IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, F: NEW DELHI
BEFORE VIKAS AWASTHY, JUDICIAL MEMBER
AND
SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER
ITA No.- 1681/Del/2018
[Assessment Year: 2014-15]

Puri Oil Mills Limited, 302, Jyoti Shikhar, Janak Puri, New Delhi- 110058.	Vs	The ACIT/ DCIT, Circle 20(1), IP Estate, Room no. 219, New Delhi.
PAN- AAACP3653M		
Assessee		Revenue

Assessee by	Shri S.K. Vatta, CA
Revenue by	Ms. Harpreet Kaur Hansra, Sr. DR

Date of Hearing	**24.09.2025**
Date of Pronouncement	**19.12.2025**

ORDER

PER BRAJESH KUMAR SINGH, AM,

This appeal by the assessee is directed against the order of the learned Commissioner of Income Tax (Appeals)-7, New Delhi, dated 05.01.2018 [hereinafter referred to as the 'Ld. CIT(A)'] arising out of the assessment order dated 26.12.2016 order passed under Section 143(3) of the Income Tax Act, 1961

(hereinafter referred to as 'the Act') passed by the DCIT, Circle- 20(1), New Delhi, (hereinafter referred to as the 'Ld. AO') pertaining to A.Y. 2014-15.

2. Brief facts of the case: the assessee-company e-filed its return of income for AY 2014-15 on 29.11.2014 declaring a total income of Rs.5,45,26,882/-. The case was selected for scrutiny under CASS and a statutory notice u/s 143(2) was issued on 28.08.2015. On perusal of the balance sheet, it was noticed by the AO that the assessee had received capital subsidy of Rs.4,86,00,000/-, which was capitalised in the books. The AO observed that under Section 5 of the Act, all income received or accrued was taxable unless specifically exempt. The Assessing Officer also took note of the fact that capital subsidies were held to be not taxable subject to reduction of the same from 'actual cost' of assets in case of depreciable assets. The Assessing Officer also referred to a fact of insertion of sub-clause (xviii) in section 2(24) of the Act, by the Finance Act 2015 w.e.f. 01.04.2016 providing for an exclusive definition of the expression 'Income' under the taxing laws. The Assessing Officer noted that the assessee had received a subsidy of Rs. 4,86,00,000/- as financial support for setting up a 1.40 MW Small Hydro Power (SHP) Project from the Government of Himachal Pradesh and Haryana. Further, the AO observed that the assessee neither treated the subsidy as revenue income nor reduced the cost of depreciable assets as per the law laid down by the Hon'ble Supreme Court. The assessee was accordingly asked to justify why the capital subsidy should not be reduced from the cost of the

assets. In response, the assessee submitted its reply vide letter dated 25.11.2016 (extract reproduced in assessment order) that:

> *"In pursuance to the query in respect of capital subsidy receivable as per Financial Statements, the assessee company wishes further to submit in continuation of our earlier submissions on record vide para 3 of our submission dated 25" October, 2016, which for the purpose is reproduces as under:*
>
> > *1. That out of the total capital subsidy of Rs.2.43 crore receivable as appearing in the comparative figures shown in the previous financial year columns, the sum of Rs 1.28 crore was received during the year, thus resulting the Capital subsidy receivable as appearing as on 31.03:2014 to Rs.1.15 crore which has been received also in the next year, Except as explained above, there is no other revenue effect on the financial statements. The said capital subsidy is in respect of Hydro Projects set up in Haryana and H. P. as per Ministry of New & Renewal Energy (MNRE] Govt. of India as Policy guidelines to encourage setting up such Hydro Power Projects in the States,*
> >
> > *2. That in respect of the same, your kind attention is also drawn to the submissions and disclosure in para 18 (d)(iiii) of the Form 3CD Statement of Particulars, annexed to the Audit Report u/s 44AB of the Act) for the year ended 31.03.2014 wherein the assessee Auditor have already stated as under:*
> >
> > > *The assessee is of the view that the Capital subsidy received for setting of Hydro Power Units have not been reduced from the cost of Fixed Assets relying on the; decision of the Hon'ble Supreme Court in case of CIT vs P.I. Chemicals Ltd (Supra) and ITAT, Vishakhapatnam Bench in case of Sasisri Extradition Limited vs AC IT (2008) 307 TR (AT) 127" – Annexure 'A'. The similar observation and remarks was also made in Audit Report u/s. 44 AB read with 3CD Particulars vide Para 18(d)(iii) of the said statement of particulars, for the Financial year and statements and Tax Audit Report for the Asst. year 2013-14 Annexure B.*
> >
> > *…xxxx…*

