Tax Act, 1961 on account of non-deduction of TDS?

Accordingly, we have heard Advocate Parchure for the Department Advocate Dewani for assessee. We find that the provision for educational facilities is being made by assessee as a part of its obligation under various National Coal Wage Agreement (NCWA), which are legally enforceable in terms of Section 18 of the Industrial Dispute Act. The said provision is also accepted and allowed by Department since 1992. In fact, assessment order itself records that for assessment year 1995-96, appeal filed by Department in this respect before ITAT was withdrawn. It is not the case of Department that aims and objects of assessee do not permit such expenditure. Fact show that, to provide education towards of its employees who are working at sites which are otherwise away from town, schooling facility is being provided by employer. To provide better facility, the central school organization an undertaking of Union of India is requested to offer it at such site. In this situation, we find that no substantial questions of law as sought to be raised arise out of concurrent finding of CIT and ITAT".

14. The same view was further reiterated in yet another appeal preferred by the Income Tax Department in ITA No.24 of 2019 again before the Division Bench of Nagpur Bench of the High Court of Bombay. Dealing with the fringe benefits and expenses made in the context of value of free issue of coal, medical facilities, educational facilities, grants to school and institutions, sports and recreational facilities, the Nagpur Bench of the Bombay High Court, wherein the deliberation substantially was what is reflected in

paragraph 2 and paragraph 3 of the said judgment and the finding of the Bench is reflected in paragraph 5, as under:

"2. Addition of fRs.597.22 Lacs being value for fringe benefits in respect of expenditure on the welfare of employees by the Assessment Officer and maintained by the Commissioner of Income Tax [Appeals] but reversed by the Income Tax Appeal Tribunal is the subject matter of challenge in this appeal filed at the instance of the Revenue. These fringe benefits pertain to expenditure made in the context of value of free issue of coal, medical facilities, educational facilities, grants to school and institutions, sports and recreational facilities. The Tribunal has held that in view of the provisions of the National Coal Wage Agreement, the provision of such benefits were made being statutory obligations and hence were not exigible to Fringe Benefit Tax.

3. Shri A. Parchure, learned counsel for the appellant submitted that notwithstanding the National Coal Wage Agreement, with regard to the head Sports and Recreation Facilities, the provisions of Section 115 WB(2)(E) and explanation thereto introduced by virtue of Finance Act of 2008 such expenditure made was not to be considered as expenditure for employees welfare. He, therefore, submits that since the present proceedings pertain to the assessment year 2006-07, the explanation cannot be given retrospective effect".

5. On hearing the learned counsel for the parties, it is clear that the implementation of the National Coal Wage Agreement has been held to a statutory obligation which is binding on the assessee. The expenditure towards sports and recreation facilities is also a part of that agreement as is clear from Clause 10.8.1".

15. From the plain reading of the facts and circumstances of those cases dealt with by the Hon'ble Supreme Court, as also by the High Court of Jharkhand and again that of the two cases by the High Court of Bombay, when we compare the facts of the present case, undisputedly in the instant cases also, the issue is in respect of the benefits provided to the employees by way of

supply of electricity to their residence, township and street lights. The question again would be whether this so called benefit is one which is for the welfare of the employees or not and whether it is not part of the statutory obligation. The other undisputed fact is that the said benefit extended by the appellant/employer is in terms of the clauses that are reflected in the NCWA. The judgments referred to in the preceding paragraphs clearly indicate and lay to rest the issue as to whether it is a statutory document or not, where all the judgments referred to above have clearly held that NCWA is a statutory document and it has binding force of law so far as its enforceability is concerned.

