

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: 'C' NEW DELHI**

**BEFORE SHRI R. K. PANDA, ACCOUNTANT MEMBER  
AND  
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

**ITA No. 3289/DEL/2018 ( A.Y 2012-13)**

DCIT Circle- 11(1) New Delhi <b>(APPELLANT)</b>	Vs	HMS Real Estate Pvt. Ltd. 1 AD, Vandhana Building , 11, Tolstoy Marg, New Delhi AACCH0745G <b>(RESPONDENT)</b>
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<b>Appellant by</b>	<b>Sh. Amit Kutoch, SR. DR</b>
<b>Respondent by</b>	<b>Sh. Salil Aggarwal, Sr. Adv, Sh. R. P. Mall, Adv</b>

<b>Date of Hearing</b>	<b>17.12.2018</b>
<b>Date of Pronouncement</b>	<b>27.12.2018</b>

**ORDER**

**PER SUCHITRA KAMBLE, JM**

This appeal is filed by the Revenue against the order dated 19/2/2018 passed by CIT(A)-4, New Delhi for Assessment Year 2012-13.

2. The grounds of appeal are as under:-

*“1. Whether the Ld.CIT(A) has erred on facts and in law in deleting the disallowance of revenue expenses u/s 37(1) of the Act claimed in return of income of Rs. 1,00,17,751/- ignoring the fact that there was no (Revenue from) business inexistence carried out during the relevant Assessment Year.”*

3. The assessee furnished return of income on 1/11/2012 declaring loss of Rs.69,06,799/-. During the assessment proceedings, it was observed by the Assessing Officer that assessee company was incorporated on 12/6/2008 as a wholly owned subsidiary of HBT Real Estate Holdings Ltd., Mauritius for the

purpose of development and construction of real estate projects in India. It has been stated that the assessee had entered into a Memorandum of Understanding with Shyam Communications System for the purpose of building a project, Skyview Corporate Park (SCP) located on NH-8, New Delhi. It has been also noted that appellant is developing master-planned corporate community called Skyview Corporate Park (SCP) in Sector 74A, NH-8, Gurgaon, Phase I of the development which contains two identical commercial building of nine floors. In its entirety, the 21 acre Skyview Corporate Park will comprise of 4 additional towers with a total commercial area of over 1.9 million square feet. The Assessing Officer further noted that though the assessee has not earned any revenue except interest of Rs. 31,10,952/-, however total project expenses have been capitalized to capital WIP except of Rs. 1,00,17,751/- to the extent of loss under the head 'business or profession' which was also related to project and he, therefore, proposed to show cause as to why not these expenses of Rs. 1,00,17,751/- be also capitalized to capital WIP. The assessee filed reply, the Assessing Officer observed that during the relevant Assessment Year, the only income that was earned by the assessee is interest income at Rs.31,10,952/- and no revenue from business was offered to tax. The Assessing Officer held that the only business of the assessee is building of one park, and, therefore, all the expenses direct or in direct should be accounted for as capital work in progress. Therefore, the Assessing Officer disallowed Rs. 1,17,00,751/- as revenue expenses u/s 37(1) of the Act.

5. Being aggrieved by the assessment order, the assessee filed appeal before the CIT(A). The CIT(A) allowed the appeal of the assessee. The Revenue is before us.

6. The Ld. DR submitted that the Assessing Officer has rightly disallowed the expenses incurred by the assessee in respect of Developing and Building Sky View Corporate Park in Gurgaon, as these expenses directly related to the project and was not capitalized. The Assessing Officer rightly held that the

only business of the assessee is building the said park and, therefore, all direct and indirect expenses are accounted as for capital work in progress. Therefore, the Assessing Officer rightly disallowed the said expenses as Revenue expenses u/s 37(1) of the Act. The Ld. DR further submitted that the CIT(A) ignored these factors which was observed by the Assessing Officer and the case laws referred by the CIT(A) are not directly related to the case of the assessee. The Ld. DR relied upon the decision of the Hon'ble Bombay High Court in case of ALD Automotive Pvt. Ltd. Vs. DCIT (2018) 254 Taxmann 233 & also referred case of Video Plaza Vs. ITO that of Hon'ble Calcutta High Court being 385 ITR 404.

