

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'E', NEW DELHI  
BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER  
AND  
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER  
(THROUGH VIDEO CONFERENCE)

ITA NO. 1858/DEL/2017

A.Y. : 2006-07

ADDL. COMMISSIONER OF INCOME TAX, SPECIAL RANGE-6, ROOM NO. 352, C.R. BUILDING, I.P. ESTATE, NEW DELHI - 2	Vs.	M/S NATIONAL TEXTILE CORPORATION LTD., CORE-4, SCOPE COMPLEX, LODHI ROAD, NEW DELHI - 3 (PAN: AAACN2847D)
<b>(Appellant)</b>		<b>(Respondent)</b>

Department by	Ms. Rakhi Vimal, Sr. DR
Assessee by	Sh. Ved Jain, Advocate and Sh. Akshit Goel, CA

**ORDER**

**PER H.S. SIDHU, JM:**

This appeal filed by the Revenue is directed against the impugned order dated 20.01.2017 passed by the Ld. CIT(A)-6, Delhi in relation to assessment year 2006-07 on the following grounds:-

1. Whether in facts and on circumstances of the case, the Ld. CIT(A) is legally justified in deleting the disallowance of prior period expenditure of Rs. 10,50,324/- following its order in case of assessee for earlier assessment

year and without recording material evidence to reach a conclusion that liability to incur the expenditure was actually crystallized during the year under consideration and by ignoring a fact that the assessee had not proved that liability to incur expenditure of Rs. 10,50,324/- actually crystallized during the year under consideration?

2. Whether in facts and on circumstances of the case, the Ld. CIT(A) is legally justified in holding that bond issue expenditure was revenue expense by ignoring provisions of section 35D(2) of the Income Tax Act (the Act)?

3. Whether in facts and on circumstances of the case, the Ld. CIT(A) is legally justified in allowing relief to the assessee on issues of prior period expense and bond expense on the basis of its order in the case of the assessee for the earlier assessment year without realizing that the issue involving factual verification cannot be decided on the basis of its decision for earlier assessment year based on peculiar facts of that year?

4. Whether in facts and on circumstances of the case, the Ld. CIT(A) is legally justified in allowing relief to the assessee on the basis of its

earlier order in the assessee's own case despite the fact that principle of res-judicata is not applicable to Income Tax proceedings as each assessment year is a separate year?

5. That the appellant craves leave to add, amend, alter or forgo any ground(s) of appeal either before or at the time of hearing of the appeal.

2. The brief facts of the case are that assessee filed its return of income declaring loss of Rs. 9,41,18,720/- on 28.11.2006. The AO completed the assessment u/s. 143(3) of the Income Tax Act, 1961 (hereinafter referred as "Act") on 08.08.2008 at loss of Rs. 9,35,14,280/-. Later on, notice u/s. 148 of the Act was issued to the assessee on 18.03.2013. In response to the same, assessee stated that the original returned filed u/s. 139(1) of the Act may be treated as return filed in response to notice u/s. 148 of the Act. AO issued notice u/s. 143(2) of the Act on 04.6.2013. The assessee has requested for supply of reasons recorded for issuance of notice u/s. 148 of the Act which was duly supplied to the Ld. AR of the Assessee on 16.01.2014. Consequently, the Assessee filed the objections to the assumption of jurisdiction u/s. 147 of the Act. After adopting the prescribed procedure, under the law, the objections filed by the assessee were duly disposed of by a order dated 12.3.2014, the AO made the addition on account of prior period expenses amounting to Rs. 10,50,324/- and

secondly made the addition on account of Bond Issues Expenses and also added the excess charges of interest of Rs. 15,85,12,000/- and assessed the total income at Rs. 6,79,64,040/- vide assessment order dated 31.3.2014 u/s. 147/143(3) of the I.T. Act, 1961. Aggrieved by the same, assessee filed the appeal before the Ld. CIT(A) who vide impugned order dated 20.1.2017 partly allowed the appeal of the assessee. Aggrieved with the same, the Revenue is in appeal before the Tribunal.

3. At the time of hearing, Ld. DR argued the contentions raised by the Revenue in the grounds of appeal and requested that the assessment order be upheld and the impugned order may be cancelled.

4. On the contrary, Ld. Counsel for the assessee stated that as regards to the issue of expenditure of Rs. 10,50,324/- i.e. prior period expenses, similar issue has already been adjudicated and decided in favour of the assessee and the Ld. CIT(A) has also respectfully followed the orders in assessee's own case for the assessment year 2007-08; 2008-09 and 2010-11 and stated that the order of the Ld. First Appellate Authority has already been accepted by the ITAT which has been mentioned by the Ld. CIT(A) in the impugned order. He also draw our attention towards the written submissions filed before the Ld. CIT(A) and stated that this issue is covered in favour of the assessee and the appeal of the Revenue on this issue may be dismissed.

5. We have heard both the parties on the issue involved in ground no. 1 i.e. the prior period expenses of Rs. 10.50 lacs, we are of the view that Ld. CIT(A) has discussed this issue in the ground no. 3.3.2 at page no. 5 and deleted the addition in dispute. For the sake of convenience, the issue involved in ground no. 1 as discussed by the Ld. CIT(A) in para no. 3.3.2 at page no. 5 is reproduced as under:-

*"3.3.2 The submissions of the appellant and the facts of the case have been carefully considered. It appears that AO wrongly added Rs. 10,50,324/- especially when it has been duly accepted by department in almost all years and solely additions made during AY 2009-10 were duly struck down by CIT(A)-XVI and later on CIT(A) order was accepted by the ITAT also. Further nature of these expenses clearly shows that these might pertain to earlier years but crystallized only in current AY 2006-07. Respectfully following the ITAT order on the same issue alongwith adjudication that these aren't expenses pertaining to earlier year's fully allowable u/s. 37(1) of the Act,*

*the addition made by AO is deleted.  
This ground is therefore, allowed."*

6. After going through the aforesaid finding, we are of the view that Ld. CIT(A) has deleted the addition by respectfully following the order of the ITAT in assessee's own case. No contrary decision has been brought to our notice by the Ld. DR. Therefore, the issue involved in ground no. 1 is decided in favour of the assessee and against the revenue by dismissing the ground no. 1 raised by the Revenue.

7. As regards the second issue i.e. the Bond Issue Expenses. After hearing both the parties and going through the written submissions filed by the assessee which the assessee has attached at page no. 75 of the Paper Book, we are of the view that this issue is also covered in favour of the assessee by the order of the Ld. CIT(A)-XVI, New Delhi in which Ld. CIT(A) has deleted the similar addition for assessment year 2007-08. The order is placed on record. No contrary decision has been brought to our notice by the Ld. DR. The nature of these expenses are that these are expenses incurred every year to meet the statutory requirements of issue of bonds and are Trustee Annual Fees, Rating Agencies Annual Fees, NSDL/CDSL Annual Fees, C/o stamp papers, Registrar and Transfer agents fees etc. Exactly similar expenses has been allowed by the Department in the Assessment year 2007-08 of Rs. 20.05 L; AY 2008-09 of Rs. 14.18 L; AY 2009-10 of Rs. 10.85 L and AY 2010-11 of Rs. 3.79 L. No contrary decision has been brought

to our notice. Therefore, respectfully following the same, the ground no. 2 of Revenue is dismissed.

8. In the result, the Revenue's appeal stands dismissed.

The decision is pronounced on 26.08.2020.

Sd/-  
**(PRASHANT MAHARISHI)**  
**ACCOUNTANT MEMBER**

Sd/-  
**(H.S. SIDHU)**  
**JUDICIAL MEMBER**

"SRB"

**Copy forwarded to:**

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi