**आयकर अपीलीय अधिकरण न्यायपीठ रायपुर में।**
**IN THE INCOME TAX APPELLATE TRIBUNAL,**
**RAIPUR BENCH, RAIPUR**

**BEFORE SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER**
**AND**
**SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**आयकर अपील सं. /IT(SS)A No.19/RPR/2025**
**CO No.19/RPR/2025**
**निर्धारण वर्ष / Assessment Year : 2014-15**

The Assistant Commissioner of Income Tax,
Central Circle-1, Raipur (C.G.)

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Maruti Clean Coal and Power Limited
8th Floor, CBD Complex, Sector-21,
Atal Nagar, Naya Raipur,
Raipur-492 018
PAN: AADCM4810C

.....प्रत्यर्थी / Respondent

**आयकर अपील सं. / ITA No.558/RPR/2025**
**CO No.22/RPR/2025**
**निर्धारण वर्ष / Assessment Year : 2016-17**

The Assistant Commissioner of Income Tax,
Central Circle-1, Raipur (C.G.)

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Maruti Clean Coal and Power Limited
8th Floor, CBD Complex, Sector-21,
Atal Nagar, Naya Raipur,
Raipur-492 018
PAN: AADCM4810C

.....प्रत्यर्थी / Respondent

Assessee by : S/shri Salil Kapoor &
Shivam Yadav, Advocates

Revenue by : Shri Yogesh Kumar Sharma, CIT-DR

सुनवाई की तारीख / Date of Hearing : 06.02.2026
घोषणा की तारीख / Date of Pronouncement : 16.02.2026

## आदेश / ORDER

**PER BENCH:**

The captioned appeals preferred by the Revenue and corresponding cross-objections preferred by the assessee emanates from the respective orders of the Ld.CIT(Appeals), Raipur-3, dated 12.02.2025 & 17.07.2025 for the assessment years 2014-15 & 2016-17 as per the grounds of appeal on record.

2. At the very outset, parties herein conceded that the facts and issues involved in all these appeals are similar in nature. Having heard the

submissions of the parties herein, all these matters are heard together and disposed off vide this consolidated order.

3. First, we shall take the appeal filed by the Revenue in IT(SS) No.19/RPR/2025 & CO No.19/RPR/2025, wherein the Revenue has raised following grounds of appeal:

> "1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the addition of Rs.3,44,14,282/-?
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> 2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the addition of Rs.3,44,14,282/- made by the A.O on account of disallowance of expenditure (being capital expenditure in nature), holding that relevant encashment of bank guarantee is incurred in normal course of business involving Gujarat State Electricity Corporation Limited (GSECL) on account of non-performance of contract by the assessee, without appreciating:
>
> (a) That during the impugned year and even in the year go there was no business income at all and further the assessee failed to correlate/prove the nexus of the financial charges claimed of Rs.3,44,14,282/- with the business activity and/or income moreover since no business income is reported/earned during the A.Y?
>
> (b) That the assessee has shown Rs.3,44,14,282/- as finance cost ( bank charges and commission) payment, whereas no revenue realization is appearing in the year under consideration?
>
> (c) Without being prejudice to the above, that the assessee has two divisions being washery division and power division and there was no activities in washery division and the power division was still under construction during the instant A.Y and therefore, there was no revenue realization and no business activity during the impugned A.Y?
>
> 3. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the addition of Rs.3,44,14,282/- made by the A.O on account of disallowance of

expenditure (being capital expenditure in nature) relying merely upon the submissions of the assessee, ignoring that:

(a) during the assessment proceedings, the assessee has not provided the copy of contract with GSECL, terms of bank guarantee, etc. which have been submitted before the Ld. CIT(A)?

(b) the above said documents were critical to determine the nature (revenue/capital) of the expenditure?

4. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in giving relief to the appellant by admitting additional evidences (in the form of work contract/agreement, bank guarantee documents etc.) filed by the appellant during the appellate proceedings and deciding the matter based on these without providing the A.O with a proper opportunity to examine the same, thereby violating the provisions of Rule 46A of the Income Tax Rules, ignoring that:

(a) That the additional evidences admitted by the CIT(A) were not forwarded to the A.O and remand report was not called from him and accordingly, the A.O did not get any opportunity to rebut the claim of the assessee, which were lodged before the CIT(A) for the first time in terms of Rule 46A(3)?