7. The Ld. AR submitted that the assessee company was incorporated on 12.06.2008 and is a wholly owned subsidiary of HBT Real Estate Holdings Ltd., Mauritius. The aforesaid company had been incorporated for the purpose of development and construction of Real Estate Projects in India. The authorized capital of the assessee company is Rs. 2,65,00,000. It had furnished the returns of income for the AYs 2009-10, 2010-11 and 2011-12. From the perusal of the details tabulated, the Ld. AR pointed out that it had incurred certain expenditure and claimed the same as business loss (for AY 2011-12) and carried forward the same to be set off, which business loss was accepted.

**HMS REAL ESTATE PRIVATE LIMITED**

Assessment Year	Expenditure incurred and debited to the Profit & Loss A/c	expenditure incurred being cost of the project	Treatment by assessee	Treatment by the AO
2009-10	22,98,897	1,63,60,75,339	Not claimed as revenue expenditure while computing taxable income	Position adopted by assessee not challenged by AO

2010-11	43,72,284	32,92,65,756	Not claimed as revenue expenditure while computing taxable income	Position adopted by assessee not challenged by AO
2011-12	1,28,07,638	9,39,12,933	Claimed as revenue expenditure while computing taxable income	Position adopted by assessee not challenged by AO

Apart from the aforesaid business loss, it has also incurred capital expenditure on the development of project. The said expenditure which was directly in addition to the project was capitalized. During the instant assessment year, the assessee had incurred expenditure of Rs. 75,75,13,050/- which expenditure was directly relatable to the project and was capitalized. However apart from the aforesaid expenditure, it had incurred Rs. 1,19,36,566/- as business expenditure. The details whereof are as below:-

Sl No.	Particulars	Amount
1	Rent	Rs.27,24,782/-
2	Insurance	Rs.64,034/-
3	Repairs and Maintenance	Rs.4,12,641/-
4	Legal and Professional fee	Rs.6,00,238/-
5	Marketing expenses	Rs.39,38,439/-
6	Payment of auditors	5,62,320/-
7	Depreciation	33,76,733/-
8	Finance Cost	Rs.2,57,379/-

The expenditure incurred as aforesaid had been disallowed by the AO without appreciating that the business had been set up, when the assessee had

entered into a joint development agreement. The aforesaid agreement had been entered into between the assessee and M/s Shyam Communication Systems, Rajiv Mehrotra & Sons, Ms. Vijaya Arora, Mr. Sumit Arora and Mr. Surinder Mohan Arora. The said agreement is dated 08.09.2008. It was agreed under the said agreement that the assessee will fund the entire development cost and will manage the construction. It is thus evident that the business had commenced soon the aforesaid agreement had been entered into. The High Court of Delhi in the case of CIT vs. Dhoomketu Builders and Development Pvt. Ltd. reported in 368 ITR 680, in para 9 has held as under:

“The Tribunal has observed that having regard to the business of the assessee, which is the development of real estates, the participation in the tender represents commencement of one activity which would enable the assessee to acquire the land for development. If the assessee is in a position to commence business that means the business has been set up. The acts of applying for participation in the tender, the borrowing of monies for interest from the holding company, the deposit of the borrowed monies on the same day with NGEF Ltd. as earnest money were all Acts which clearly establish that the business had been set up. The commencement of real estate business would normally start with the acquisition of land or immovable property. When an assessee whose business it is to develop real estates, is in a position to perform certain acts towards the acquisition of land, that would clearly show that it is ready to commence business and, as a corollary, that it has already been set up. The actual acquisition of land is the result of such efforts put in by the assessee; once the land is acquired the assessee may be said to have actually commenced its business which is that of development of real estate. The actual acquisition of the land may be a first step in the commencement of the business but section 3 of the Act does not speak of commencement of the business, it speaks only of setting up of the business. When the assessee, in the present case, was in a position to apply for the tender, borrowed money for interest albeit from its holding company and deposited the same with NGEF Ltd. on the same day, it shows that the assessee's business had been set up and it was ready to commence business. The learned senior standing counsel for the Revenue would, however, state that till the land is acquired, the business is not set up. The difficulty in accepting the argument is that an assessee may not be successful in acquiring land for a long period of time though

he is ready to commence his business in real estate and that would result in the expenses incurred by him throughout that period not being computed as a loss under the head "Business" on the ground that he is yet to set up his business. That would be an unacceptable position. The other argument of the learned standing counsel for the Revenue that the tax auditors of the assessee have themselves pointed out that the assessee is yet to commence its business is also irrelevant because of the distinction between the commencement of the business and setting up of the same.”