5. That the assessments for the Asst. year 2012-13 and 2013-14 have also been duly made u/s 143(3) of the Act under scrutiny assessments keeping in mind and in view of the complete disclosure of accounting treatment of was duly made both in Financial Statements and tax Audit Reports, which was accepted without any adverse inference in respect of the said capital subsidy and accounting treatment thereof as to the same being in the nature of capital subsidy and also not subject to reduction from cost of fixed assets keeping in view the decision of Hon'ble Supreme Court of India as per judgement quoted supra."

3. The AO rejected the above submissions of the assessee and held that since the assessee had received subsidy on plant and machinery from the Government and therefore, the assessee was bound to reduce the cost of plant & machinery by the said subsidy amount. Accordingly, depreciation relatable to subsidy amounting to Rs.72,90,000/- (@15% of Rs.4.86 crore) was withdrawn and added to the total income of the assessee. The relevant discussion by the AO is reproduced as under:

" The reply of the assessee is duly considered and found that the same is not tenable. In my view, if the assessee has received subsidy on plant & machinery from Government and the assesssee was bound to reduce the cost of plant & Machinery. Therefore, depreciation on Rs. 4,86,00,000/- under the head subsidy on plant & Machinery @ 15% is hereby withdrawn and added to the income of the assessee which comes to Rs. 72,90,000/-.

5. Aggrieved by the said finding of the AO, the assessee filed an appeal before the Ld. CIT(A).

6. The ld. CIT(A) observed that this issue has been discussed in many case laws where the consideration was whether the chief and vital source of receipt of the

subsidy was attributable towards the profit-making activity of the business entity or towards capacity building and utility expansion. The ld. CIT(A) also observed that the ever-growing dispute concerning the taxability of subsidy (by whatever name called) has been dealt prospectively by the provisions of Finance Act, 2015 w.e.f 01.04.2016. The Ld. CIT(A) thereafter referred to the various decisions of the Hon'ble Apex Court Hon'ble Bombay High Court and Andhra Pradesh High Court and observed that prior to the amendments made in Finance Act, 2015 the courts have settled the law on the distinction between subsidy of a capital nature and that of a revenue nature. The ld. CIT(A) referring to the decisions of Hon'ble Apex Court in the case of Sahney Steel & Press works Ltd. and Ponni Sugars & Chemicals Ltd. observed that if the object of the subsidy scheme was to enable the tax payer to run the business more profitably or to reimburse the costs incurred in running the business, then the subsidy would qualify as taxable revenue receipt. The Ld. CIT(A) further observed that on the other hand, if the object of the assistance under the subsidy scheme was to enable the tax payer to set up a new unit or to expand the existing unit then the subsidy would qualify as capital receipt. The Ld. CIT(A) further observed that capital subsidies were held as not taxable - subject, to reduction from 'actual cost' of asset in case of depreciable assets. Thereafter, the ld. CIT(A) referred to the insertion of sub clause (xviii) in section 2(24) of the Act by Finance Act, 2015 w.e.f. 01.04.2016 providing an inclusive definition of the expression

'Income' under the taxing law and observed that the amendment made in Section 2(24) of the Act that pertains to income apply to all taxpayers, and therefore, the action of the AO was justified and the disallowance/addition made by the AO was upheld by him.

7. The relevant discussions of the ld. CIT(A) in para 3.2 to 3.6 of his order reproduced hereunder:-

> *"3.2. I have carefully considered the assessment order and the submissions filed by the Ld. AR. The AO has disallowed depreciation of Rs.72.90 lakhs as "withdrawal of depreciation on subsidy received". Subsidy is a form of financial aid or support extended to an economic sector (or institution, business, or individual) generally with the aim of promoting economic and social policy. Debatable points regarding the Taxability of Subsidy have been whether the concessional receipt would be brought within the purview of tax as the same has been advanced for the purpose of stimulating and incrementing the profit earring capacity of business entities or to encourage setting up of industrial units in low profile areas? Or whether such chief and vital source of receipt is attributable towards the profit-making activity of the business entity or towards capacity building & utility expansion?*
>
> *3.3. These issues have passed through the judicial scrutiny in plethora of cases adjudicated and settled upon by various High courts & including the Hon'ble Supreme Court of India. The ever-growing dispute concerning the taxability of subsidy (by whatever name called) has been dealt prospectively by the provision of Finance Act, 2015 w.e.F01.04.2016*
>
> *3.4. Prior to the amendments made in Finance Act 2015, Court's settled the law on the distinction between subsidy of a capital nature and that of a revenue nature: -*
>
> > *The Hon'ble Supreme Court in the case of Sahney Steel & Press works Limited and Ponni Sugars & Chemicals Limited have principally applied the 'motive' or 'purpose' test to determine the nature of subsidy. If the object of the subsidy scheme is to enable the tax payer to run the business more profitably or reimburse the costs incurred in running the business, then the subsidy would qualify as taxable revenue*

receipt. On the other hand, if the object of the assistance under the subsidy scheme is to enable the tax payer to set up a new unit or to expand the existing unit then the subsidy would qualify as capital receipt Capital subsidies were held as not taxable - subject, to reduction from 'actual cost' of asset in case of depreciable assets

The Hon'ble High Court of Bombay in Commissioner of Income Tax vs. Kirloskar Oil Engines Ltd [2014] 364 ITR 88 (Bombay)has settled that when subsidy is received by the assessee for setting up a new unit, then receipt of subsidy is on capital account.

The grant of "Power Subsidy' also came under the lens of the Andhra Pradesh High Court in Commissioner of Income Tax vs. Rassi Cement Limited [2013] 351 ITR 169. The Hon'ble High Court placing its due reliance upon the verdict of the Supreme Court in Sahney Steel & Press Works Ltd vs. Commissioner of Income Tax, [1997] 94 Taxman 368 (SC) has held that subsidy received by the assessee from the State Government on the basis of actual consumption of power has to be treated as revenue receipt and not as having an element of capital receipt and hence subject to taxation.

3.5. Finance Act,2015 w.e.f 01/04/2016 with due insertion of Sub clause (xviii) in section 2(24) of the Income Tax Act,1961 providing an inclusive definition of the expression 'Income ' under the taxing law. Relevant portion of Sub-clause (XVIII) is:-

"2(24)(xviii) assistance in the form of a subsidy or grant or cash incentive or duty draw back or waiver or concession or reimbursement (by whatever name called) by the Central government or state government or any other authority or body or agency in cash or kind to the assessee other than the subsidy or grant or reimbursement which is taken into account for determination of the actual cost of the asset in accordance with the provisions of explanation 10 to clause (1) of section 43.

Section 43: Definitions of certain terms relevant to income from profits and gains of business or profession

(1) "actual cost" means the actual cost of the assets to the assessee, reduced by that portion of the cost thereof, if any, as has been met directly or indirectly by any other person or authority:

Explanation 10

Where a portion of the cost of an asset acquired by the assessee has been met directly or indirectly by the Central Government or a State Government or any authority established under any law or by any other person, in the form of a subsidy or grant or reimbursement (by whatever name called), then, so much of the cost as is relatable to such subsidy or grant or reimbursement shall not be included in the actual cost of the asset to the assessee.

Provided that where such subsidy or grant or reimbursement is of such nature that it cannot be directly relatable to the asset acquired, so much of the amount which bears to the total subsidy or reimbursement or grant the same proportion as such asset bears to all the assets in respect of or with reference to which the subsidy or grant or reimbursement is so received, shall not be included in the actual cost of the asset to the assessee."