(b) Normally whenever a document is proposed to be used against the assessee, it is provided in advance and about seven days are given for him to respond, however, in contrast, such opportunity was not allowed to the A.O/Department in the instant case?

(c) Without prejudice to the above, that the Ld. CIT(A) has not specifically recorded reasons in terms with Rule 46A(2), for admission of such additional evidences that too without providing any opportunity to the A.O whatsoever?

4. At the very outset, the Ld. CIT-DR submitted that they are not pressing Ground of appeal No.2 and 4. After hearing the submissions of the Ld. CIT-DR, the **Ground of appeal Nos.2 and 4** are dismissed as not pressed.

5. The only effective grounds for adjudication are **Ground of appeal No.1 & 3** which pertains to grievance of the Revenue regarding deletion of addition of Rs.3,44,14,282/-.

6. The relevant facts pertaining to the adjudication are that during the assessment proceedings, the assessee has shown Rs.3,44,14,282/- as finance cost, bank charges and commission payment where no revenue realization is appearing in the year under assessment. It was found that the expenditure had been claimed as revenue expenditure in the books of account of the assessee company. The assessee was asked to clarify that when there is no business activity or revenue realization in the year under consideration, why such expenses was shown in the profit and loss account. It was replied by the assessee that there were no business activities in the washery divisions due to lack of order/customer. The power division of the assessee was under construction during the relevant year and the finance cost relates to the washery division therefore, the same was debited to the profit and loss account.

7. That further, through verification it was also observed by the A.O that Gujarat State Electricity Corporation Limited (GSECL) terminated the work order issued to the assessee company due to failure to supply coal within prescribed time, and thus, security deposit amounting to Rs.3,44,14,282/- was forfeited by the GSECL. In this scenario, the A.O

observed that this termination of contract resulted in forfeiture of the security deposit has to be treated as capital deposit (security deposit) and therefore, cannot obtain the character of revenue expenditure. This deposit was not offered by the assessee as income in its books of account and transaction of passing security deposit was a capital transaction, thus does not qualify the basic condition that it was created as income in the past. In view of such findings, the expenditure incurred by the assessee company to the extent of Rs.3,44,14,282/- was held as capital expenditure and disallowed and added to the total income of the assessee.

8. In this regard, the assessee submitted before the Revenue authorities that it is a matter of record that the assessee company has two divisions viz. (i) Washery Division; and (ii) Power Division and that during the year under assessment the power division was under construction. That on 17.10.2011, the assessee company was awarded by a purchase order for beneficiation (washing) of certain grade of coal and supply of such washed coal. That beneficiation i.e. washing and supply of coal is the business activity of the assessee company. The copy of purchase order/work order was already provided to the department. The work order itself at Para 10 provides that security deposit has to be given of an amount equivalent to 10% of order value for one year quantity by way of bank guarantee in the format of GESCL ( as per annexure VI of the tender

specification) from any nationalized bank including public sector bank. The Axis Bank, Barakhamba Road, New Delhi had issued "Security cum Performance Bank Guarantee" of Rs.3,44,23,102/- in favour of GSECL on behalf of the assessee company on 12.11.2011 as per format as mentioned in Para 10 of the work order, dated 17.10.2011 and the copy of "Security cum Performance Bank Gurantee" was also provided to the department. It was further submitted by the assessee that said security deposit was necessary in order that the assessee should be permitted to carry on particular contractual activities forming and within the normal course of business. The purchase order itself specifies terms that the assessee company must make the security deposit. Therefore, making of the deposit is incidental to the business of the assessee company and that the supply of the beneficiated coal (washed coal) was a business contract entered into earning profit in the regular course of business of the assessee.

9. That further, "Security cum Performance Bank Guarantee" issued by the Axis Bank suggests that the security deposit was sought by GSECL to secure the regular supply of coal within stipulated time and bound the assessee company to adhere to all the stipulations as mentioned in the purchase order. The relevant portion of Clause 86 of the purchase order is extracted as follows:

> ".....Moreover, if the washery contractor fails to commence the supply within 31 days from the due date of

> commencement of supply advised to them, then M/s. GSECL may terminate the contract by forfeiting the security deposit, at its sole discretion with an immediate effect without further notice……"

10. The aforesaid arguments of the assessee did not find favour with the A.O and he observed that M/s. GSECL had terminated the work order issued to the assessee company due to failure to supply beneficiated coal within prescribed time and therefore, security deposit amounting to Rs.3,44,14,282/- was forfeited by the GSECL which was therefore a capital expenditure and added to the total income of the assessee.