In view of the aforesaid, the Ld. AR submitted that the assessee commenced the business in the year 2009-10 which is also admitted by the Assessing Officer. However, the assessee had claimed the expenditure from the AY 2011-12 after it had fully commenced the business though it had set up the business in the FY 2008-09 i.e. AY 2009-10. Thus, the Ld. AR submitted that the CIT(A) has rightly allowed the appeal of the assessee.

8. We have heard both the parties and perused all the relevant material available on record. The CIT(A) held as under:-

**“ Examination of the issue & Decision:-**

*I have considered the submissions made by the appellant and perused the order of assessment and evidence placed on record. The undisputed facts are that appellant was a company which has been incorporated under the Companies Act, 1956 to inter-alia carry out development works as builders, owners, lesser, managers, contractors etc. in respect of all kinds of building whether residential, commercial houses etc. The appellant had entered into a development agreement with M/s. Shyam Communication Systems and Rajiv Mehrotra & Sons (HUF), Ms. Vijaya Arora, Mr. Sumit Arora and Mr. Surinder Mohan Arora for developing land owned by the owners and located at Sector-74A, Gurgaon, Haryana. Subsequent to the entering of aforesaid agreement,*

*the appellant has undertaken construction work and capitalized expenditure in accordance with Accounting Standard-10 issued by the Institute of Chartered Accountants of India. For the instant assessment year, the appellant furnished a return of income declaring loss of Rs. 69,06,799/- in the following manner:-*

Sr. No.	Particulars	Amount (Rs.)
1	<i>Interest income under the head 'income from other sources'</i>	31,10,952
2	<i>Less: expenditure claimed under the head profits and gains from business or profession</i>	100,17,751
3	<i>Net loss claimed</i>	69,06,799

*6.1 The Assessing Officer has denied the above claim of expenditure of Rs.1,00,17,751/- by holding that the expenditure should have been capitalized to the capital work in progress. It has been concluded by the AO that since only business of the assessee is building of above mentioned corporate park and therefore, all the expenses whether direct or indirect should be accounted for as capital work in progress and are not allowable as revenue expenditure under section 37(1) of the Act on the ground that there is no revenue from business in the instant assessment year.*

*6.2 The crux of the appellant's submission is that expenses which were incurred entirely for the purpose of running the general administration of the business of the company have been debited to P&L account and are allowable u/s 37 of the Act. Expenses related to project were capitalized to the cost of*

the project. It was submitted that the appellant has followed AS-10 issued by ICAI in preparing its financial statements.

6.3 It is observed that the genuineness of the expenditure has not been disputed and break-up of the expenditure incurred is as under:-

Nature of expenses	Amount	Remarks
Rent	27,24,782	The said expenditure pertains to rent paid for space occupied for setting up the marketing centre of the company. The company had taken an office space located at 701, 7 <sup>th</sup> Floor, Time Tower, M.G. Road, Gurgaon on lease. The said expense not being directly relatable to the project was debited to profit and loss account.
Insurance	64,034	The said expenditure was incurred by the company for seeking fire, burglary, all risk insurance policy from Bajaj Allianz in respect of marketing centre of the company. The said expenses not being directly relatable to the project was debited to profit and loss account.
Repairs and maintenance - Others	412.641	The said expenditure was incurred by the assessee in relation to repair and maintenances carried out in marketing centre including electricity and other maintenance expenses. The said expenses not being directly relatable to the project was debited to profit and loss account.
Legal and professional	600,238	The said expenditure was incurred by the assessee for seeking assistance from professionals on various matters such as fee paid for filing of income tax return, obtaining transfer pricing certificate and

<i>fess</i>		<i>other tax related queries. The said expense not being directly relatable to the project was debited to profit and loss account.</i>
<i>Marketing expenses</i>	<i>39,38,439</i>	<i>The said expenditure was incurred by the assessee in relation to printing of brochures, audio video models, etc. for attracting customers. The said expense not being directly relatable to the project was debited to profit and loss account.</i>
<i>Payment to auditors</i>	<i>562,320</i>	<i>The said expenditure was incurred by the assessee in relation to statutory audit carried for the subject year. The said expense not being directly relatable to the project was debited to profit and loss account.</i>
<i>Depreciation and amortization expenses (Allowable u/s 32 of the Act.</i>	<i>16,95,632</i>	<i>Depreciation as per Income tax Act.</i>
<i>Finance Costs</i>	<i>257,379</i>	<i>This includes foreign exchange loss of 1 NR 2367,714 and interest expense of 19,665 charged by bank. The said expense not being directly relatable to the project was debited to project was debited to profit and loss account.</i>

6.4 It is also noted that the appellant had claimed an expenditure of Rs. 1,19,36,566/- out of total expenditure of Rs. 23,94,85,537/- and balance expenditure of Rs. 22,75,48,971/- have been capitalized in the instant year.