3.6. The amendment made in Section 2(24) of the Income Tax Act that pertains to income apply to all taxpayers. In view of the above the action of the AO is justified and therefore the disallowance/addition made is upheld. This ground of appeal is ruled against the appellant."

(emphasis supplied by us)

8. Aggrieved with the order of the Ld. CIT(A), the assessee has filed the present appeal on the following grounds of appeal:

"1. Whether on the admitted facts and in view that the Central Subsidy amount of Rs.4.,86 crore sanctioned/released, on megawatt, capacity basis for setting up the Hydro Power Projects under the declared Policy of the Ministry of Renewal Energy, Govt. of India for encouraging setting up such projects in respective States, for overall development, have been held to be of Capital Nature, the Assessing Officer and also worthy CIT(Appeals) was justified in reducing the said capital subsidy amount from the cost of the fixed Assets for purposes of calculation and disallowing of depreciation on the said fixed assets contrary to the judgements of Hon'ble Supreme Court in the case of CIT vs P.J. Chemical Limited reported at Appeal (Civil) 2474 of 1991 and duly followed by

ITAT Delhi 'F' Bench in the case of PVR Limited vs ACIT and ITAT Vishkhapatnam Bench in the case of Sasisri Extractions Limited vs ACIT (2008) 307 ITR (AT) 127 wherein such capital subsidies were held not deductible from the cost of fixed assets not withstanding the explanation 10 of section 43(1) of the Income Tax Act?

2. That the Ld. Assessing Officer while disallowing and worthy CIT(Appeals) while upholding the said disallowance of depreciation by adjusting the capital subsidy amount from the cost of the fixed assets were wrong and unjustified, both on facts and in law by invoking the provisions of section 2(24)(xviii) as amended by the Finance Act, 2015, which duly so admittedly held to have prospective application w.e.f. 01.04.2016 vide para 3.3 of the order of the worthy CIT (Appeal) but however wrongly given retrospective application thereof as held in para 3.6 of his order.

3. That the worthy CIT(Appeals) was wrong, unjustified and erred both on facts and in law as to disallow the said Rs. 72.90 in account said depreciation disallowance, contrary to and against the spirit and principles and Rules of consistency since no such disallowance was made in the asstt. year 2012-13 and 2013-14 which assessments have been completed u/s 143(3) of the Act after due application of mind by the then Assessing Officer.

4. That the Ld. ACIT was also wrong and unjustified and erred both in facts and in law to disallow impugned depreciation of Rs.72.90 contrary to the facts on record that the said Power Plant was commissioned in Asstt. year 2012-13 and consequently for the Asstt year 2014-15, the disallowable amount would be the depreciation on WDV value of the said assets for the cited Asstt. year, if any, without prejudice to legal rights and grounds as above.
5. That the assessee craves to add, delete and modify any grounds of appeal during the course of Appeal proceedings."

9. At the outset, the ld AR submitted that in this case, the present appeal of the assessee was decided earlier by the Tribunal vide order dated 28.07.2022 which had *set aside* the order of ld. CIT(A) and directed the Ld. CIT(A) to follow its findings in respect of pending appeal before the ld. CIT(A) for AY 2012-13 and 2013-14. However, it was noticed by the assessee that the finding of the Tribunal that the assessee's appeal for AY 2012-13 and AY 2013-14 were pending before the ld.

CIT(A) was not correct on the date of passing the order by the Tribunal as the ld. CIT(A) had already disposed of these two appeals for AY 2012-13 and 2013-14 vide order dated 05.09.2018 and 23.07.2019, respectively. Thereafter, the said order of the Tribunal was recalled in MA No. 239/Del/2022 vide order dated 14.08.2025.