11. During the proceedings before the Ld.CIT(Appeals), the assessee had furnished various documentary evidences including copy of work order for beneficiation of coal to GSECL, copy of "Security cum Performance Bank Guarantee, copy of bank statement and copy of letter for termination of work order kept on record. All these documents were already furnished before the A.O and therefore, were not additional evidences before the Ld. CIT(Appeals) which is further fortified by the report furnished by the department at the time hearing dated 05.02.2026 from the A.O which reads as follows: (relevant extract)

> "…….It is informed that doing the assessment proceedings and during the appellate proceedings before the Ld. CIT(A), the asessee has not furnished any information/additional information. Ld. CIT(A) based upon which the learned CIT(A) has made his decision and allowed the appeal."

In this factual backdrop, the Ld. CIT(Appeals) has held and observed as follows:

> "It is well settled that the forfeiture of a security deposit under a contract is a business loss and not a capital loss. The security amount deposited under a contract is not for obtaining the contract but for the due performance of its terms. Moreover, in the instant case, it was obvious that the contract with the corporation was not a new business started by the assessee but was only a venture in the course of business which the assessee was already carrying on and, therefore, it could in no sense be held that the deposit of security was made for acquiring a business. Accordingly, the loss resulting from the forfeiture of security money was a revenue loss.
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> In the matter of CIT-1 v. Neo Structo Construction Limited [2013] 37 taxman.com 57 (Gujarat) the Hon'ble Gujarat High Court while dealing with the same issue held as under:-
>
> 2.3 That the assessee company debited Profit & Loss Account by Rs.70,75,392/-towards encashment of bank guarantee by ONGC.....
>
> 2.4 That the Assessing Officer held that the expenditure claimed towards encashment of the bank guarantee by the contracted (ONGC) is not admissible as business expenses under section 37(1) of the IT Act and, therefore, while passing the order of assessment, amount of Rs.70,75,392/- came to be disallowed and added to the total income of the assessee.
>
> 4. Feeling aggrieved by and dissatisfied with the order passed by CIT (Appeals) dated 23.9.2009, the assessee preferred appeal before the ITAT and by the impugned judgment and order the ITAT has allowed the said appeal by holding that during the continuity of the business, if in a particular contract, the assessee had to compensate for its own default, by offering-performance guarantee, which was a contractual obligation, and that the said business continued later on, then the disallowance for a particular contract be not considered separately, that loo, to treat the same as capital expenditure and consequently it is held that the assessee was entitled to the deduction of Rs.70,75,392/- under section 37(1) of the I.T. Act and consequently directed to delete the disallowance of aforesaid amount and adding the same in the total income of the assessee.

Considering the aforesaid decision of the Hon'ble Supreme Court and the Full Bench decision of the Punjab and Haryana High Court and the facts of the case under our consideration it appears that ONGC encased the bank guarantee, which was furnished by the assessee (performance guarantee) due to the non-fulfilment of the contract by the assessee. It can be said to be compensatory in nature and not penal in nature, the ITAT has rightly held that the assessee would be entitled to the deduction of the same as business expenditure under section 37(1) of the I.T. Act. Considering the aforesaid facts and circumstances of the case, we are also of the opinion that the assessee will be entitled to the deduction of the amount by way of the encashment of bank guarantee as business expenditure under section 37(1) of the I.T. Act as the same is compensatory in nature.

In view of the above judgements the present case, there is a finding of fact that the impugned encashment of bank guarantee being Gujrat State Electricity Corporation Limited in nature on account of non-performance of contract at assessee's behest. The Ld.AO has wrongly treated the forfeiture of this bank guarantee as capital expenditure but this type of forfeiture of bank guarantee is always treated as revenue expenditure.

The appellant company had claimed expense of forfeiture of security under section 37(1) of the Income Tax Act, 1961 is reproduced herein below:-

"37(1) Any expenditure (not being expenditure of the nature described in section 30 to 36 and not being in the nature of capital expenditure or personal expenses of the assessee), laid out or expended wholly exclusively for the purposes of the business or profession shall allowed in computing the income chargeable under the head, profits gain of business or profession."