*The issue therefore, arises is whether such expenditure as incurred and claimed, genuineness of which is not in dispute is eligible for deduction as revenue expenditure. The basis adopted by the Assessing Officer that there is no income in the instant year is not relevant test for determining the allowability of expenditure claimed by the appellant company. The Apex Court in the case of CIT(A) vs. Rajendra Prasad Mody reported in 115 ITR 519 has held as under:*

*"What s. 57(iii) requires is that the expenditure must be laid out or expended wholly and exclusively for the purpose of making or earning income. It is the purpose of the expenditure that is relevant in determining the applicability of s. 57(iii) and that purpose must be making or earning of income. S. 57(iii) does not require that this purpose must be fulfilled in order to qualify the expenditure for deduction. It does not say that the expenditure shall be deductible only if any income is made or earned. There is in fact nothing in the language of s. 57(iii) to suggest that the purpose for which the expenditure is made should fructify into any benefit by way of return in the shape of income. The plain natural construction of the language of s. 57(iii) irresistibly leads to the conclusion that to bring a case within the section, it is not necessary that any income should in fact have been earned as a result of the expenditure. It may be pointed out that an identical view was taken by this court in Eastern Investments Ltd. v. CIT [1951] 20 ITR 1, 4 (SC), where interpreting the corresponding provision in s. 12(2) of the Indian I.T. Act, 1922, which was ipsissima verba in the same terms as s. 57(iii), Bose J., speaking on behalf of the court, observed:*

*"It is not necessary to show that the expenditure was a profitable one or that in fact any profit was earned."*

*It is indeed difficult to see how, after this observation of the court, there can be any scope for controversy in regard to the interpretation of s. 57(iii).*

*It is also interesting to note that, according to the revenue, the expenditure would disqualify for deduction only if no income results from such expenditure in a particular assessment year, but if there is some income, howsoever small or meager, the expenditure would be eligible for deduction. This means that in a case where the expenditure is Rs. 1,000, if there is income of even Re. 1, the expenditure would be deductible and there would be resulting loss of Rs. 999 under the head "Income from other sources". But if there is no income, then, on the argument of the revenue, the expenditure would have to be ignored as it would not be liable to be deducted. This would indeed be a strange and highly anomalous result and it is difficult to believe that the legislature could have ever intended to produce such illogicality. Moreover, it must be remembered that when a profit and loss account is cast in respect of any source of income, what is allowed by the statute as proper expenditure would be debited as an outgoing and income would be credited as a receipt and the resulting income or loss would be determined. It would make no difference to this process whether the expenditure is X or Y or nil, whatever is the proper expenditure allowed by the statute would be debited. Equally, it would make no difference whether there is any income and if so, what, since whatever it be, X or Y or nil, would be credited. And the ultimate income or loss would be found. We fail to appreciate how expenditure which is otherwise a proper expenditure can cease to be such merely because there is no receipt of income. Whatever is a proper outgoing by way of expenditure must be debited irrespective of whether there is receipt of income or not. That is the plain requirement of proper accounting and the interpretation of s. 57(iii) cannot be different. The deduction of the expenditure cannot, in the circumstances, be held to be conditional upon the making or earning of the income.*

*It is true that the language of s. 37(1) is a little wider than that of s. 57(iii), but we do not see how that can make any difference in the true interpretation of s. 57(iii). The language of s. 57(Hi) is clear and unambiguous and it has to be construed according to its plain natural meaning and merely because a slightly wider phraseology is employed in another section which may take in something more, it does not mean that s. 57(iii) should be given a narrow and constricted meaning not warranted by the language of the section and, in fact, contrary to such language.*

*This view which we are taking is clearly supported by the observations of Lord Thankerton in Hughes v. Bank of New Zealand (1938] 6 ITR 636, 644 (HL). where the learned Law Lord said:*

