IN THE INCOME TAX APPELLATE TRIBUNAL DELHI 'A' BENCH
BEFORE SHRI HARI OM MARATHA , JM & SHRI A.N. PAHUJA, AM

	ITA no.742/Del/2012 Assessment year : 2008-09	
A.C.I.T.,Circle 37(1), Room no.401, N-Block, Vikas Bhawan, I.P. Estate, New Delhi	**V/s.**	Anand & Anand B-41, Nizamuddin East, New Delhi
[PAN :AAAFA 0186 F]		
	ITA no.887/Del/2012 Assessment year : 2008-09	
Anand & Anand B-41, Nizamuddin East, New Delhi	**V/s.**	J.C.I.T.,Circle 37(1), New Delhi
(Appellant)		(Respondent)

Assessee by	Shri B.K. Anand,AR
Revenue by	Shri Pirthi Lal, DR

Date of hearing	29-08-2012
Date of pronouncement	15-10-2012

O R D E R

A.N. PAHUJA:- These cross appeals filed by the Revenue on 14-02-2012 and by the assessee on 22.02.2012 against an order dated 27th December, 2011 of the ld. CIT(A)-XXI, New Delhi ,raise the following grounds:

I.T.A. No.742/Del./2012[Revenue]

1. "*Whether on the facts and circumstances of the case, ld. CIT(A) has erred in deleting the addition of ₹`26,75,176/- made by the AO on account of disallowance of interest expenses debited in P&L account, in view of the facts that the assessee had*

made huge interest free advances for unrelated activities.

2. *Whether on the facts and circumstances of the case, the ld. CIT(A) has erred in deleting the addition made on account of disallowances of interest expenses despite the fact that no further appeal was recommended in assessment year 2007-08 on the similar issue on account of low tax effect and not on merits of the issue.*

3. *The appellant craves to add, amend or modify the grounds of appeal at any time."*

I.T.A. No.887/Del./2012[Assessee]

1. *"That on the facts and in the circumstances of the case, the learned CIT(A) erred in confirming the disallowance of ₹`29,857/- reimbursed by the assessee in respect of payment made to network solutions by one Shri Gurjot Singh.*

2. *That on the facts and in the circumstances of the case, the learned CIT(A) erred in confirming the disallowance of `₹10,96,704/- being the amount out of the purchase and installation cost of a new transformer replacing the existing transformer on the property taken on lease by the assessee at Noida.*

3. *That on the facts and in the circumstances of the case, the learned CIT(A) erred in confirming the addition of ₹`3,37,500/- being the amount of liability due by the assessee to Pravin Anand & partners towards reimbursement of a capital account transaction of an earstwhile partner and further erred in holding that there could be no liability on capital account in cash system of accounting.*

4. *That the orders of the learned authorities below being contrary to the facts and circumstances of the case and in law, the appeal be allowed."*

2. Adverting first to ground nos.1 and 2 in the appeal of the Revenue facts, in brief, as per relevant orders are that assessee filed e-return declaring income of ₹`5,73,75,030/- filed on 26.09.2008 by the assessee, a firm of advocates, was selected for scrutiny with the service of a notice u/s 143(2) of the Income-tax Act, 1961 (hereinafter referred to as the 'Act'), issued on 13.08.2009. During the course of assessment proceedings, the Assessing Officer (A.O. in short) noticed that the assessee debited an amount of ₹`26,75,176/- on account of interest on secured loan. To a query by the AO, seeking justification for payment of interest in view of interest free advances, the assessee replied that advances to M/s Anand and Anand, a firm, in which some of the partners of the assessee were interested as partners, comprised old balance brought forward. These advances had arisen out of professional dealings with that firm, which was rendering supporting professional services at Mumbai. Since the amount was paid out of earnings of the firm and no part of loan from City Bank for their Noida office, was utilized as advance to associates, interest paid to bank could not be attributed to interest free advances. Inter alia, the assessee relied upon the findings of learned CIT(A) in the AY 2007-08. However, the AO did not accept the submissions of the assessee on the ground that the assessee did not furnish a detailed reply, especially when the assessee made interest free advances to M/s Anand & Anand Associates and made huge investments of ₹1,40,28,150/-. Accordingly, while relying upon decisions in CIT Vs. M.M. Nagalinga Nadar Sons, 222 CTR 518 (Ker.); Ganpati Associates Vs. Income-tax Officer, Meerut Camp, 121 TTJ 545 ITAT (Asr.); Punjab Stainless Steel Inds. Vs. CIT, 324 ITR 396 (Del) and Vivek N. Jajodia Vs. Income-tax Officer, 123 ITD 136 (Mumbai), the AO disallowed interest @12% of advances of `₹1,76,71,667/- out of interest paid to the bank.