Faced with this issue, I find that a catena of case law held that such encashment of bank guarantee is incurred in the normal course business than involving M/s Gujrat State Electricity Corporation Limited adopt the reasoning herein as well. Hence, the case as per the judicial pronouncement the addition of Rs.3,44,14,282/- made by the Ld. AO is bad in law and against the facts the above following decisions, the addition made by the Ld. AO is hereby deleted. The ground of appeal is allowed."

12. We have heard the submissions of the parties herein, analyzed the facts and circumstances in this case and considered all the documents/judicial pronouncements placed on record. This is a case where the assessee company obtained work order for beneficiation (washing) of certain grade of coal and supply of such washed coal which were within the normal business activities of the assessee company. That further, in order to successfully obtain the work order, the asessee company had to provide security deposit of an amount equivalent to 10% of order value for one year quantity by way of bank guarantee in the format of GESCL from any nationalized bank including public sector bank. The Axis Bank, Barakhamba Road, New Delhi had issued "Security cum Performance Bank Guarantee" of Rs.3,44,23,102/- in favour of GSECL on behalf of the assessee company. In other words, in order to obtain work order, the assessee company had to deposit security as per requirement of the said work order to the said entity i.e. M/s. GSECL. The said M/s. GSECL terminated the work order issued to the assessee company since the assessee was unable to supply washed coal within prescribed time. In other words, since the assessee was not able to comply with the terms of the work order and accordingly, M/s. GSECL had forfeited the security deposit of Rs.3,44,14,282/-. The A.O added the said amount as capital expenditure in the hands of the assessee.

13. The Ld. CIT(Appeals) while proving relief to the assessee has held that forfeiture of a security deposit under a contract is a business loss and not a capital loss. The security amount deposited under a contract was not for obtaining the contract but for the due performance of its terms. That further, contract order regarding the work which the assessee had procured was not a new job, rather it was the activity in the regular course of business which the asessee was already carrying on and therefore, it was absolutely perverse for the A.O to hold such forfeiture of the security deposit was capital loss and rather it was a revenue loss and also that the bank guarantee was incurred in normal course of business involving M/s.GSECL and the said forfeiture of the security deposit was on account of non-performance of contract by the assessee. Accordingly, the Ld. CIT(Appeals) deleted the addition of Rs.3,44,14,282/- made by the A.O.

14. The **Hon'ble Apex Court** in the case of **CIT Vs. Madras Auto Service (P) Ltd. (1998) 233 ITR 468 (SC)** has laid down the general principles applicable in determining whether a particular expenditure is capital expenditure or revenue expenditure observing as follows:

> "Expenditure may be treated as property attributable to capital when it is made not only once and for all, but with a view to bringing into existence an asset or an advantage for the enduring benefit of a trade. If what is got rid of by a lump sum payment is annual business expense chargeable against revenue, the lump sum payment should equally be regarded as a business expense, but if the lump sum payment brings in a capital asset, then that puts the business on another footing altogether."

15. In the case of **Jwala Prasad Radhakishnav Vs. CIT (1971) 79 ITR 530(All.)**, the **Hon'ble High Court of Allahabad** has held and observed that "the assessee did not pay the security money to acquire the right to carry on the business of selling agency; it was paid by him for the purpose of carrying on the business in terms of the agreement and earning profits thereby. The payment of the security money cannot, therefore, be regarded as a capital expenditure as contended on behalf of the revenue, it was in fact not an expenditure at all much the less a capital expenditure."

16. Further, the **Hon'ble High Court of Gujarat** in the case of **CIT-1 Vs. Neo Structo Construction Limited (2013) 37 taxmann.com 57 (Gujarat)** has held and observed that "when the assessee has to compensate for its own default, by offering performance guarantee which was a contractual obligation and that such business continued later on then the disallowance could not be made as capital loss."

17. Reverting to the facts of the present case before us, in this case the assessee as per work order had to provide requisite security deposits so that the assessee can fulfill the terms of the work order. The assessee had never obtained any new venture of work and rather, whatever work order acquired by the assessee it was within the regular business activities of the assessee, for which, the assesse had two divisions viz. (i) Washery Division; and (ii) Power Division. It is also fact that the assessee still continues with

the same business. In the course of regular business since the assessee was not able to fulfil terms of the contract for providing washed coal within stipulated time, the said entity i.e. M/s. GSECL had forfeited the security deposit of the assessee and therefore, in no imagination it can be considered as capital expenditure but this type of forfeiture of bank guarantee is always treated as revenue expenditure. Accordingly, we do not find any infirmity with the findings of the Ld. CIT(Appeals) which is hereby upheld and the relief provided to the assessee company is sustained.

