

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

BEFORE SHRI H.S. SIDHU, JUDICIAL MEMBER and  
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER

I.T.A. No. 719/Hyd/2011  
(Assessment year : 2006-07)

I.T.A. No. 720/Hyd/2011  
(Assessment year : 2007-08)

DCIT  
Circle-1(1)  
Hyderabad  
**Appellant**

**Vs.** M/s. Aditya Music (I)  
Ltd., Hyderabad  
PAN: AACCA 7302 A  
**Respondent**

Appellant by: Smt. M. Mythili Rani  
Respondent by: Shri M.V. Joshi

Date of hearing: 29.11.2011  
Date of pronouncement: 08.12.2011

**ORDER**

**PER BENCH**

The above two appeals by the Revenue are directed against the different orders of the CIT(A)-II, Hyderabad dated 2.3.2011 for assessment years 2006-07 and 2007-08, respectively. Since both the appeals belong to one assessee and common issues are involved, the above appeals were heard together and are being disposed of by this common order for the sake of convenience.

2. The following common grounds, but for the amounts, are raised by the Revenue and the grounds raised for A.Y. 2006-07 as under:

1. *On the facts and circumstances of the case, the learned CIT(A) ought not have deleted the addition of Rs. 4,49,95,728 representing expenses for acquisition of rights.*

2. *The learned CIT(A) ought to have appreciate the fact that the provisions of sec. 32 amended by F.A. No. 2) Act, 1988 w.e.f. 1.4.1999 where the expenditure incurred on acquisition of ownership in intangible assets like, know-how, patents, copy rights, trademarks, licences etc., which are acquired on after 1.4.1998 are deemed to be in the nature of capital expenditure on which depreciation is allowable.*

3. *The learned CIT(A) ought not have deleted the addition of Rs. 4,49,95,728 by accepting the contention of the assessee that it had exploited the copy rights for a short period and that it cannot be treated as enduring advantage.*

4. *The learned CIT(A) ought to have accepted that the expenditure incurred of Rs. 4,49,95,728 is capital in nature for the acquisition of copy rights is nothing but brining an asset or advantage into existence which has the potential of being enjoyed for a long time.*

5. *The learned CIT(A) ought to have noticed that the appellate orders for the assessment years 2003-04 to 2005-06 have not reached the finality as the department appeals are pending before the Hon'ble High Court of A.P.*

3. Facts of the case in brief are that the assessee-company is a manufacturer and seller of pre-recorded audio cassettes and CDs. In Profit and Loss A/c. for the years under consideration, the assessee-company claimed the expenditure of copyrights used for manufacturing at Rs. 4,49,95,728 for A.Y. 2006-07 and Rs. 6,34,20,231 for A.Y. 2007-08 as revenue expenditure. The Assessing Officer completed the assessment by making addition of the above expenditure treating it as capital expenditure and allowed depreciation on the same. During the course of appellate proceedings, the assessee furnished written submission in which the assessee stated that the said expenditure is revenue expenditure whereas the Assessing Officer has considered the same as payment for acquisition of capital asset in the nature of intangible assets on which the Assessing Officer allowed depreciation. Before the CIT(A) the assessee submitted that the ITAT Hyderabad had allowed the said expenditure in its own case for A.Y. 2003-04 and in the case of Subhash Gupta for the A.Y. 2002-03 in ITA No. 43/Hyd/07 and 1196/Hyd/05 order dated 31.7.2007. ON the basis of the above Tribunal order, the CIT(A)-1 Hyderabad had allowed on similar facts in the assessee's own case for the A.Ys. 2004-05 & 2005-06 in ITA Nos. 2004-05 and 2005-06 in ITA Nos. 0763/CC-4/Hyd/CIT(A)-1/06-07 dated 5.11.2007 and 0525/CC-4/Hyd/CIT(A)-I/07-08 dated 20.8.2008. The assessee

placed reliance on the decisions of the ITAT in the following cases:

- i. *TIPS Cassettes & Records Co. vs. ACIT (76 TTJ 396), ITAT, Mumbai.*
- ii. *Super Cassettes Industries (P) Ltd. vs. CIT (41 ITD 530), ITAT, Delhi.*
- iii. *M. Subramanian vs. DCIT (42 ITD 676), ITAT, Madras.*
- iv. *Gramophone Co. of India Ltd. vs. DCIT (46 ITD 145), ITAT, Calcutta.*
- v. *Venus Records & Tapes Mfg. Co. vs. DCIT, Mumbai.*

4. The CIT(A) after considering the case law carefully and the precedents, directed the Assessing Officer to treat the amounts of Rs. 4,49,95,728 for A.Y. 2006-07 and Rs. 6,34,20,231 for A.Y. 2007-08 as revenue expenditure and withdraw the depreciation granted at Rs. 48,60,167 for A.Y. 2006-07 and Rs. 72,22,387 for A.Y. 2007-08.

5. We have heard both the parties and also perused the material available on record. We have also carefully gone through the case-law cited by the learned counsel for the assessee before the CIT(A). We find this Tribunal vide its order dated 4.12.2008 in I.T.A. No. 1416/Hyd/2008 in the case of M/s. Aditya Music (India) P. Ltd. and ITA No. 1417/Hyd/2008 in the case of M/s. Supreme Recording Co. P. Ltd., under similar facts and circumstances, upheld the view of the CIT(A) in treating the expenditure involved as revenue expenditure and dismissed the Revenue appeals. Accordingly, we do not find any infirmity in the orders of the CIT(A) and direct the

Assessing Officer to treat the expenditure as revenue expenditure and withdraw the depreciation allowed in both the years.

6. In the result, both the appeals of the Revenue are dismissed.

Order pronounced in the open court on  
8<sup>th</sup> December, 2011.

**Sd/-**  
**(CHANDRA POOJARI)**  
**ACCOUNTANT MEMBER**

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

Hyderabad, dated the 8<sup>th</sup> December, 2011

Copy forwarded to:

1. Dy. Commissioner of Income-tax, Circle-1(1), 4<sup>th</sup> Floor, Aayakar Bhavan, Basheerbagh, Hyderabad-4.
2. M/s. Aditya Music (India) Ltd., 3-5-1091/7, Venkateswara Colony, Narayanaguda, Hyderabad.
3. The CIT(A)-II, Hyderabad.
4. The CIT-I, Hyderabad.
5. The DR – B Bench, ITAT, Hyderabad

tpra0