

“3. Now turning to the second alternative contention, to the effect that the expenses amounting to Rs. 5,04,806/- are allowable under the head ‘income from other sources”, I am in broad agreement with the assessee, on the strength of the authorities cited supra, that any expenditure incurred to preserve the status of the assessee as a company and to keep it running as a company is allowable as deduction u/s 57(ii). The income tax authorities have not examined the question in the proper perspective and in the light of the legal position explained in the judgments cited above. I therefore set aside their orders on this point and restore the same to the file of the AO with a direction to him to examine the expenditure in the light of the legal position and the tests laid down in the various decisions on the subject and in the light of the evidence adduced by the assessee and take a fresh decision regarding allowability of the same u/s 57(iii). He shall afford adequate opportunity to the assessee of being heard. Directed accordingly.

4. The appeal is thus partly allowed.”

3. According to the Ld. AR, the AO as per the direction given by the ITAT has given partial relief to the assessee, so similar direction may be issued to the AO. The ld. DR does not have any objection to remand the matter back to AO on similar lines.

4. We have heard both the sides and we find that similar issue raised before us has been adjudicated by the Tribunal vide Order dated 24.02.2006 in ITA No.829/Del/2005 for AY 2001-02, wherein the Tribunal set aside the matter back to the AO with directions as aforestated in para 2 above. Since both sides agree and as per the Ld. AR, the AO has given certain reliefs to the assessee after the Tribunal had set aside the matter back to AO, so his prayer is that the impugned order may be set aside and remanded back to the file of

AO with a similar direction since the Tribunal has passed an order on similar facts and circumstance involving same issues before it, we are inclined to set aside the impugned order back to the file of AO with a direction as given in ITA NO. 829/Del/2005 for A.Y. 2001-2002 in assessee's own case as extracted above.

5. In the result, the appeal filed by the assessee is partly allowed.

Order pronounced in open court on this 27th day of November, 2015.

**Sd/-
(N.K. SAINI)
ACCOUNTANT MEMBER**

**sd/-
(A.T. VARKEY)
JUDICIAL MEMBER**

**Dated the 27th day of November, 2015
TS**

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(A)-X, New Delhi.
- 5.CIT(ITAT), New Delhi.

**AR, ITAT
NEW DELHI.**