16. Under the circumstances, if we look into the un-amended "Explanation" to Section 115WB(2)(E) of the Act, it would further make it clear that any expenditure which was incurred in order to fulfill a statutory obligation would not be considered as an expenditure for employees welfare. So also, when we look into the subsequent amendment brought to the "Explanation" to Clause E of Sub-Section 2 of Section 115WB, sub-clause (i) it also clearly excludes expenses incurred or payments made to fulfill any statutory obligation. So, under both the circumstances i.e. even prior to the amendment to the explanation w.e.f. 01.04.2009, the expenditure incurred towards the supply of electricity by the appellant to its employees would be excluded for the purpose of treating it as an expenditure towards the employees benefit is concerned.

17. For all the aforesaid reasons, we are of the considered opinion that the view taken by the Assessing Officer, so also by the Commissioner of Income Tax (Appeals) and Income Tax Appellate Tribunal are not sustainable and the same is accordingly set aside/quashed. It is held that the expenditure so incurred by the appellant towards the supply of electricity would be excluded from being treated as an expenditure towards the employees welfare.”

8. Thus, the Hon'ble High Court has held that the benefit extended by the assessee as per the NCWA was an obligation under the statutory document as held by the Hon'ble Supreme Court in case of Mohan Mahto v. Central Coal Field Ltd (Supra) and therefore, the same is not considered as an expenditure incurred towards employees welfare but for discharging the statutory obligation. Following the judgement of the

Hon'ble jurisdictional High Court where the assessee has incurred the expenditure towards electricity expenditure of the employees/ workers as per the terms of the said NCWA, the education provided by the assessee to the employees in terms of the NCWA cannot be given a different treatment and therefore, the issue is now covered by the judgment of the Hon'ble jurisdictional High Court in favour of the assessee. Accordingly, the addition made by the Assessing Officer and sustained by the learned CIT (A) is deleted.”

11.2 On perusal of above, we find that this Tribunal following the judgement of Hon'ble jurisdictional High Court has held that, the expenditure incurred by the assessee as per the terms of NCWA are towards discharge of statutory obligation. Accordingly, this Tribunal has decided the issue in favour of the assessee. Therefore, respectfully following the same, we hold that the disallowance made by the Ld. AO under section 40A(9) of the Act is not sustainable. Accordingly, the addition of Rs.38,15,00,000/- made by the Ld. AO is directed to be deleted. Ground nos. 3 to 6 of the assessee's appeal are allowed.

12. The ground no. 7 of the assessee relates to the addition of Rs.141,67,71,423/- made by the Ld. AO on account of (i) provision for CMPS @ 7% of Rs.87,54,67,423/- and (ii) provision for CPRMSE – NCWA employees of Rs.54,13,04,000/-, the ground no. 8 of the

assessee relates to the disallowance of Rs.1,49,588/- on account of non-deduction of TDS, the ground no.9 of the assessee relates to the disallowance of Rs.5,73,480/- under section 40A(3) of the Act and the ground no. 10 of the assessee relates to the disallowance of Rs.11,67,82,251/- on account of assets written off. In this regard, the Ld. AR submitted that all the aforesaid amounts were duly reported by the auditor in the tax audit report under the respective reporting clauses. However, while filing the return of income, the assessee, instead of reporting each of these disallowances under the respective heads, inadvertently grouped them together under a single column. Our attention was invited to column no. 23 of page no. 50 of the ITR (page no. 156 of paper book no.1), where the assessee has disallowed a sum of Rs.933,43,12,325/- under the head “Any other item or items of addition under section 28 to 44DA.” The Ld. AR further drew our attention to page no. 17 of paper book no. 1, wherein the assessee has provided the detailed breakup of the said disallowance of Rs.933,43,12,325/-, which includes the amounts under dispute. It was therefore submitted that the disallowances made by the Ld. AO on the basis of the reporting in the tax audit report have already been suo

moto disallowed by the assessee while filing the return of income. Consequently, the additions made by the Ld. AO have resulted in double disallowances in the hands of the assessee. The Ld. AR accordingly prayed for deletion of the impugned additions.

13. Per contra, the Ld. DR submitted that the contention of the assessee requires verification with reference to the ITR and the tax audit report. It was thus prayed that the issue may be remitted to the file of the Ld. AO for the necessary verification.