*"Expenditure in course of the trade which is un-remunerative is none the less a proper deduction, if wholly and exclusively made for the purposes of the trade. It does not require the presence of a receipt on the credit / side to justify the deduction of an expense."*

6.5 *In the case of AB Multiplex v. ACIT ITA No. 739/D/2014, the facts of the case were that a company was engaged in the business of builder and developers. Its commercial project "Corporate suit" was under construction. The expenses directly related to project were added to the inventories (project under construction (as per its accounting policies). However, certain expenses like office remuneration and ROC filing fee were claimed as expenses in the profit and loss account being administrative expenses and not directly related to the project. It was submitted by the taxpayer that such expenses were required to be incurred even if no project was going on and no business was being carried on during the year. The AO held that once assessee did not have any business income and thus, no business was carried out by the assessee during the year., The Tribunal held as under:*

*"All the expenses directly attributable to the project were charged to the construction work in progress account and only those administrative expenses which were necessary for maintenance of basic infrastructure of the company, were claimed by assessee in profit and loss account. Under such circumstances, I fail to understand as to how a finding has been arrived by authorities below that no business activity was carried out by assessee. The office rent claimed by assessee was a necessary business expenditure and, therefore, could not be denied to assessee. I, therefore, set aside the order of Ld. CIT(A) and direct the Assessing Officer to allow the office rent also along with audit fees and filing fee and compute the income accordingly. In the result, the assessee's appeal is allowed."*

6.6 Similar view has been expressed in the case of *Arkaaye Builders & Development (P) Ltd. vs. ITO* in ITA No. 3552/Del/2011. The facts of the case are that assessee was engaged in the business of buying, selling, acquiring, constructing, re-constructing, and developing land, building etc. along with trading, import, export, growing, developing and farming of agricultural products. During the year under consideration, the assessee earned agricultural income and other income (i.e. interest on FDR, rental income, profit on sale of mutual fund). No income from business activity was earned by the assessee during the year. While passing the order, the assessing officer held that there is no business activity carried out by the assessee and hence disallowed the administrative expenses and depreciation claimed by the assessee should be disallowed. The same view was upheld by the CIT(A) and he agreed that the disallowance of depreciation and administrative expense is justified. The Tribunal decided in Favour of the appellant holding that only business income can prove the existence of business is not correct.

The relevant portion of the order is as under:-

*"it may be true that the business receipts are not there but it cannot be said that the business activities are not there...."*

*It was further submitted that prior condition to be satisfied any business activity is to first invest and spend for the business. Income will generate thereafter only. In a particular year income may be there and may not be there. Occurrence of some income is not the criteria to prove that the business activities are there. But concurrence of expenses for the purpose of business is certainly the criteria to establish that the business activities are there."*

6.7. The only test is whether business has set up. Further, it is not in dispute that appellant had entered into a collaboration agreement in

*assessment year 2009-10 and therefore, setting up of business cannot be disputed.*

*6.8 I have carefully looked into the legal and factual aspects of the case. The stand of the AO that in absence of any business income, project being incomplete, general expense are disallowable is contrary to well settled legal principles. It is the setting up of business which is relevant for allowing expenses and not the actual commencement of business. The business of the appellant is to earn rental income from commercial mall and construction of mall is essential for that. I find that construction was in full swing which is evident by the fact that capital work in progress as on 31/03/2011 was Rs.181.92 crores and as on 31/03/2012 at Rs.204.04 crores. A marketing centre has been set up to display projects completed by the group outside India, to market its product through audio visual media and other such activities. Under such factual matrix, it is not possible to infer that appellant's business was not set up.*

*6.9 In ACIT Vs ASF Linsignia SEZ Pvt. Ltd. in ITA No. 6732 & 6733/Del/2014 A.Y. 2010-11 & 2011-12, Delhi Bench 'A' dated 15/09/2017, it was held that "the expenses which are not directly linked with the construction activity have been claimed as revenue expenses by the assessee. In our view the assessee has set up its business and the expenditure on revenue account has to be allowed and was rightly allowed by the first appellate authority. It is well settled that expenditure has to be allowed on setting up of the business and there might be a gap between the date on which the business is set up and the*

