आयकर अपीलीय अधिकरण, हैदराबाद पीठ

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'B' Bench, Hyderabad

श्री रविश सूद,न्यायिक सदस्य एवं श्री मधुसूदन सावड़िया लेखा सदस्य समक्ष|

Before Shri Ravish Sood, Judicial Member
A N D
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं /**ITA No.778/Hyd/2026**
(निर्धारण वर्ष/Assessment Year: 2022-23)

Assistant Commissioner of Income Tax, Circle 13(1) Hyderabad	Vs.	The Singareni Colleries Company Ltd, KHAMMAM PAN:AAACT8873F
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Adv. M V Anil Kumar	
राजस्व द्वारा/Revenue by:	Shri Waseem UR Rehman, CIT (DR)	
सुनवाई की तारीख/Date of hearing:	15/10/2026	
घोषणा की तारीख/Pronouncement:	16/10/2026	

ORDER

Per Madhusudhan Sawdia, A.M.:

This appeal is filed by the Revenue, feeling aggrieved by the order passed by the Learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC) Delhi ("Ld. CIT(A)") dated 05.01.2026 for the A.Y. 2022-23.

2. The Revenue has raised the following grounds of appeal:

"1. The Ld CIT(A) has erred both in Law and on facts in holding that civil structures like tunnels, retaining walls, RCC bridges be treated as 'Plant and Machinery' for allowing depreciation @ 15% without considering that they fall under the definition of 'building' and eligible for depreciation @ 10%.

2. Any other ground may be urged at the time of hearing

3. The brief facts of the case are that the assessee is a government company engaged in coal mining and power generation. The assessee filed its return of income for assessment year 2022-23 on 15.11.2022, declaring total income of Rs. 12,09,29,71,690/-. The case of the assessee was selected for complete scrutiny under CASS. After considering the submissions of the assessee, the Assessing Officer ("AO") completed the assessment under section 143(3) read with section 144B of the Income Tax Act, 1961 ("the Act"), vide order dated 20.03.2024, making aggregate additions of Rs. 69,71,96,353/- and determining the total income of the assessee at Rs. 12,79,01,68,043/-.

4. Aggrieved with the assessment order, the assessee preferred an appeal before the Ld. CIT(A), who partly allowed the appeal of the assessee.

5. Aggrieved by the relief granted by the Ld. CIT(A), the Revenue is in appeal before this Tribunal. At the outset, we find that the solitary issue arising from the grounds of appeal of the Revenue relates to the deletion of the addition of Rs. 37,05,69,508/- made by the AO on account of depreciation on mine development expenditure incurred within the coal mines. The assessee claimed depreciation at

15% by treating the same as plant, whereas the AO treated it as building and restricted the depreciation to 10%.

6. We have heard the rival submissions and perused the material available on record. In this regard, we have gone through para nos. 5 to 5.3 of the impugned order, which is to the following effect:

> *5. Ground No. 4 to 6: The appellant, a Government company engaged in coal mining and power generation, filed its return of income for AY 2022-23 on 05.11.2022 declaring total income of Rs.12,09,29,71,690/-. The case was selected for compulsory scrutiny under CASS. Assessment was completed u/s 143(3) r.w.s. 144B on 26.03.2024 determining total income at Rs.12,79,01,68,043/- after making additions aggregating to Rs.69,71,96,353/-.*
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> *5.1 The issue requiring adjudication is whether depreciation on mine development expenditure incurred within coal mines is allowable at 15% as applicable to plant and machinery, or at 10% treating the same as building. The AO restricted depreciation on mine development expenditure to 10% on the ground that such expenditure partakes the character of buildings. Though acknowledging that ITAT had decided the issue in favour of the appellant in earlier years, the AO made the disallowance solely to "maintain consistency of departmental stand", as appeals filed by the Revenue were stated to be pending.*
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> *5.2 The appellant contended that coal mines and mine development constitute "plant" as held by the Jurisdictional High Court in CIT v. Singareni Collieries Co. Ltd. (221 ITR 48) .Mine development expenditure is incurred within mines and is integrally connected with extraction of coal. The Hon'ble ITAT Hyderabad has consistently allowed depreciation @15% in appellant's own case from AY 2011-12 onwards. In the recent ITAT orders dated 12.06.2025 for AYs 2015-16, 2016-17 and 2020-21 have again decided the issue in favour of the appellant. The pendency of departmental appeal does not dilute the binding nature of ITAT decisions. The AO's action is contrary to judicial discipline and not justified.*