14. We have heard the rival submissions and carefully considered the material available on record. The contention of the assessee is that the disallowances under ground nos. 7 to 10 have already been considered by it suo moto in the return of income, and therefore, the further disallowances made by the Ld. AO have resulted in double addition. We have gone through column no. 23 of page no. 50 of the ITR placed at page no. 156 of paper book no.1, where the assessee has disallowed a sum of Rs.933,43,12,325/- under the head “Any other item or items of addition under section 28 to 44DA”. We have also gone through the page no. 17 of paper book no. 1, wherein the

assessee has provided the detailed breakup of the said disallowance of Rs.933,43,12,325/-, which includes the amounts under dispute. On perusal of these documents, we find that the assessee has disallowed a consolidated figure of Rs.933,43,12,325/- under the head “Any other item of addition under section 28 to 44DA.” The breakup furnished does show inclusion of the impugned amounts. However, this factual aspect requires verification at the end of the Ld. AO. Accordingly, in the interest of justice, we remit the issues corresponding to the ground nos. 7 to 10 to the file of the Ld. AO with the direction to verify the assessee’s contention from the records, namely the ITR, the tax audit report, and the supporting schedules. If, upon such verification, it is found that the impugned amounts have already been disallowed by the assessee in the return of income, resulting in double addition, the Ld. AO shall delete the disallowances. The assessee shall be afforded due opportunity of being heard. Ground nos. 7 to 10 of the assessee’s appeal are allowed for statistical purposes.

15. The ground no. 11 of the assessee’s appeal relates to the disallowance of Rs.119,60,27,729/- made under section 40(a)(ia) of the Act. The Ld. AO disallowed the said amount on the allegation that

the assessee failed to deduct tax at source on interest payments aggregating to Rs.398,67,59,098/-. Applying the provisions of section 40(a)(ia) of the Act, the Ld. AO disallowed 30% of such interest payments, which worked out to Rs.119,60,27,729/-. In this regard, the Ld. AR submitted that as per the provisions of section 194A of the Act, the assessee was not required to deduct tax at source on the said interest payments of Rs.398,67,59,098/-. Therefore, the consequential disallowance under section 40(a)(ia) of the Act was not warranted. It was accordingly prayed that the disallowance made by the Ld. AO be deleted.

16. Per contra, the Ld. DR invited our attention to para no. 9 of the assessment order and submitted that the disallowance was made by the Ld. AO for the reason that the assessee failed to furnish any explanation or produce supporting evidence to justify its claim. It was submitted that the assessee's contention that no tax was deductible under section 194A of the Act requires verification with reference to the relevant facts and documents. The Ld. DR, therefore, pleaded that the issue may be remanded back to the file of the Ld. AO.

17. We have heard the rival submissions and carefully considered the material available on record. The core of the dispute is whether the assessee was liable to deduct tax under section 194A of the Act on the impugned interest payments of Rs.398,67,59,098/-. If no tax was deductible, the consequential disallowance under section 40(a)(ia) would not survive. Since this factual aspect requires verification with supporting documentary evidence, we deem it just and proper to remit this issue back to the file of the Ld. AO. The Ld. AO is directed to call for details, explanations, and supporting evidences from the assessee, verify the applicability of section 194A of the Act to the impugned payments, and thereafter decide the issue afresh in accordance with law. The assessee shall be afforded reasonable opportunity of being heard. The ground no. 11 of the assessee's appeal is allowed for statistical purposes.