9.1 Further, the ld. AR submitted that the case of the assessee for AY 2012-13 and 2013-14 was reopened by the AO when it was found by the AO that the assessee had received subsidy of Rs. 4,86,00,000/- as financial support for encouraging setting up of SHP from Government of Himachal Pradesh and Haryana and necessary disallowances towards the assessee claim of the depreciation after reducing the amount of subsidy received by the assessee was meant by the Assessing Officer. The said action of the AO was confirmed by the ld. CIT(A) against which the assessee filed an appeal before the Tribunal and the Tribunal vide order dated 30.06.2023 in ITA No.-6971/Del/2018 & ITA No. 7726/Del/2019 in assessee's own case quashed the reopening of the assessment proceedings and also held that the amendment of sub section 2(24) w.e.f. 01.04.2016 relied upon by the Ld. CIT(A) to uphold the action of the AO for A.Y. 2014-15 was having prospective effect i.e. w.e.f. 01/04/2016 and had no effect on the law for assessment year 2014-15. The relevant ground no. 5 in the said appeal and the finding of the Tribunal in para no. 23 of the said order is reproduced as under:

"23. In so far as Ground No. 5 of the Assessee is regarding the applicability of amended provision of Section 2(24) sub-section (xviii). The Hon'ble Calcutta High Court in the case of Pr. Commissioner of Income Tax Vs. Ankit Metal & Power Ltd. reported in (2019) 182 DTR (Cal) 333, held that the amendment to Section 2(24) w.e.f. 01.04.2016 is having prospective effect in following manners:-

> *"31. Accordingly, we hold the aforesaid incentive subsidies are 'capital receipts' and is not an 'income' liable to be taxed in relevant assessment year 2010-11 on the basis of discussion made above and further taking into consideration the definition of Income under Section 2(24) of the Income Tax Act, 1961, where sub- clause (xviii) has been inserted including 'subsidy for the first time by Finance Act, 2015 w.e.f. April, 2016 i..e assessment year 2016-17. The amendment has prospective effect and had no effect on the law on the subject discussed above applicable to the subject assessment years."*

By respectfully following the ratio laid down in the case of Ankit Metal (supra), we allow the Ground No. 5 of the Assessee. Since, we have allowed the Ground No. 1 & 5 by quashing the addition, other grounds of the Assessee requires no adjudication. In the result, the appeal of the assessee is partly allowed."

9.2 In view of the above decision the ld AR submitted that the reliance placed by the Assessing Officer and confirmed by the ld CIT appeal that the sub- clause (xviii) inserted by including 'subsidy for the first time by Finance Act, 2015 w.e.f. April, 2016 i..e assessment year 2016-17 in Section 2(24) of the Act to be part of income, to hold that the subsidy received by the assessee in assessment year 2014-15 would also be taxable in view of the above insertion was not correct because the Tribunal had in its own case as discussed above held that insertion of sub- clause (xviii) to section 2(24) of the Act to include 'subsidy' as part of income if not taken into account for the determination of the actual cost in accordance with the provisions of explanation (10) to clause (1) of section 43 of the Act, had prospective effect and had no effect on the law for the present assessment year, and, therefore, the subsidy

could not have been reduced from the actual cost of the asset as done by the Assessing Officer and confirmed by the Ld. CIT(A).

9.3 Further, the ld. AR referred to the case laws as relied upon by the assessee in ground no 1 of the appeal where the ITAT Vishkhapatnam Bench in the case of Sasisri Extractions Limited vs ACIT (2008) 307 ITR (AT) 127 held in similar situation that such capital subsidies were held not deductible from the cost of fixed assets notwithstanding the explanation 10 of section 43(1) of the Income Tax Act as the scheme under which the assessee had received subsidy was meant for the purpose of encouraging the entrepreneurs to set up SHPs in the state of Himachal Pradesh and Haryana and not towards meeting the cost of the capital assets installed by the assessee. The ld. AR further submitted that the decision of the apex court in the case of P.J. Chemical Ltd. (1994) 210 ITR 830 and the decision of the Andhra Pradesh High Court in Godavari Plywoods Ltd. (1987) 168 ITR 632 are applicable mutatis mutandis to the facts of the instant case.