3. On appeal, the ld. CIT(A) deleted the disallowance, following the decision of his predecessor in the AY 2007-08 in the assessee's own case, in the following terms:-

"3.2 In support of his claim learned AR of the appellant also filed a copy of appellate order passed by my predecessor, CIT(A) – XXVIII. Mew Delhi, for assessment year 2007-08 vide order dated 26.7.2010, wherein, similar kind of addition has been deleted. Respectfully, relying on the order of my predecessor for assessment year 2007-08 and also putting my reliance of the judgment of Hon'ble Delhi High Court in the case of CIT Vs. Sushma Kapoor, reported at 188 Taxman 24, Hon'ble Delhi High Court has held that loans were raised subsequent to the debit in the account of sister concern is a finding of act and no disallowance out of interest paid for the reasons that such old debits existed prior to raising of loan. Accordingly, Hon'ble Delhi High Court has dismissed departmental appeal. The judgment of Hon'ble Delhi High Court is clearly attracted in the instant case. Hence grounds No.1 to 3 of the appellant are allowed."

4. The Revenue is now in appeal before us against the aforesaid findings of the ld. CIT(A).The ld.DR supported the order of the AO while the ld. AR on behalf of the assessee relied upon the findings in the impugned order. Inter alia, the ld. AR relied upon decision of the Hon'ble Jurisdictional High Court in the case of CIT Vs. H.B. Stock Holdings Ltd. (2009) 184 Taxman 352 (Delhi).

5. We have heard both the parties and gone through the facts of the case. Indisputably, the assessee did not divert borrowed funds to M/s Anand and Anand Associates and the amount of ₹`36,43,517/- was outstanding on account of professional support services. The ld. CIT(A) found in the preceding year that balance of ₹35,81,537/- was brought forward as on 1.4.2006. In fact balance as on 1.4.2003 - ₹30,31,333/- , increased to ₹36,05,517/- as on 1.4.2007.On the other hand , loans of ₹2,29,60,000+₹20,40,000 were raised form Citi bank on 12.10.2006 and utilized towards addition to fixed assets and purchase of stamp papers and security deposits besides payment of advance rent. Total amount utilized was ₹2,82,71,768/-.In these circumstances, the ld. CIT(A) concluded in the preceding year that borrowed funds were not utilized towards advances to sister concern and deleted the disallowance of interest. Following his decision in the preceding year, disallowance of interest has been deleted in the year under consideration. Hon'ble Karnataka High Court in Bit Tul

(P.) Ltd. v. CIT (ITRC 141 of 1977 dated 29-7-1980) held that there should be material to justify the conclusion that any borrowed money by the assessee in a year to which interest had been paid had been diverted for non-business purpose before making any disallowance. No such material was found in the instant case by the ld. CIT(A) nor has been placed before us. The ld. DR did not bring to our notice any material, establishing nexus of the borrowed funds with the aforesaid amount outstanding. In H.B. Stock Holdings Ltd. (supra) Hon'ble jurisdictional High Court found that loan was given to a sister concern before the loan was taken from the bank, while sufficient interest free funds and surplus in the form of share premium money was available with the assessee. In these circumstances, Hon'ble High Court upheld the findings of the ITAT, deleting the disallowance on account of interest in relation to advances to sister concern. Similar is the position in CIT vs. Ms. Sushma Kapoor,188 Taxman 24(Del.). In the light of view taken in these decisions and in the absence of any nexus of borrowed funds with interest free advances to sister concern, we are not inclined to interfere with the findings of the ld. CIT(A).Therefore, ground nos. 1 & 2 in the appeal of the Revenue are dismissed.