18. As per the above terms grounds of appeal raised by the Revenue are dismissed.

19. In the result, appeal of the Revenue in IT(SS)A No.19/RPR/2025 for A.Y.2014-15 is dismissed.

**CO No.19/RPR/2025**
**A.Y.2014-15**

20. At the very outset, the Ld. Counsel for the assessee submitted that the cross objection filed by the assessee is only supportive of the order of the Ld.CIT(Appeals). In view thereof since the appeal of the Revenue is dismissed as per afore-stated terms, in such scenario, cross objection of the assessee becomes infructuous, hence dismissed.

21. In the result, cross objection filed by the assessee in CO No.19/RPR/2025 for A.Y.2014-15 is dismissed.

22. In the combined result, both the appeal of the Revenue and cross objection of the assessee for A.Y.2014-15 are dismissed.

**ITA No.558/RPR/2025**
**CO No.22/RPR/2025**

23. Now, we shall adjudicate the appeal filed by the Revenue in ITA No.558/RPR/2025 and cross objection filed by the assessee in CO No.22/RPR/2025, wherein the Revenue has raised following grounds of appeal:

> "1. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the addition of Rs.22,79,62,562/- made by the A.O on account of disallowance of 10% of the business expenses?
>
> 2. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) erred in deleting the addition of Rs.22,79,62,562/- made by the A.O on account of disallowance of 10% of the business expenses, without appreciating that the assessee failed to submit books of accounts along with bills/vouchers during assessment proceedings?
>
> 3. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the addition of Rs.1,53,46,562/- made by the A.O on account of disallowance of 10% of foreign outward remittance?
>
> 4. Whether on the facts and circumstances of the case and in law, the Ld. CIT(A) was justified in deleting the addition of Rs.1,53,46,562/- made by the A.O on account of disallowance of 10% of foreign outward remittance, without appreciating that the assessee failed to produce evidences of remittance except sample details of outward remittance during assessment proceedings?
>
> 5. Any other ground that may be raised during the course of appellate proceedings?"

24. On going through the grounds of appeal, we find that all the grounds are interlinked and the Revenue is aggrieved regarding deletion of 10% of the adhoc disallowance each of the total expenses and outward remittances.

25. Brief facts in this case are that the A.O observed that the assessee had shown expenses of Rs.2,27,96,26,781/- over total revenue of Rs.45,76,79,591/- thereby showing PBT (Profit before tax) of Rs. (-) 1,82,19,47,190/-. In order to examine the correctness of the claim of the assessee, the assessee was asked to produce books of accounts a/w. bills and vouchers which the assessee failed to produce. Accordingly, since the claim of the assessee could not be verified in absence of proper explanation, 10% of the total expenses were added back to the income of the assessee. Further, it was found that during previous year, the assessee had made outward remittance of Rs.15,34,65,627/- and the assessee was asked to substantiate genuineness of such outward remittance before the Department. The assessee failed to produce evidence for the remittance except sample details of outward remittance. Again, in absence of proper explanation for such outward remittance, 10% of the total outward remittance was added back to the total income of the assessee.

26. During the first appellate proceedings, the assessee had submitted detailed written submission and the Ld. CIT(Appeals) after considering the

assessment order, submissions of the assessee a/w. remand report observed and held as follows:

