

IN THE INCOME TAX APPELLATE TRIBUNAL  
PUNE BENCH “A”, PUNE – VIRTUAL COURT

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND  
SHRI PARTHA SARATHI CHAUDHURY, JUDICIAL MEMBER

ITA No.1951/PUN/2019

निर्धारण वर्ष / Assessment Year : 1998-1999

Foseco India Limited, Gat Nos. 922 & 923, Sanaswadi, Taluka Shirur, Dist. Pune – 412 208 PAN : AAACF1049H	Vs.	DCIT, Circle – 1(2), Pune
Appellant		Respondent

Assessee by Shri Prashant Jaiswal

Revenue by Shri S.P. Walimbe

Date of hearing 03-07-2020

Date of pronouncement 06-07-2020

आदेश / ORDER

**PER R.S.SYAL, VP :**

This appeal by the assessee arises out of the order passed by the CIT(A)-13, Pune on 18-10-2019 in relation to the assessment year 1998-99.

2. The only issue raised herein is against not granting deduction of Rs.2.86 crore towards payment on account of Voluntary Retirement Scheme (VRS) relating to employees of its Calcutta unit.

3. Succinctly, the facts of the case are that the assessee is a company engaged in the business of manufacture and sale of foundry fluxes, foundry chemicals and profax. The assessee filed the return declaring total income at Rs.6,10,08,690/-. The Assessing Officer, in the assessment completed u/s.143(3), did not allow deduction of Rs.2,86,86,055/- incurred on payment of VRS by treating the same as a capital expenditure. The ld. first appellate authority countenanced the view of the Assessing Officer. Aggrieved thereby, the assessee has approached the Tribunal.

4. We have heard both the sides through Virtual Court and gone through the relevant material on record. It is undisputed that the assessee paid the above sum towards VRS of certain employees of Calcutta unit. It is noticed that similar issue came up for consideration before the Tribunal in assessee's own case for the immediately succeeding assessment year. Vide order dated 26-03-2010 (ITA No.4667/M/2005), the Tribunal has decided it in favour of the assessee. The Revenue carried the matter before the Hon'ble Bombay High Court against the said order of the Tribunal. Vide judgment dated 08-03-2013, the Hon'ble Bombay High Court

dismissed the appeal of the Revenue. A copy of the judgment is available on record.

5. It is seen that section 35DDA has been inserted by the Finance Act, 2001 providing for amortization of expenditure incurred on Voluntary Retirement Scheme. The assessment year under consideration is prior to the insertion of section 35DDA and hence cannot rule the position. The instant year would be governed by the earlier provisions.

6. The ld. DR fairly admitted that the facts and circumstances of the case for the year under consideration are similar to those of the assessment year 1999-2000, which has been considered and decided by the Hon'ble Bombay High Court. Respectfully following the same, we reverse the impugned order on this score and direct to allow the deduction in the year under consideration.

7. In the result, the appeal is allowed.

Order pronounced in the open Court on 06<sup>th</sup> July, 2020.

Sd/-  
**(PARTHA SARATHI CHAUDHURY)**  
**JUDICIAL MEMBER**

Sd/-  
**(R.S.SYAL)**  
**VICE PRESIDENT**

पुणे Pune; दिनांक Dated : 06<sup>th</sup> July, 2020

*Satish*

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to:**

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. The CIT(A)-13, Pune
4. The Pr.CIT-1, Pune
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे  
“ए” / DR ‘A’, ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary  
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	03-07-2020	Sr.PS
2.	Draft placed before author	03-07-2020	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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