10. The ld. Sr DR supported the order of the authorities below.

11. We have heard both the parties and perused the material on record. The issue in dispute in this appeal is regarding the claim of the assessee in not reducing an amount of Rs 4,86,00,000/- received as subsidy by the assessee from the cost of Fixed Assets, whereas, the AO for the reasons as discussed above reduced the said amount from the cost of Fixed Assets treating it to the subsidy towards the cost of

Plant and Machinery and accordingly disallowed 15% depreciation on Rs. 4,86,00,000/- amounting to Rs 72,90,000/- and added the same to the total income of the assessee. The assessee did not reduce the said amount on the ground that the aforesaid capital subsidy was received in respect of Hydro Projects set up in Haryana and Himachal Pradesh as per Ministry of New and Renewal Energy (MNRE), Govt. of India's policy guidelines to encourage setting up Hydro Power Projects in the states. In order to appreciate the rival submissions, the salient features of the subsidy scheme as noted by the AO in para no 6 of the assessment order are reproduced as under :

> *"6. The said Capital Subsidy was due and released as per the declared Policy to encourage setting up New SHP Projects in the States; as envisaged of his Central Govt: through Ministry of New and Renewal Energy (MNRE) and salient features thereof,*
>
> *(1) The Ministry of New and Renewable Energy (MNRE) of the Central Govt, is encouraging setting up, of Small Hydro Power (SHP) projects in the private sector, joint sector, co operative sector etc. the Ministry will provide financial support for the new SHP projects upto 25 MW capacity*
>
> *(2)The financial support would be released in one or two instalments. The first instalment of 50% of financial support may be released to the financial Institution/bank, after placement of order for electro mechanical equipment and disbursement of 50% loan during the execution of the project and the balance 50% of financial support after successful commissioning of project, commercial generation and performance testing. In case a project is set up by developer (such as tea garden, captive power projects etc.) fully through its own financial resources, the total financial support will be released directly to him after successful commissioning of the project and performance testing*
>
> *(3) The quantum of financial support will independent of the term loan and will be limited to the amount indicated below:*

Areas	*upto 1000 KW*	*Above 1 MW & upto 26MW*

NE Region, J & K, H.P. and Uttrakhand Special Category states	*Rs. 20,000 per KW*	*Rs. 2.00 crore for 1st MW= Rs. 30 lakh for each addl MW*
Other states	*Rs. 12,000 per KW*	*Rs. 2.00 crore for 1st MW= Rs. 30 lakh for each addl MW*

(4) the project developers / owners are required to contribute a minimum of 50% of approved project cost – Annexure 'D'. "

11.1 Further, salient feature of the above Central Subsidy Scheme placed at page no. 75 to 82 of the Paper Book filed by the assessee are reproduced as under:

"*20. First installment of 50% of the sanctioned financial support would be considered for release, as advance, to the FI / Bank during the execution of the project, to reduce the term loan subject to the following conditions:*

i)After placement of order for electro-mechanical equipment.
ii) After disbursement of 50% of the sanctioned loan by the Fis/Banks.
iii) On submission of bank guarantee and
iv) Subject to fulfillment of other conditions, if required.

22. Balance 50% of the sanctioned financial support would be released to the FI/Bank to reduce the term loan, after commissioning, commercial generation & testing of project.

23. The release of first installment of 50% of sanctioned financial support will be optional to the developers. Alternatively, total financial support may be released after successful commissioning. commercial generation and testing of project.

25 The developer would inform the Ministry about placement of orders for electro-mechanical equipment, disbursement of 50% of term loan & achievement of 50% progress on the project to consider for release of first installment of financial support. For release of second installment of financial support the developer would further inform the Ministry of successful completion of the project, fulfilment of performance guarantee tests, testing & certification of performance of the project and the commencement of commercial generation.