18. The ground no. 12 of the assessee's appeal relates to the disallowance of Rs.1,07,15,618/- made under section 43B of the Act. In this regard, the Ld. AR submitted that the assessee had to made disallowance of Rs.915,17,72,291/- under section 43B of the Act on account of provisions created during the year, as no payments were

made up to the date of filing of the return of income. At the same time, the assessee was eligible for deduction of Rs.1,07,15,618/- on account of payments which had already been disallowed under section 43B of the Act in earlier years but were actually paid during the year under consideration. Our attention was invited to serial no. A32 of Schedule BP at page no. 51 of the ITR (placed at page no. 157 of the paper book no.1) where the assessee was required to report any amount disallowed under section 43B of the Act in earlier years but allowable during the year. However, the assessee inadvertently mentioned Rs.Nil instead of Rs.1,07,15,618/- at that column. Similarly, the Ld. AR pointed to serial no. 18 of Schedule BP at page No. 50 of the ITR (placed at page no. 156 of the paper book no.1), where the assessee was required to mention Rs.915,17,72,291/- against “any amount debited to the profit and loss account of the previous year but disallowable under section 43B.” Instead, the assessee inadvertently mentioned Rs.914,10,56,673/-, which was the net figure after reducing the allowable payment of Rs.1,07,15,618/-. It was thus argued that this was merely an inadvertent reporting error in the ITR form, without any effect on the taxable income of the

assessee. The Ld. AR emphasized that there was no evasion of tax, and the addition made by the Ld. AO deserves to be deleted.

19. Per contra, the Ld. DR submitted that the assessee's claim requires verification with reference to the tax audit report of the earlier year, books of accounts, current year's tax audit report, ITR schedules, and the actual evidence of payments. It was therefore prayed that the matter be remanded to the file of the Ld. AO for proper verification.

20. We have heard the rival submissions and examined the material available on record. The assessee has contended that the impugned difference is only due to inadvertent reporting in the ITR schedules and that there is no real impact on the taxable income. However, the correctness of this claim can only be established upon verification of the previous year's tax audit report, books of accounts, and the current year's return of income along with proof of actual payments. Accordingly, we consider it just and proper to remit this issue back to the file of the Ld. AO. The Ld. AO shall verify the assessee's contention from the tax audit reports of earlier and current years, the

books of accounts, and the supporting evidence of payments. If on such verification it is found that the assessee's claim is correct and there is no impact on taxable income, then the disallowance shall be deleted. The assessee shall be afforded reasonable opportunity of being heard. The ground no. 12 of the assessee's appeal is allowed for statistical purposes.

ITA No.307/Hyd/2024 (Revenue's appeal)

21. The Revenue has raised the following grounds of appeal :

- (i) Whether the Order of the Ld.CIT(Appeal) is erroneous on facts and in law.
- (ii) Whether the CIT(A) erred in holding that the civil works carried out by the assessee by way on construction of works for culverts, land leveling, laying of sand and stone, etc as "Plant & Machinery " entailing depreciation @ 15% and ought to have seen that by any standard can such civil works can only be treated as "Building" which entails depreciation @ 10% and not " Plant & Machinery".
- (iii) Any other grounds that may be urged at the time of hearing.

22. At the outset, the Ld. DR submitted that the solitary issue raised by the Revenue in the present appeal relates to the rate of depreciation allowable on capital development expenditure. The Ld. DR submitted that, the assessee had claimed depreciation on capital development expenditure at the rate of 15%. The Ld. AO restricted the rate of depreciation to 10% and accordingly made an addition of

Rs.30,46,50,938/-. The Ld. CIT(A), however, allowed the claim of the assessee by granting depreciation at the rate of 15%. In this regard, the Ld. DR supported the order of the Ld. AO and submitted that the nature of the expenditure is clearly covered under the head “buildings” and therefore eligible only for depreciation at the rate of 10%. It was contended that the Ld. CIT(A) erred in granting depreciation at the higher rate of 15%. Accordingly, she prayed for set aside the order of Ld. CIT(A) on this issue.

23. Per contra, the Ld. AR submitted that the issue is squarely covered by the decision of this Tribunal in assessee’s own case for AYs 2015–16, 2016–17 and 2021–22 in ITA nos. 283, 284 & 286/Hyd/2024, dated 12.06.2025, wherein at para Nos. 27 and 28, the Tribunal has held that depreciation on such capital development expenditure is allowable at the rate of 15%. It was thus submitted that there being no change in facts or law, the order of the Ld. CIT(A) calls for no interference.

24. We have heard the rival contentions and perused the material available on record. In this regard, we have gone through para nos.

7.7.1 and 7.7.2 of page nos. 38 and 39 of the order of the Ld. CIT(A), which is to the following effect :

7.7.1 The appellant filed submissions and relied on case laws to support its ground of appeal and pleaded that the issue was decided in favour of the assessee by the Hon'ble ITAT, Hyderabad in its orders for the AY 2011-12 (Para 11 in the Page No.35) AY 2012-13 (Para 3 in the Page No.3) and AY 2013-14 & AY 2014-15 (Para 6 & 7 in the Page No.9 & 10) dated 20th May, 2021, 25th October, 2021 and 27th May, 2021, respectively. The relevant part of the order dated 20.05.2021 is reproduced as under:

"11. As regards the ground relating to restriction of depreciation on mine development to 10% as against 15% claimed, as raised in AY 2011-12 as ground Nos. 9 & 10, the assessee has claimed depreciation @ 15% to the extent of Rs. 40,46,18,947/-, which was restricted by the AO to 10%, which comes to Rs. 13,48,72,982/-. The CIT(A) confirmed the same.

11.4 We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities. The assessee is engaged in the business of coal mines and he is extracting coal from open cast mines as well as underground mines. As per details submitted by the AR of the assessee during the course of assessment proceedings and appellate proceedings, it is clear that the expenditure incurred by the assessee are to be treated as 'plant and machinery'. The civil works are relating to directly for the excavation of coal. Without doing these jobs, it is difficult to extract the coal from the mines. From the details submitted, it is clear that the expenditure incurred by the assessee company on construction of retaining wall for sand stowing, Dumper Working Platform, Construction of RCC Bridges, Land levelling, Sand Stowing, Bunker Stowing, construction of Inter Seam Tunnels, Construction of Steel Bunkers, Construction of Water Dams, construction of water tankers for sand stowing, building retention wall for sand stowing, construction bunkers in mines for workers, construction of check dams in mines to prevent water gushing etc. The entire expenditure was incurred within the mines, which are categorized as plant and machinery for the purpose of depreciation. Functionally the expenditure assumes the nature of plant and machinery in the coal mines. The rate of depreciation has been prescribed as per new Appendix -I - Part - A on tangible assets. Looking at the nature of business of the assessee the mine development expenditures spent by the assessee are to be treated as plant & machineries. There can be different type of expenditures for the different nature of business. In the Income Tax Act, the word "plant & machinery" has not been defined, but, the various courts have defined the plant and machinery as per the conditions existed in given cases. Further on perusal of the submission of the AR of the assessee it has been observed that in assessee's own case while granting investment allowance U/s 32A of the IT Act, similar expenditures incurred by the assessee under the head "plant and machinery" were decided in favour of the assessee and held that it was plant and machinery by the Hon'ble jurisdictional AP High Court as relied upon by the assessee. Further the assessee has relied on the decision of the Hon'ble SC in case of Karnataka Power Ltd. as quoted supra is squarely applicable to the facts of the present case. The Ld. CIT (A) has not accepted this judgement of Hon'ble SC holding that it relates to Investment Allowance U/s 32A of the Income Tax Act, 1961. Once similar expenditures have been accepted by the Hon'ble SC as quoted supra, we are of the view that the

expenditures incurred by the assessee were necessary for excavation of coal from mines and shafts . In view of the above observations, we allow this ground of appeal of the assessee by holding that the assessee is entitled to charge depreciation @ 15% under the block of assets "plant and machinery", as against 10% made by the AO."