> *5.3 I have carefully considered the assessment order, grounds of appeal, submissions and judicial precedents. It is an undisputed fact that the Hon'ble Jurisdictional High Court has held coal mines to be "plant". The Hon'ble ITAT Hyderabad has consistently held that mine development expenditure incurred within mines and essential for extraction of coal assumes the character of plant and machinery. The latest Hon'ble ITAT order dated 12.06.2025 has reaffirmed this position in appellant's own case, dismissing Revenue's appeals. The AO has not brought any distinguishing facts for the year under appeal. The sole basis for disallowance is pendency of appeals, which is not a legally sustainable ground. It is well settled that judicial discipline mandates following binding appellate decisions unless reversed by a higher forum. Further, the functional test laid down by the Hon'ble Supreme Court in CIT v. Karnataka Power Corporation (247 ITR 268) squarely applies. The structures in question are integral to mining operations and cannot be equated with ordinary buildings. Accordingly, I hold that mine development expenditure is eligible for depreciation @15% as plant and machinery. Hence, the disallowance of depreciation of Rs.37,05,69,508/- is deleted in appeal."*

7. On perusal of the above, we find that the Ld. CIT (A) deleted the addition by following the decision of this Tribunal in the assessee's own case for the A.Y. 2015-16, 2016-17 and 2020-21. We have also perused para nos. 26 to 28 of the order of this Tribunal in the assessee's own case in ITA Nos. 300, 301 and 308/Hyd/2024 for assessment years 2015-16, 2016-17 and 2020-21, which is to the following effect:

26. Ground No.6 for the A.Ys 2015-16 and 2016-17 and Ground No.5 for the A.Y 2020-21 are common regarding the claim of depreciation @ 15% was restricted by the Assessing Officer to 10% but allowed by the learned CIT (A).

27. We have heard the learned DR as well as the learned AR and considered the relevant material available on record. At the outset, we note that this issue is also covered by the decision of this Tribunal in assessee's own case for the A.Y 2011-12 to 2014-15. The learned CIT (A) has considered this issue in para 7.3.1 to 7.3.2 for the A.Y 2015-16 as under:

> *7.3.1 The appellant filed submissions and relied on case laws to support its ground of appeal and pleaded that the issue was decided in favour of the assessee by the Hon'ble ITAT, Hyderabad in its orders for the AY 2011-12 (Para 11 in the Page No.35) AY 2012-13 (Para 3 in the Page No.3) and AY 2013-14 & AY 2014-15 (Para 6 & 7 in the Page No.9 & 10) dated 20th May, 2021, 25th October, 2021 and 27th May, 2021 respectively. The relevant part of the order dated 20.05.2021 is reproduced as under:*
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> *"11. As regards the ground relating to restriction of depreciation on mine development to 10% as against 15% claimed, as raised in AY 2011-12 as ground Nos. 9 & 10, the assessee has claimed depreciation @ 15% to the extent of Rs. 40,46,18,947/-, which was restricted by the AO to 10%,*

which comes to Rs. 13,48,72,982/-. The CIT(A) confirmed the same.

.....

11.4 We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities. The assessee is engaged in the business of coal mines and he is extracting coal from open cast mines as well as underground mines. As per details submitted by the AR of the assessee during the course of assessment proceedings and appellate proceedings, it is clear that the expenditure incurred by the assessee are to be treated as 'plant and machinery'. The civil works are relating to directly for the excavation of coal. Without doing these jobs, it is difficult to extract the coal from the mines. From the details submitted, it is clear that the expenditure incurred by the assessee company on construction of retaining wall for sand stowing, Dumper Working Platform, Construction of RCC Bridges, Land levelling, Sand Stowing, Bunker Stowing, construction of Inter Seam Tunnels, Construction of Steel Bunkers, Construction of Water Dams, construction of water tankers for sand stowing, building retention wall for sand stowing, construction bunkers in mines for workers, construction of check dams in mines to prevent water gushing etc. The entire expenditure was incurred within the mines, which are categorized as plant and machinery for the purpose of depreciation. Functionally the expenditure assumes the nature of plant and machinery in the coal mines. The rate of depreciation has been prescribed as per new Appendix -I - Part - A on tangible assets. Looking at the nature of business of the assessee the mine development expenditures spent by the assessee are to be treated as plant & machineries. There can be different type of expenditures for the different nature of business. In the Income Tax Act, the word "plant & machinery" has not been defined, but, the various courts have defined the plant and machinery as per the conditions existed in given cases. Further on perusal of the submission of the AR of the assessee it has been observed that in assessee's own case while granting investment allowance U/s 32A of the IT Act, similar expenditures incurred by the assessee under the head "plant and machinery" were decided in favour of the assessee and held that it was plant and machinery by the Hon'ble jurisdictional AP High Court as relied upon by the assessee. Further the assessee has relied on the decision of the Hon'ble SC in case of Karnataka Power Ltd. as quoted supra is squarely applicable to the facts of the present case. The Ld. CIT (A) has not accepted this judgement of Hon'ble SC holding that it relates to Investment Allowance U/s 32A of the Income Tax Act, 1 961. Once similar expenditures have been accepted by the Hon'ble SC as quoted supra, we are of the view that the expenditures incurred by the assessee were

necessary for excavation of coal from mines and shafts. In view of the above observations, we allow this ground of appeal of the assessee by holding that the assessee is entitled to charge depreciation @ 15% under the block of assets "plant and machinery", as against 10% made by the AO."

7.3.2 All the facts of the case, Grounds of appeal, statement of facts, online submissions of the appellant, the case laws cited and the assessment order are considered. The submission of the appellant is examined. It is noted that the Hon'ble ITAT, Hyderabad bench in appellant's own case in earlier years has adjudicated the issue in appellant's favour. In view of the decision reproduced as above and respectfully following the higher authorities decision on the issue, the grounds of appeal no. 6 to 7 are allowed."

28. The learned DR has submitted that the assets on which the assessee has claimed depreciation @ 15% are not in the nature of plant and machinery but are falling in the definition of building and therefore, eligible for depreciation @ 10% only. He has relied upon the decision of the Hon'ble Madras High Court in the case of M/s. Narmada Infrastructure Corporation Enterprises Ltd vs. ACIT and another in TCA No.868 to 870 of 2009 & Others. Thus, the learned DR has submitted that the Tribunal while deciding this issue for the preceding A.Ys has not considered the judgment of the Hon'ble Madras High Court. We find that the decision relied upon by the learned DR is in respect of construction of road under BOT wherein the assessee claimed depreciation @ 15% which was denied by the Assessing Officer and also confirmed by this Tribunal by holding that the roads/toll bridges do not fall in the ambit of plant & machinery but these do fall in the terms buildings and therefore, eligible for depreciation @ 10%. There is no dispute that as per the schedule of depreciation, the roads are falling in the asset as building and not as plant and machinery. However, in the case of the assessee, the work carried out by the assessee is within the Mines and very

much part and parcel of the coal mines of the assessee. Undisputedly, the coal mines are considered as plant and machinery for the purpose of depreciation and therefore, any work carried out in the Mines which is essential for the operations of extraction of the coal from the Mines will partake the character of plant and machinery. Accordingly, we do not find any merits in the contention of the learned DR on this issue. Ground No.5 for the A.Ys 2015-16 and 2016-17 and Ground No.4 for the A.Y 2020-21 of the Revenue's appeal are dismissed.

8. On perusal of the above, we find that while deciding the Revenue's appeals on the identical issue, the Tribunal followed its earlier decision in the assessee's own case for assessment years 2011-12 to 2014-15 and dismissed the grounds raised by the Revenue. Thus, the issue regarding the applicable rate of depreciation on mine development expenditure stands covered by the decisions of this Tribunal in the assessee's own case. The Revenue has not brought to our notice any distinction in the facts or any change in the applicable law warranting a different view for the year under consideration. Accordingly, respectfully following the aforesaid decisions of this Tribunal in assessee's own case, we uphold the order of the Ld. CIT(A) deleting the addition of Rs. 37,05,69,508/-.

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

Order pronounced in the Open Court on 16th October, 2026.

Sd/-	Sd/-
(RAVISH SOOD) **JUDICIAL MEMBER**	**(MADHUSUDAN SAWDIA)** **ACCOUNTANT MEMBER**

Hyderabad, dated 16th October, 2026.

Vinodan/sps

Copy to:

S.No	Addresses
1	Assistant Commissioner of Income Tax Circle 13(1) Room No.224, 2nd Floor, Block 2B, IT Tower, AC Guards, Masab Tank, Hyderabad 500004
2	The Singareni Colleries Company Ltd, D.No.22/3, GM(Finance) SCCL Head Office, Kothagudem, Bhajanamandir, SO Kothagudem, Khammam 507110 Khammam
3	Pr. CIT, Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order