29. The financial institution/bank, after receipt of the financial support would reduce the loan by the equal amount as pre-payment of loan. The Fl/bank will not charge any pre-payment penalty, if any, from the developer for this amount. "

(emphasis supplied by us)

11.2 Para no. 2 of this scheme states that the first instalment of 50% of the financial support may be released to the financial institution / bank after placement of order for electro-mechanical equipment, which gives an indication that the subsidy has been given to the assessee towards the cost of the assets. Similar features are also in para no. 20, 25 and 29 of the said scheme as highlighted above. However, after a careful perusal of the entire scheme, we are of the considered view that such clauses only lays down a mechanism for the release of the subsidy and not intended to meet the cost of the assets installed by the assessee on which the present assessee has claimed depreciation. This would be evident from the condition in para no. 2 of the said subsidy scheme wherein it is provided that the disbursement of the balance 50% of the subsidy could also be released after successful commissioning of the project, commercial generation and performance testing. Further, the fact that the subsidy released to the assessee was not towards meeting the cost of the asset is also evident from the fact as per the condition laid down in para 23 of the said subsidy scheme, the release of the first instalment of 50% of sanction financial support was optional to the developer and alternatively total financial support could also be released to the assessee after successful commissioning, commercial generation and testing of the report. Thus, we agree with the explanation of the assessee that the subsidy received by the assessee as per the scheme was for encouraging the entrepreneurs to set up SHPs in the state of Himachal Pradesh & Haryana and not towards meeting

the cost of the assets as held by the Assessing Officer and confirmed by the Ld. CIT(A). Similar view was taken by the Co-ordinate Bench of Vishakhapatnam in the case of Sasisri Extraction Ltd. vs. Assistant Commissioner of Income Tax (supra), and the Tribunal after relying upon the decision of the Hon'ble Apex Court in the case of CIT vs. P.J. Chemical Ltd. held as under:

> *"12. We have carefully considered the rival submissions and perused the record. In our considered opinion, even after insertion of Explanation 10 to section 43(1) of the Act, the basic principle underlying in the decision of the apex court in the case of P. J. Chemicals Ltd. [1994] 210 ITR 830, still holds the field. Their Lordships analysed the expression "met directly or indirectly" to come to the conclusion that only in a case where a subsidy or other grant was given to offset the cost of an asset, such payment/grant would fall within the expression "met" whereas the subsidy received merely to accelerate the industrial development of the State cannot be considered as payments made specifically to meet a portion of the cost of the assets.*
>
> *13. A careful perusal of "Target 2000" scheme shows that the scheme was intended to accelerate industrial development of the State and the incentive was given for setting up of industries in Andhra Pradesh and for the purpose of determining the amount of subsidy to be given the cost of eligible investment was taken as the basis, though it was not specifically intended to subsidise the cost of the capital. Under the circumstances, we are of the view that the incentive in the form of subsidy cannot be con-sidered as a payment directly or indirectly to meet any portion of the actual cost and thus it falls outside the ken of Explanation 10 to section 43(1) of the Act. In the light of the above discussion, we are of the view that for the purpose of computing depreciation allowable to the assessee, the subsidy amount cannot be reduced from the actual cost of the capital asset. The Assessing Officer is directed accordingly."*

11.3 The facts being similar in the case of the assessee to the above cited case and also in view of the fact that the Coordinate Bench of the Tribunal in assessee's own case for A.Ys. 2012-13 and 2013-14 as discussed above held that insertion of sub-clause (xviii) to section 2(24) of the Act had prospective effect and had no effect on the law on the subject discussed above applicable to the subject assessment years

2012-13 and 2013-14 and the same will include the present assessment year also i.e. A.Y. 2014-15, we hold that the AO was not justified in reducing the cost of assets by amount of the subsidy received by the assessee and accordingly restricting the depreciation on the same which was also confirmed by the Ld. CIT(A). We, accordingly, delete the disallowance of the depreciation amounting to Rs. 72,90,000/- made by the AO. Ground nos. 1 to 4 of the appeal are allowed.

12. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on 19th December, 2025.

Sd/-	Sd/-
[VIKAS AWASTHY]	**[BRAJESH KUMAR SINGH]**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated- 19 .12.2025.
NV/ Pooja

Copy forwarded to:
1. Assessee
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi,