

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCH 'B', HYDERABAD**

**BEFORE SMT. P. MADHAVI DEVI, JUDICIAL MEMBER  
AND SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER**

ITA No. 1087/Hyd/2016  
Assessment Years: 2011-12

Asst. Commissioner of Income-tax, Circle – 14(1), Hyderabad.	vs.	Prasad Media Corporation Pvt. Ltd., Hyderabad.  PAN – AACCP 1745 N
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Appellant

Respondent

Revenue by:	Shri Kiran Katta
Assessee by:	Shri C.S. Subramanyam & Shri V. Siva Kumar

Date of hearing:	05/12/2018
Date of pronouncement:	26/12/2018

**ORDER**

**PER S. RIFAUR RAHMAN, AM:**

This appeal filed by the assessee is directed against the orders of CIT(A) – 3, Hyderabad, dated, 24<sup>th</sup> May, 2018 for AY 2013-14.

2. Brief facts of the case are that the Assessee, in the business of entertainment industry, filed its return of income admitting a total income of Rs. 15,26,14,793/-. During the course of assessment proceedings, AO observed that the assessee had installed a solar power plant capable of producing 100KW's and claimed 50% of the depreciation at Rs. 76,10,951/- (50% of 80% depreciation, as it is put to use for less than 180 days) as the solar power plant was put to use on 30/03/2011. On perusal of erection and commissioning invoices, the AO noticed that the inverter for solar power plant was procured on 31/03/2011 i.e. on the last day of the FY

2010-11. According to AO, the inverter was in important equipment in the operation of solar power plant, without which the solar power plant could not work. As the commission of the inverter takes place at least 2 to 3 days, the AO did not accept the assessee's claim that the power plant was put to use on 30/03/2011.

2.1 A sworn statement was recorded u/s 131 of the Act of Sri Raju Maharaja, Proprietor of M/s Fast Switch Gear Service Centre who had supplied automatic distribution changeover panel for that solar power plant by the AO, in which, it was confirmed that even though the distribution changeover panel was erected on 29/03/2011, the actual operation was started in the month of May, 2011. Another sworn statement of Sri K. Krishna Mohan, Senior Manager, M/s Solar Semi-Conductor Pvt. Ltd., who supplied photo-voltage panels and the inverter, was also record in which he stated that the photo voltaic panels were supplied on 1<sup>st</sup> and 2<sup>nd</sup> of March, 2011 and inverter was supplied on 31<sup>st</sup> March, 2011. From these statements, the AO concluded that the solar power plant was not put to use in the FY 2010-11. Accordingly, AO disallowed the assessee's claim of depreciation of Rs. 76,10,951/-.

3. Aggrieved by the order of AO, the assessee preferred an appeal before the CIT(A).

*"(1). The CIT(A) erred both on facts and in Law.*

*(2). The Learned CIT(A) erred in holding that the assessee commenced solar power generation based on the certificate issued by NEDCAP.*

*(3). The learned CIT(A) erred in not giving any cognizance to the statements recorded from Sri Raju Maharaja and Sri K. Krishna Mohan, who deposed stating that commencement of power generation is not possible before 31.03.2011*

*(4) Any other ground that may be urged at the time of hearing.”*

4. Before the CIT(A), the assessee filed additional evidence, which is copy of the certificate dated 29/05/2011 issued by NEDCAP to the effect that M/s Prasad Media Corporation Pvt. Ltd. had installed and commissioned 100kWp off grid solar power plant on 30/03/2011 and also furnished generation data for the period 30/03/2011 to 25/04/2011 as per records of NEDCAP. Since the above evidence was not filed before the AO, the CIT(A) called for a remand report from AO. In her report dated 23/11/2015, the AO did not accept the assessee's claim for depreciation.

5. After considering the submissions of the assessee as well as the remand report of AO, the CIT(A) held that the assessee had discharged its onus of showing prima facie that the claim of depreciation is correct and there is no sufficient reason to deny the claim. He, accordingly, directed the AO to allow the claim of depreciation.

6. Aggrieved by the order of CIT(A), the revenue is in appeal before us raising the following grounds of appeal:

*"(1). The CIT(A) erred both on facts and in Law.*

*(2). The Learned CIT(A) erred in holding that the assessee commenced solar power generation based on the certificate issued by NEDCAP.*

*(3). The learned CIT(A) erred in not giving any cognizance to the statements recorded from Sri Raju Maharaja and Sri K. Krishna Mohan, who deposed stating that commencement of power generation is not possible before 31.03.2011*

*(4) Any other ground that may be urged at the time of hearing.”*

7. Considered the rival submissions and perused the material on record. When the AO denied the assessee's claim of depreciation, the assessee obtained the documents from NEDCAP, which were submitted before the CIT(A) and according to assessee the said documents constituted vital evidence in support of the claim of depreciation on the cost of the solar power plant installed by the assessee during the previous relevant to AY 2011-12. Further, it was submitted that as part of the implementation of the scheme for promotion and development of solar power systems and incentivisation of the same through provisions of subsidies, both by the State Govt. and the Govt. of India [through the Ministry of New and Renewable Energy (MNRE)], NEDCAP had furnished reports to the Central Ministry certifying installation and commissioning of off-grid solar power plant by the assessee company and record of data of generation of solar power in the solar power plant installed by the assessee. The CIT(A) forwarded the same to AO for remand report and the AO did not accept the same. However, the CIT(A) after considering the documents submitted by the assessee, categorically, held that the assessee had discharged its onus of showing prima facie that the claim of depreciation is correct and there is no sufficient reason to deny the claim. Considering the totality of the facts and circumstances of the case, we do not find any infirmity in the order of the CIT(A) in directing the AO to allow the claim of depreciation particularly when an independent agency has certified that assessee has generated power and supplied the same based on the certificate of supply of power during the period from 30/03/2011 to 25/04/2011 and accordingly, the grounds raised by the revenue on this issue are dismissed.

8. In the result, appeal of the revenue is dismissed.  
Pronounced in the open court on 26<sup>th</sup> December, 2018.

Sd/-  
(P. MADHAVI DEVI)  
JUDICIAL MEMBER

Sd/-  
(S. RIFAUR RAHMAN)  
ACCOUNTANT MEMBER

Hyderabad, dated 26<sup>th</sup> December, 2018

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Copy forwarded to:

1. *ACIT, Circle – 14(1), 6<sup>th</sup> Floor, 'C' Block, Room No. 635, IT Towers, AC Guards, Hyderabad.*
2. *M/s Prasad Media Corporation Pvt. Ltd., 6-1-38/1, Off. NTR Gardens, LIC Division, PO Hyderabad – 500 063*
3. *CIT(A) - 6, Hyderabad*
4. *Pr. CIT – 6, Hyderabad*
5. *The DR, ITAT, Hyderabad*
6. *Guard File*