7.7.2 All the facts of the case, Grounds of appeal, statement of facts, online submissions of the appellant, the case laws cited and the assessment order are considered. The submission of the appellant is examined. It is noted that the Hon'ble ITAT, Hyderabad bench in appellant's own case in earlier years has adjudicated the issue in appellant's favour. In view of the decision reproduced as above and respectfully following the higher authorities decision on the issue, the grounds of appeal no. 7 is allowed.

24.1 On perusal of above, we find that the Ld. CIT(A) following the order of this Tribunal in assessee's own case for A.Ys. 2011-12, 2013-14 & 2014-15, has held that capital development expenditure falls within the block eligible for 15% depreciation. We have also carefully gone through para nos. 27 and 28 of the order of this Tribunal in assessee's own case for AYs 2015-16, 2016-17 and 2021-22 (supra), which is to the following effect :

“ 27. We have heard the learned DR as well as the learned AR and considered the relevant material available on record. At the outset, we note that this issue is also covered by the decision of this Tribunal in assessee's own case for the A.Y 2011-12 to 2014-15. The learned CIT (A) has considered this issue in para 7.3.1 to 7.3.2 for the A.Y 2015-16 as under:

7.3.1 The appellant filed submissions and relied on case laws to support its ground of appeal and pleaded that the issue was decided in favour of the assessee by the Hon'ble ITAT, Hyderabad in its orders for the AY 2011-12 (Para 11 in the Page No.35) AY 2012-13 (Para 3 in the Page No.3) and AY 2013-14 & AY 2014-15 (Para 6 & 7 in the Page No.9 & 10) dated 20th May, 2021, 25th October, 2021 and 27th May, 2021 respectively. The relevant part of the order dated 20.05.2021 is reproduced as under:

“11. As regards the ground relating to restriction of depreciation on mine development to 10% as against 15% claimed, as raised in AY

2011-12 as ground Nos. 9 & 10, the assessee has claimed depreciation @ 15% to the extent of Rs. 40,46,18,947/-, which was restricted by the AO to 10% which comes to Rs. 13,48,72,982/-. The CIT(A) confirmed the same.

.....

11.4 We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities. The assessee is engaged in the business of coal mines and he is extracting coal from open cast mines as well as underground mines. As per details submitted by the AR of the assessee during the course of assessment proceedings and appellate proceedings, it is clear that the expenditure incurred by the assessee are to be treated as 'plant and machinery'. The civil works are relating to directly for the excavation of coal. Without doing these jobs, it is difficult to extract the coal from the mines. From the details submitted, it is clear that the expenditure incurred by the assessee company on construction of retaining wall for sand stowing, Dumper Working Platform, Construction of RCC Bridges, Land levelling, Sand Stowing, Bunker Stowing, construction of Inter Seam Tunnels, Construction of Steel Bunkers, Construction of Water Dams, construction of water tankers for sand stowing, building retention wall for sand stowing, construction bunkers in mines for workers, construction of check dams in mines to prevent water gushing etc. The entire expenditure was incurred within the mines, which are categorized as plant and machinery for the purpose of depreciation. Functionally the expenditure assumes the nature of plant and machinery in the coal mines. The rate of depreciation has been prescribed as per new Appendix -I - Part - A on tangible assets. Looking at the nature of business of the assessee the mine development expenditures spent by the assessee are to be treated as plant & machineries. There can be different type of expenditures for the different nature of business. In the Income Tax Act, the word "plant & machinery" has not been defined,

but, the various courts have defined the plant and machinery as per the conditions existed in given cases. Further on perusal of the submission of the AR of the assessee it has been observed that in assessee's own case while granting investment allowance U/s 32A of the IT Act, similar expenditures incurred by the assessee under the head "plant and machinery" were decided in favour of the assessee and held that it was plant and machinery by the Hon'ble jurisdictional AP High Court as relied upon by the assessee. Further the assessee has relied on the decision of the Hon'ble SC in case of Karnataka Power Ltd. as quoted supra is squarely applicable to the facts of the present case. The Ld. CIT (A) has not accepted this judgement of Hon'ble SC holding that it relates to Investment Allowance U/s 32A of the Income Tax Act, 1961. Once similar expenditures have been accepted by the Hon'ble SC as quoted supra, we are of the view that the expenditures incurred by the assessee were necessary for excavation of coal from mines and shafts. In view of the above observations, we allow this ground of appeal of the assessee by holding that the assessee is entitled to charge depreciation @ 15% under the block of assets "plant and machinery", as against 10% made by the AO."

7.3.2 All the facts of the case, Grounds of appeal, statement of facts, online submissions of the appellant, the case laws cited and the assessment order are considered. The submission of the appellant is examined. It is noted that the Hon'ble ITAT, Hyderabad bench in appellant's own case in earlier years has adjudicated the issue in appellant's favour. In view of the decision reproduced as above and respectfully following the higher authorities decision on the issue, the grounds of appeal no. 6 to 7 are allowed."

28. The learned DR has submitted that the assets on which the assessee has claimed depreciation @ 15% are not in the nature of plant and machinery but are falling in the definition of building and therefore, eligible for depreciation @ 10% only. He has relied upon the decision of the Hon'ble Madras High Court in the case of M/s. Narmada Infrastructure Corporation Enterprises Ltd vs. ACIT and another in TCA No.868 to 870 of 2009 & Others. Thus, the learned DR has submitted that the

Tribunal while deciding this issue for the preceding A.Ys has not considered the judgment of the Hon'ble Madras High Court. We find that the decision relied upon by the learned DR is in respect of construction of road under BOT wherein the assessee claimed depreciation @ 15% which was denied by the Assessing Officer and also confirmed by this Tribunal by holding that the roads/toll bridges do not fall in the ambit of plant & machinery but these do fall in the terms buildings and therefore, eligible for depreciation @ 10%. There is no dispute that as per the schedule of depreciation, the roads are falling in the asset as building and not as plant and machinery. However, in the case of the assessee, the work carried out by the assessee is within the Mines and very much part and parcel of the coal mines of the assessee. Undisputedly, the coal mines are considered as plant and machinery for the purpose of depreciation and therefore, any work carried out in the Mines which is essential for the operations of extraction of the coal from the Mines will partake the character of plant and machinery. Accordingly, we do not find any merits in the contention of the learned DR on this issue. Ground No.5 for the A.Ys 2015-16 and 2016-17 and Ground No.4 for the A.Y 2020-21 of the Revenue's appeal are dismissed."

24.2 On perusal of above, we find that the Tribunal has categorically held that depreciation on capital development expenditure is allowable at the rate of 15% and not 10% as restricted by the Ld. AO. As no changes in facts as well as in law has been brought to our notice for the year under consideration, respectfully following the said order, we hold that the assessee is entitled to depreciation at 15%. Therefore, we find no infirmity in the order of the Ld. CIT(A). Accordingly, following the order of this Tribunal in assessee's own case and concurring with the reasoning given by the

Ld. CIT(A), we uphold the order of the Ld. CIT(A) and dismiss the appeal filed by the Revenue.

25. In the result, the appeal filed by the Revenue stands dismissed.

26. To sum up, the appeal of the assessee in ITA No.285/Hyd/2024 is allowed for statistical purposes and the appeal of the Revenue in ITA No.307/Hyd/2024 is dismissed.

Order pronounced in the open Court on 10th Sept., 2025.

Sd/-

(RAVISH SOOD)
JUDICIAL MEMBER

Sd/-

(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Hyderabad.

Dated: 10.09.2025.

** Reddy gp*

Copy of the Order forwarded to :

1.	M/s. Singareni Collieries Co. Ltd., SCCL Head Officer, Kothagudem, Bajanmandir S.O., Kothagudem-507 101
2.	DCIT, Circle 13(1), Hyderabad.
3.	Pr.CIT, Hyderabad.
4.	DR, ITAT, Hyderabad.
5.	Guard file.

BY ORDER,