> "After carefully considering the submissions of the appellant and the assessment order, I find that the Id. AO has made ad-hoc disallowances without bringing out any specific defects in the books of account or expenses claimed. The Id. AO has not pointed out any instance where the expenses claimed were not wholly and exclusively for the purpose of business.
>
> The appellant's additional evidence filed during the appeal stage has been carefully considered, and the Id. AO remand report has been thoroughly reviewed. It is pertinent to note that the Id. AO's contention regarding non-production of books of account and failure to provide evidence for remittance is not entirely accurate. A perusal of the case records and order-sheet details available in the ITBA for the year under consideration reveals that the assessee submitted books along with ledger and bills & vouchers, etc., on 21.11.2018 in response to the notice under section 142(1) of the Act dated 05.12.2018. This submission of documents by the assessee clearly indicates that the Id. AO's assertion regarding non-production of books of account is factually incorrect. Furthermore, the Id. AO's remand report does not bring out any specific defects or discrepancies in the additional evidence filed by the appellant during the appeal stage. The Id. AO's comments are general in nature and do not specifically controvert the appellant's submissions. In the absence of any specific defects or discrepancies, the A.O's disallowance of 10% of total expenses and 10% of foreign outward remittance appears to be arbitrary and without basis. The appellant's additional evidence filed during the appeal stage provides further clarification and support for the expenses claimed, and it is evident that the Id. AO's disallowance was not justified. The appellant has filed detailed submissions, audited financial statements, and ledger accounts with sample bills, which suggests that the Id. AO's contention regarding non-production of books of account is not sustainable. The Id. AO's observation that the books of account were perused is contradictory to the allegation of non-production.
>
> The Id. AO disallowance of 10% of total expenses and 10% of foreign outward remittance is devoid of any legally sustainable foundation. The Id. AO has not rejected the

books of account of the assessee, and the disallowance is made without bringing any adverse material on record. Furthermore, the Id. AO has not provided any basis for making the ad-hoc disallowance, which is a clear indication of the arbitrary nature of the addition. The concept of token disallowance, as in this case, is inherently based on surmises and lacks a legally sustainable foundation. The Id. AO had all necessary facts and figures and had not called for any further documents, yet failed to point out any specific defect in the assessee's claim. Instead, the Id. AO chose to saddle the assessee with additions based on suspicions, which is not a valid basis for making disallowances. The assessment order reveals that the Id. AO made the disallowance in a mechanical manner, without identifying the parties to whom the payments were made and without making any efforts to call the assessee to further justify the claim. The correctness of the books of account of the assessee, which have been duly audited, can only be challenged by cogent and specific evidence and not by general suspicions.

The Appellant Company's contention that the Id. AO made disallowance on the basis of a wrong fact that the Appellant Company did not furnish books of accounts is a crucial aspect of this case. It is evident from the assessment order that the Id. AO himself admitted to having examined the books of account, which directly contradicts his assertion that the Appellant Company failed to produce the books of account. Furthermore, the Id. AO's request for ledger accounts of expenses on account of power, fuel, water, and other charges with bills and vouchers was promptly responded to by the Appellant Company, which furnished the ledger accounts with sample bills vide its reply dated 12.12.2018. This demonstrates that the Appellant Company was cooperative and forthcoming in providing the required information, and the Id. AO's contention regarding non-production of books of account is factually incorrect. The Id. AO's disallowance of 10% of total expenses and 10% of foreign outward remittance, therefore, appears to be based on an erroneous assumption, and the additions made by the Id. AO are not justified.

**Ad-hoc Disallowance of 10% of Total Expenses**

The appellant's submission highlights a critical aspect of the case, where the total expenses claimed of Rs. 2,27,96,26,781/-include the claim of depreciation of Rs. 62,02,27,896/-, which has already been added back in the computation of income. This indicates that the depreciation

amount has been accounted for separately and is not part of the expenses that should be subject to ad-hoc disallowance. The ad-hoc disallowance of 10% made by the Id. AO, therefore, includes 10% of the depreciation amount and other expenses that have already been added back, resulting in double disallowance. This double disallowance is not justified and lacks a rational basis. The appellant's claim is supported by the facts and circumstances of the case, and the Id. AO's order is liable to be modified accordingly.

The Id. AO disallowed 10% of total expenses amounting to Rs. 22,79,62,678/- without pointing out any specific defects or discrepancies in the expenses claimed. The appellant submitted that all expenses were wholly and exclusively for business purposes and were supported by bills and vouchers.

I agree with the appellant's submissions. The Id. AO's disallowance was arbitrary and without basis. The appellant provided sufficient evidence to support the expenses claimed, and the Id. AO did not bring out any specific defects or discrepancies.

In view of the above, I delete the ad-hoc disallowance of 10% of total expenses amounting to Rs. 22,79,62,678/-. The AO's disallowance is not justified, and the appellant's claim is accepted.

**Ad-hoc Disallowance of 10% of Foreign Outward Remittance**

The Id. AO allegation that the assessee has not filed requisite details is factually incorrect, as all the details were filed as asked for by the Id. AO. The assessee has filed complete details of outward remittance expenses amounting to Rs. 15,34,65,627/-, along with sample Form 15CA, and all Form 15CA have been filed at the time of remittance. The Id. AO's disallowance lacks a rational basis and is not supported by any evidence or material on record.

The appellant's submission demonstrates that the Id. AO had asked for details regarding outward foreign remittance along with its genuineness, and the appellant had provided the required information in a timely manner. The appellant filed submissions on 12.12.2018, providing details of foreign remittances along with copies of Form. 15CA to prove the genuineness of the same. Additionally, the appellant submitted further justification for remittance on 18.12.2018. The details of foreign remittance, including the source of payment through bank accounts, name, address, and

account number of the bank account, were already mentioned in Form 15CA, which was filed along with the details of foreign remittance. The information required by the Id. AO was already on record, and the appellant had provided sufficient evidence to support the foreign remittance transactions. Despite this, the Id. AO made an ad-hoc disallowance of 10% of the foreign outward remittance without pointing out any specific defects or discrepancies in the remittances made.

The Id. AO's disallowance lacks a rational basis and is not supported by any evidence or material on record. The appellant's claim is supported by the facts and circumstances of the case, and the Id. AO's order is liable to be modified accordingly. The genuineness of outward foreign The Id. AO disallowed 10% of foreign outward remittance amounting to Rs.1,53,46,562/- without pointing out any specific defects or discrepancies in the remittances made. The appellant submitted that the details of foreign remittances were filed along with Form 15CA, and the source of payment was through bank accounts only.

I agree with the appellant's submissions. The Id. AO's disallowance was arbitrary and without basis. The appellant provided sufficient evidence to support the remittances made, and the Id. AO did not bring out any specific defects or discrepancies.

In view of the above, I delete the ad-hoc disallowance of 10% of foreign outward remittance amounting to Rs. 1,53,46,562/-. The Id. AO's disallowance is not justified, and the appellant's claim is accepted.

The Hon'ble ITAT Delhi in the case of ACIT vs. Jindal Poly Films Ltd. (2025) 173 taxmann.com 536 (Delhi - Trib.)[26-03-2025] (Del. Trib) has held Officer disallowed 10 per cent of certain expenses claimed by Assessing assessee, namely, legal and retainership charges, miscellaneous expenses, commission and other selling charges, expenses, repairs and maintenance and travelling and conveyance expenses Whether since Assessing Officer had not examined any aspect of business expediency and merely on ad hoc basis made disallowance without putting forward any specific such ad hoc disallowance was not in conformity with principles making disallowance, of Act - Held, yes - Whether, therefore, disallowance made by Assessing Officer was to be deleted.

The Hon'ble High Court of Gujarat in the case of Commissioner of Income-tax -I vs. Enviro Control Associated (P.) Ltd [2014] 43 taxmann.com 291 (Gujarat)[27- 12-2013] has held that whether in absence of any material before Assessing Officer, Assessing Officer was not justified in extent of 10 adopting disallowance to per cent, thus, disallowance made by Assessing Officer was rightly deleted by Commissioner(Appeals).

The Hon'ble Supreme Court in the case of Principal Commissioner of Income Tax vs. R.G. Buildwell Engineers Ltd. [2018] 99 taxmann.com 284 (SC) [01-10-2018] has held that in course of assessment, assessee claimed deduction of expenses towards bricks, machinery repair, cartage, labour expenses etc. - Assessing Officer disallowed 10 per cent of said expenses on ground that insufficient evidence was adduced - Tribunal set aside said ad hoc disallowance on two grounds, firstly, assessee's books of account were not rejected and secondly, such expenses were allowed consistently in post in High Court upheld order passed by High Court scrutiny assessments Tribunal was to be dismissed. SLP filed against view taken by the High Court was to be dismissed.

The key points emanating from the above made discussion are:

**1. Lack of rational basis:** The Id. AO's disallowance lacks a rational basis and is not supported by any evidence or material on record.

**2. Insufficient evidence not pointed out:** The Id. AO did not point out any specific defects or discrepancies in the expenses claimed or the books of account.

**3. Appellant's cooperation**: The appellant was cooperative and forthcoming in providing the required information, and the Id. AO's contention regarding non-production of books of account is factually incorrect.

**4. Details of foreign remittance:** The appellant filed complete details of outward remittance expenses, along with sample Form 15CA, and all Form 15CA have been filed at the time of remittance.

**5. No separate disallowance:** No separate disallowance on

account of Foreign Remittance is called for, as the same has been wrongly and illegally made.

**6. Judicial precedents**: The Hon'ble ITAT Delhi, Hon'ble High Court of Gujarat and Hon'ble Supreme Court have held that ad- hoc disallowances without any basis are not justified and are liable to be deleted.

**7. Appellant's claim appellant's claim is supported**: The appellant's claim is supported by the facts and circumstances of the case.

**8. Arbitrary disallowance not sustainable**: The arbitrary disallowance made by the Id. AO is not sustainable in law.

In view of the above, I delete the ad-hoc disallowance of 10% of total expenses amounting to Rs.22,79,62,678/- and ad-hoc disallowance of 10% of foreign outward remittance amounting to Rs.1,53,46,562/-. The additions made by the Id. AO are deleted, and grounds of appeal are allowed."

27. We are of the considered view that such adhoc disallowances of 10% of the total expenses and similar 10% foreign outward remittances made by the A.O is void ab initio and has no legal sustainability. The A.O had not rejected the books of accounts and disallowance was made without bringing any adverse material on record. The A.O had failed to provide any basis for making such adhoc disallowance and making such addition partake the character of being perverse and arbitrary. That all the necessary facts and figures a/w. various relevant documents were with the A.O yet he failed to point out specific defects or discrepancies in the transactions of the assessee. Therefore, in our consider view such additions made are on guess work and surmises only which is unsustainable in law.

28. That in the similar facts and circumstances, the **Hon'ble Supreme Court** in the case of **Pr. CIT Vs. R.G. Buildwell Engineers Ltd. (2018) 99 taxmann.com 284 (SC)**, while providing relief to the assessee held firstly, the Revenue has failed to reject books of account of the assessee and second, such expenses were allowed consistently in past scrutiny assessments.

29. Reverting to the facts of the case before us, that suppose, the A.O was not satisfied with the documents/evidences submitted by the assessee, in such scenario, he should have pointed out specific defects and called for specific documents for examination. That on one hand, he has accepted books of the accounts of the assessee and on the other hand, over and above of the contents of the books of accounts, he had made further adhoc disallowance which is not permissible within the legal framework of the Act. The Ld. CIT(Appeals) is right in law and facts of the case in deciding that there cannot be any legal sustainability of addition which was made based on guess work and surmises. The Income Tax Act works within the parameter of welfare mechanism and it is a legislation wherein the tax payer assessee and the Government joins hands together for the progress and development of the nation as a whole. In such scenario, hands of the assessee cannot be tied with liability arbitrarily and on mere suspicion. Accordingly, we do not find any infirmity with the

findings of the Ld. CIT(Appeals) which is hereby upheld and the relief provided to the assessee company is sustained.

30. As per the above terms grounds of appeal raised by the Revenue are dismissed.

31. In the result, appeal of the Revenue in ITA No.558/RPR/2025 for A.Y.2016-17 is dismissed.

**CO No.22/RPR/2025**
**A.Y.2016-17**

32. At the very outset, the Ld. Counsel for the assessee submitted that the cross objection filed by the assessee is only supportive of the order of the Ld.CIT(Appeals). In view thereof since the appeal of the Revenue is dismissed as per afore-stated terms, in such scenario, cross objection of the assessee becomes infructuous, hence dismissed.

33. In the result, cross objection filed by the assessee in CO No.22/RPR/2025 for A.Y.2016-17 is dismissed.

34. In the combined result, both the appeal of the Revenue and cross objection of the assessee for A.Y.2016-17 are dismissed.

35. Resultantly, the appeals of the Revenue and cross objections of the assessee are dismissed.

Order pronounced in the open court on 16th February, 2026.

| Sd/- | Sd/- |
|---|---|
| **AVDHESH KUMAR MISHRA** | **PARTHA SARATHI CHAUDHURY** |
| **(ACCOUNTANT MEMBER)** | **(JUDICIAL MEMBER)** |

रायपुर/ RAIPUR ; दिनांक / Dated : 16th February, 2026.
SB, Sr. PS

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी /The Appellant.
2. प्रत्यर्थी /The Respondent.
3. The CIT(Appeals)-1, Raipur (C.G.)
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, रायपुर बेंच, रायपुर / DR, ITAT, Raipur Bench, Raipur.
5. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

**// True Copy //**

Senior Private Secretary
आयकर अपीलीय अधिकरण, रायपुर / ITAT, Raipur.