6. Coming now to ground no.1 in the appeal of the assessee, which relates to disallowance of `₹29,857/- reimbursed by the assessee in respect of payment made to Network Solutions by one Shri Gurjot Singh, the AO noticed during the course of assessment proceedings that the assessee did not deduct tax at source from payment of `₹29,857/- made to Network Solutions. To a query by the AO, the assessee replied that the assessee engaged one Shri Gurjot Singh, a qualified engineer on computer technology systems, who incurred expenses on behalf of the assessee firm. Since the expenditure was incurred by Shri Gurjot Singh with his credit card & the assessee reimbursed the expenses, , no tax was deducted from these amounts. However, the AO did not accept the submissions of the assessee on the ground that the charges of ₹`29,857/- were paid to Network Solutions towards software/web charges and since tax required to be deducted in terms of provisions of sec. 194J of the Act, was not deducted,

deduction for the amount had to be disallowed..Accordingly, the AO disallowed the amount in terms of provisions of section 40(a)(ia).

7. On appeal, the ld. CIT(A) upheld the disallowance, holding as under:-

> *" 5.2 I have gone through the finding of the Assessing Officer in the assessment order and written submission of the learned AR. Reliance on the judgment of the Mumbai ITAT in the case of National Aviation Company of India Vs. DCIT, TDS, Circle-1, Mumbai is distinguishable on the facts of the case because in that case issue ahs been found to be pertaining to levy of interest u/s 201(1) not to section 40(a)(ia) as has been attracted by Assessing Officer. Furthermore, it has not been disputed that TDS has not been made on payment of `₹29,857/-. The learned AR of the appellant has only submitted that there were circumstances under which TDS could not be deducted and it is a reimbursement of expenditure. In my considered opinion action of the Assessing Officer invoking the provisions of section 40(a)(ia) is found to be totally reasonable as no TDS has been deducted on payment made to network solutions. Making the payment by credit card do not get any immunity from TDS. So, ground No.5 of the appellant is dismissed."s*

8. The assessee is now in appeal before us against the aforesaid findings of the ld. CIT(A).The ld. AR on behalf of the assessee while carrying us through their submissions before the ld. CIT(A) contended that since the amount was merely reimbursed, no tax was required to be deducted at source. On the other hand, the ld. DR supported the findings in the impugned order.

9.. We have heard both the parties and gone through the facts of the case. Indisputably, payment of `₹29,857/- has been made to M/s Network Solutions for downloading software and provisions of sec. 194J of the Act are attracted. The provisions of said sec. 194J lay down that any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any sum by way of (a) fees for professional services, or (b) fees for technical services, or (c) royalty, or (d) any sum referred to in clause (va) of

section 28,shall, at the time of credit of such sum to the account of the payee or at the time of payment thereof in cash or by issue of a cheque of draft **or by any other mode**, whichever is earlier, deduct an amount equal to ten per cent. of such sum as income-tax on income comprised therein. The ld. AR on behalf of the assessee did not deny that tax was required to be deducted at source in terms of the said provisions, but could not be deducted, payment having been made through the credit card by one shri Gunjit Singh. As is apparent from the aforesaid provisions, mode of payment is immaterial. In these circumstances, when the ld. AR did not deny the applicability of provisions of sec. 194J of the Act, we are of the opinion that the ld. CIT(A) was justified in upholding the disallowance in terms of provisions of sec. 40a(ia) of the Act, TDS having not been deducted on payment made to Network Solutions. Therefore, ground no.1 in the appeal of the assessee is dismissed.

10. Ground no.2 in the appeal of the assessee relates to disallowance of `₹10,96,704/- on account of purchase and installation of a new transformer.. The AO noticed during the course of assessment proceedings a bill dated 13.8.2007 raised by M/s Kirsun Engineering Ltd., regarding purchase and installation of a new transformer. To a query by the AO, the assessee replied that amount of ₹`25,66,721/- included under the head repair and maintenance was on account of payment to M/s Kirsun Engineering Ltd. for replacement of the HT panels and transformers with the LT transformer and panels, as load output factor for office was lower than that in a studio. The replacement of existing transformer for better and efficient running of assessee's office as law firm was claimed to be revenue in nature in view of judgment of Hon'ble Rajasthan High Court in CIT Vs. Udaipur Distillary Company Ltd. ,143 Taxman 616. However, the AO did not accept the submissions of the assessee on the ground that perusal of ledger account revealed two entries dated 18.6.07 of ₹`5 lacs each towards repair and maintenance of existing penal and transformers at Noida Office while remaining entries of ₹`15,66,721/- related to installation of purely

new transformers and the same should have been capitalized as fixed asset under the head 'office equipment,' according to the AO. Accordingly, the AO treated the amount as capital in nature and disallowed the amount of ₹10,96,704 after allowing depreciation @15% amounting to 2,35,2008/-. [The amount ₹`10,96,704+ 2,35,008 works out to ₹13,31,712 and has not been reconciled before us with ₹15,66,721]

11. On appeal, the ld. CIT(A) upheld the disallowance, holding as under:-

> *"7.2 I have gone through the finding of the Assessing Officer in the assessment order and written submission of the learned AR. In this regard Assessing Officer has discussed in the body of assessment order that it relates to purchase and installation of new transformers. Assessing Officer has quoted assessee's letter dated 14.12.2010, wherein, it has been mentioned that amount of `₹25,66,721/- included under the head repair and maintenance expenses paid to Kirsun Engineering Pvt. Ltd. pertains to replacement of existing transformer. It was assessee's own submission that it was purchase of new transformer as replacement of existing transformer. So, Assessing Officer has concluded in para 7.2 of order that as `₹10,00,000/- paid on 18.06.2007 relates to cost towards repair and maintenance of existing penal and `₹15,66,721/- pertains to installation of purely new transformers at Noida Office. So, Assessing Officer has rightly allowed `10 lakh under repair and maintenance expenses as revenue expenditure and amount of ₹`15,66,721/- pertaining to purchase of new transformer was rightly capitalized by him by allowing depreciation @15% amounting to `₹2,35,008/-. Thus, addition of `₹10,96,704/- is fully justified. Assessing Officer has /adopted a very judicious approach in this regard, wherein, he has found that amount of `₹25,66,721/- included under the head repair and maintenance expenses has certain new items in the form of new transformer purchased amounts to ₹`15,66,721/- which was capitalized by him and remaining amount of `₹10 lakh has rightly been allowed by Assessing Officer as revenue expenditure. I do not find any infirmity in the action of Assessing Officer rather I appreciate the action of Assessing Officer as very judicious and right approach. Thus, making disallowance of `₹10,96,704/- deserves to be confirmed. The reply of learned AR of the appellant has been considered and it is found that stand taken by learned AR*

has no leg to stand. The case law relied upon by learned AR of the appellant is distinguishable on facts because of the fact that Assessing Officer has already allowed a sum of `10 lakhs as revenue expenditure out of total expenditure of `₹25,66,721/-. In view of the above discussion ground No.7 of the appellant is dismissed."

12. The assessee is now in appeal before us against the aforesaid findings of the ld. CIT(A). The ld. AR on behalf of the assessee reiterated their submissions before the ld. CIT(A) while relying upon decision in CIT Vs.. Udaipur Distillary Company Ltd 143 Taxman 616 (Rajasthan) and Hindustan Times Ltd. Vs. CIT (1980) 4 Taxman 91 (Delhi).On the other hand, the ld. DR supported the findings in the impugned order of the ld. CIT(A).

13. We have heard both the parties and gone through the facts of the case as also the decisions relied upon by the ld. AR on behalf of the assessee. As is apparent from the facts narrated above, the assessee incurred expenses towards purchase of a new transformer installed in the premises taken on lease, contending replacement of existing HT transformers and related panels by a new LT Transformer, since the premises prior to accommodation was used as studio and the electrical systems worn out were inadequate for the purpose of business of the assessee. The assessee claimed that since it was not the owner of the premises where these assets were fixed and had only a limited period of tenancy rights, the entire expenditure was revenue in nature. The purchase of a new transformer does not have any apparent relation with lease or otherwise of the premises. Whether the transformer is installed in own building or leased premises is immaterial nor the ld. AR on behalf of the assessee placed any material before us as to how this expenditure on purchase/installation of transformer has any relation with lease of the premises. In any case, there is nothing to suggest that this expenditure has been incurred by way of repairs or renovation of any asset. Whether or not expenditure is on repairs, the following test was formulated by Shri Chagla C J. in the case of New Shorrock Spinning and Manufacturing Co. Ltd. v. CIT [1956] **30 ITR 338** (Bom),observed as follows:

"The simple test that must be constantly borne in mind is that as a result of the expenditure which is claimed as an expenditure for repairs what is really being done is to preserve and maintain an already existing asset. The object of the expenditure is not to bring a new asset into existence, nor is its object the obtaining of a new or fresh advantage. This can be the only definition of 'repairs' because it is only by reason of this definition of repairs that the expenditure is a revenue expenditure.

If the amount spent was for the purpose of bringing into existence a new asset or obtaining a new advantage, then obviously such an expenditure would not be an expenditure of a revenue nature but it would be a capital expenditure, and it is clear that the deduction which the Legislature has permitted under section 10(2)(v) is a deduction where the expenditure is a revenue expenditure and not a capital expenditure."

13.1 Hon'ble Apex Court in Balimal Naval Kishore (supra) in the context of 'current repairs' within the meaning of section 10(2)(v), approved the aforesaid test evolved by Chagla C. J., as the most appropriate one having regard to the context in which the said expression occurs. It has also been followed by a majority of the High Courts in India.

13.2 Under section 37, a particular item of expenditure may be deductible if the expenditure does not fall within sections 30 to 36 ; that it should have been incurred in the accounting year; that it should be in respect of a business carried on by the assessee; that it should not be on personal account of the assessee; that it should not be in the nature of capital expenditure and that it should be spent wholly and exclusively for business. Whether expenditure is "revenue" or "capital in nature" would depend upon several factors, namely, nature of the expenditure, nature of business activity etc..In the instant case, the assessee claimed that the premises in which the expenditure in question had been incurred by the assessee was not in their ownership but taken on lease .. Here we may refer to following explanation 1 to sec.32(1) of the Act, inserted by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986, w.e.f. 1st April, 1988:

Explanation 1. : Where the business or profession of the assessee is carried on in a building not owned by him but in respect of which the assessee holds a

lease or other right of occupancy and any capital expenditure is incurred by the assessee for the purposes of the business or profession on the construction of any structure or doing of any work in or in relation to, and by way of renovation or extension of, or improvement to, the building, then, the provisions of this clause shall apply as if the said structure or work is a building owned by the assessee.

13.3 Prior to insertion of aforesaid expln. 1 w.e.f. 1st April, 1988 the Act contained provisions of Section 32(1A) to the same effect that were inserted by the Taxation Laws (Amendment) Act, 1970 w.e.f. 1st April, 1971 and omitted by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986 w.e.f. 1st April, 1988. Thus, the fact that premises are leasehold premises is not of much significance. In Rajdev Singh & Co. v. CIT,181 ITR 38(Del.) ,Hon'ble Delhi High Court have clearly declared that the earlier judgment in the case of Instalment Supply (P) Ltd. v. CIT [1984] 149 ITR 52 (Delhi), is not applicable after insertion of the provisions of Section 32(1A) which provisions are now in the Act by way of Expln. 1 to Section 32(1). Hon'ble High Court, applying the provisions of section 32(1A) held that any expenditure in the nature of a capital expenditure even if incurred by a tenant on the leased premises will amount to capital expenditure. There is, thus, no doubt that for the purpose of determination of the nature of expenditure incurred by the assessee, the fact that the premises are leasehold must be ignored and it should be assumed that the premises belonged to the assessee. At any rate, the ratio of the judgment of Hon'ble Delhi High Court in the case of Rajdev Singh & Co. is quite clear. Fact of the matter is that for the purpose of determination of the nature of expenditure under consideration before us, the fact that the premises are lease-hold must be ignored and it should be assumed that the premises belonged to the assessee. In the facts and circumstances of the case, expenditure incurred towards purchase of altogether new transformer in a newly leased premises is definitely capital expenditure, the expenditure having brought a new advantage and enduring benefit to the assessee. In Udaipur Distillary Company Ltd(supra), the issue did not relate ro any expenditure on repairs while in Hindustan Times(supra) it related to laying of cables which were property of the NDMC. Such are not the facts and circumstances in the instant case. We have gone

through these two decisions and find that facts and circumstances in these two decisions are totally different from the facts and circumstances in the instant case before us. In Ullal Dinkar Rao v. N. Ratna Bai, AIR 1958 77 Mys, the Hon'ble Mysore High Court was considering the expression "repair". In that case the view taken by the court was that "when we think of repair of the original equipment as such is to set right the old equipment and it is restored back to its original utility, The repair does not contemplate large scale alteration of the existing structure or equipment as the case may be." Similar is the view expressed by the decision of the Allahabad Court in Girdhari Dass and Sons v. CIT [1976] **105 ITR 339,** wherein **t**heir Lordships have expressed that repair should be current repairs and not the total replacement of the whole equipment. If the whole equipment is totally replaced, one cannot say that there is a current repair. The provisions of section 31 as well as sec. 37 of the Act allow claims for expenditure which are not of capital nature. In view of the foregoing, especially when the ld. AR did not place any material before us ,controverting the aforesaid findings of the ld. CIT(A) so as to enable us to take a different view in the matter, we are not inclined to interfere with the findings of the ld. CIT(A),treating the amount incurred on purchase of new transformer as capital expenditure. Therefore, ground no.2 in the appeal of the assessee is dismissed.

14.. Ground no.3 in the appeal of the assessee relates to disallowance of ₹`3,37,500/- on account of liability in the name of Pravin Anand and partners towards reimbursement of a capital account transaction of an erstwhile partner. Since the assessee followed cash system of accounting, the AO asked the reasons for outstanding liability of `₹3,37,500/- in the name of related concern M/s Pravin Anand and partners. In the absence of any details, the AO was of the opinion that the amount was not allowable under cash system of accounting and added back the amount.

15. On appeal, the ld. CIT(A) upheld the findings of the AO, holding as under:-

"8.1 Assessee has also relied on letter dated 24.12.2010. In fact Assessing Officer has discussed in the relevant paragraph the above reply dated 24.12.2010. In the instant case Assessing Officer has got a strong case because it is a finding of the fact the assessee is following cash system of accounting, so, question of having liabilities should not arise. The reply filed vide letter dated 24.12.2010 was considered by Assessing Officer and I am in agreement with the Assessing Officer in this regard that in cash system of accounting there is no scope of showing liability. So, action of Assessing Officer making addition of `3,37,500/- is found to be fully justified. Ground No.8 of the appellant is dismissed."

16. The assessee is now in appeal before us against the aforesaid findings of the ld. CIT(A).The ld. AR on behalf of the assessee contended that the amount was not debited to profit and loss account nor was claimed in the computation of income, as the liability was shown in the balance sheet. While reiterating their submissions before the ld. CIT(A) that one of the partners retired from the assessee firm as well as firm Pravin Anand & Partners and the latter firm made payment to the said partner and therefore, the assessee had to adjust the capital account of the said partner in its books. Accordingly, capital account of the said partner stood reduced and amount was payable to Pravin Anand & Partners. In these circumstances, there was no justification for disallowance of the amount, the ld. AR argued. On the other hand, the ld. DR supported the order of the ld. CIT(A).

17. We have heard both the parties and gone through the facts of the case. As is apparent from a mere glance on the impugned order , neither the AO nor the ld. CIT(A) recorded any findings on the submissions of the assessee that the amount was not claimed in the profit and loss account and that one of the partners having retired from the assessee firm as well as firm Pravin Anand & Partners and the latter firm having made payment to the said partner, the assessee was required to adjust the capital account of the said partner in its books. In net effect, the transaction represented reduction of capital account of the partner . In the absence of any findings on these statements made on behalf

of the assessee, either by the AO or by the ld. CIT(A), we consider it fair and appropriate to set aside the order of the ld. CIT(A) and restore the matter to his file for readjudicating the issue with the directions to record his findings on the aforesaid submissions made by the assessee before him and thereafter, pass appropriate orders in accordance with law, after allowing sufficient opportunity to both the parties. Needless to say that while redeciding the appeal, the ld. CIT(A) shall pass a speaking order, keeping in mind, inter alia, the mandate of provisions of sec. 250(6) of the Act. With these directions, ground no.3 in the appeal of the assessee is disposed of.

18. No additional ground having been raised before us in terms of residuary ground no.3 in the appeal of the Revenue while ground no.4 in the appeal of the assessee being general in nature, does not require any adjudication, therefore, these grounds are dismissed.

19. No other plea or argument was made before us.

20. In the result, appeal of the Revenue is dismissed while that of the assessee is partly allowed for statistical purposes.

Order pronounced in open Court

Sd/-	Sd/-
(HARI OM MARATHA)	(A.N. PAHUJA)
(Judicial Member)	(Accountant Member)

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Copy of the Order forwarded to:-

1 Assessee
2. A.C.I.T.,Circle 37(1), Room no.401, N-Block, Vikas Bhawan, I.P. Estate,New Delhi.
3. CIT Concerned
4.CIT(A)-XXI, New Delhi
5. DR, ITAT,'A' Bench, New Delhi
6. Guard File.

BY ORDER,
Deputy/Asstt.Registrar