*date of commencement of the business."*

6.10 *In the case of CIT Vs Hughes Escorts Communication [2009] 311 ITR 253, it has been held that the expenses incurred in the previous year, prior to the commencement of the business but after the setting up of its business, which two dates need not be the same, would be deductible as revenue expenses. In this case, while making distinction between the setting up and commencement of a business the Hon'ble Court has relied upon the Bombay High Court in Western India Vegetables Products Ltd. In this case, the Bombay High Court, which was in this case dealing with the corresponding provision of the Indian Income-tax Act, 1922, then explained the distinction between the concepts of 'commencement' and 'setting up' of a business :*

*". . . It seems to us, that the expression 'setting up' means, as is defined in the Oxford English Dictionary, 'to place on foot' or 'to establish', and in contradistinction to 'commence'. The distinction is that when a business is established and is ready to commence business then it can be said of that business that it is set up. But before it is ready to commence business it is not set up. But there may be an interregnum, there may be an interval between a business which is set up and a business which is commenced and all expenses incurred after the setting up of the business and before the commencement of the business, all expenses during the interregnum would be permissible deductions under section 10(2). . . ."*

6.11. *In the case of Sarabhai Management Corpn. Ltd. [1976] 102 ITR 25 (Guj.), the Hon'ble Gujarat High Court has held that the business commences with the first activity for acquiring by purchase or otherwise immovable property. There may be an interval between the setting up of the business and the commencement of the business. All expenses incurred during that interval are also permissible for deduction.*

6.12. *The decision of Hon'ble Gujarat High Court in the case of Sarabhai Management Corpn. Ltd. (supra) has been affirmed by the Hon'ble Supreme Court in the case of CIT v. Sarabhai Management Corpn. Ltd. [1991] 192 ITR 151, where the Hon'ble Supreme Court went a step ahead that even the activities at a preparatory stage are also admissible. It is well settled that all the expenses incurred after the business had been set up are allowable as business deduction under section 37 of the Act. There may be interval between the setting up of the business and the actual commencement of the business but all the expenses incurred during the interval of setting up of the business and the commencement of the business are also permissible for deduction as so held in the above referred decisions.*

6.13. *Thus, it is clear that it is now well settled law that, once business is set up expenditure is allowable as business expenditure, as has also been held by another judgment of Jurisdictional High Court in the case of CIT vs. Dhoomketu Builders & Development Pvt. Ltd. 216Taxmann 76.*

6.14. *As discussed above, there remains no doubt that the appellant's business was set up and the year under assessment falls in the interval between the setting up of business and commencement of business and following the principles established by above discussed judicial decisions on the issue, I am of the view that in the facts and circumstances of the case, AO's order disallowing expenditure of Rs.1,00,17,151/- claimed as revenue expenditure and capitalizing the same to CWIP is not justified. The said expenditure is held to be allowable as business expenditure u/s 37 of the Act and accordingly, addition of Rs.1,00,17,751/- is deleted. Grounds raised in this regard are therefore allowed.*

The CIT(A) has given detailed reasons and the case laws referred by the Ld. DR do not apply in the present case as the facts of those cases are different and the ratio laid down is also not applicable in the present

circumstances. Besides that the Hon'ble Delhi High Court also in case of Dhoomketu Builders and Development Pvt. Ltd. (supra) held that when an assessee whose business it is to develop real estates, is in a position to perform certain acts towards the acquisition of land, that would clearly show that it is ready to commence business and, as a corollary, that it has already been set up. The actual acquisition of land is the result of such efforts put in by the assessee; once the land is acquired the assessee may be said to have actually commenced its business which is that of development of real estate. The actual acquisition of the land may be a first step in the commencement of the business but section 3 of the Act does not speak of commencement of the business, it speaks only of setting up of the business. The ratio laid down in Dhoomketu Builders and Development (supra) is squarely applicable in the present case. Thus, there is no need to interfere with the findings of the CIT(A). Hence, appeal of the Revenue is dismissed.

8. In result, the appeal of the Revenue is dismissed.

**Order pronounced in the Open Court on 27<sup>th</sup> December, 2018.**

**Sd/-**

**Sd/-**

**(R. K. PANDA)**  
**ACCOUNTANT MEMBER**

**(SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

Dated: 27/12/2018  
R. Naheed

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR  
ITAT NEW DELHI

Date of dictation	17.12.2018
Date on which the typed draft is placed before the dictating Member	17.12.2018
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	27.12.2018
Date on which the final order is uploaded on the website of ITAT	27.12.2018
Date on which the file goes to the Bench Clerk	27.12.2018
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	