

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“A” BENCH: BANGALORE**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT  
AND  
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER

ITA Nos.2219 to 2221/Bang/2024
Assessment years: 2017-18 to 2019-20

Karnataka Power Transmission Corporation Ltd., 7 <sup>th</sup> Floor, Cauvery Bhavan, Kempegowda Road, Bengaluru – 560 009. <b>PAN: AABCK 7281M</b>	Vs.	The Assistant Commissioner of Income Tax, Circle 4(3)(1), [erstwhile LTU Circle 1], Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri A.C. Raju, CA
Respondent by	:	Shri Netrapal M.S., Addl.CIT (DR)

Date of hearing	:	26.12.2024
Date of Pronouncement	:	08.01.2025

**ORDER**

*Per Prashant Maharishi, Vice President*

1. There are three appeals of the same assessee, argued together by the parties, involving interconnected issues, therefore, at the request of the parties heard and disposed of by this common order.
2. ITA No.2219/Bang/2024 is filed by Karnataka Power Transmission Corporation Ltd. (the assessee/appellant) for the assessment year

2017-18 against the appellate order passed by the National Faceless Appeal Centre, Delhi (NFAC) [ld. CIT(A)] dated 23.09.2024 wherein appeal filed by assessee against the assessment order passed u/s. 143(3) of the Income-tax Act, 1961 [the Act] dated 11.12.2019 by the ACIT, LTU, Circle 1, Bangalore [ld. AO] was partly allowed.

3. The assessee has filed revised Form 36 raising the following 2 effective grounds of appeal: -

“2. The Learned Commissioner of Income Tax (Appeals) erred in holding that the expenditure towards crop & tree cut compensation paid to farmers/landowners amounting to Rs.2,83,27,459 is not an expenditure incurred wholly and exclusively for the purpose of business.

3. The Learned Commissioner of Income Tax (Appeals) erred in holding that the provision for obsolescence amounting to Rs.1,80,03,210 is a provision unascertained is correctly added to the computation under MAT provisions.”

4. The brief facts show that assessee is a power transmission company and filed its return of income on 31.10.2017 at a total income of Rs.630,23,34,650 which was selected for scrutiny and necessary notices u/s. 143(2) and 142(1) of the Act were issued on 8.8.2018.
5. During assessment proceedings, on perusal of the return, it was found that the assessee has claimed an amount of Rs. Rs.2,83,27,459 as compensation paid for cutting crop & trees after commissioning of the asset. Assessee was asked to furnish the

details. Assessee submitted that this expenditure is compensation paid to the landowners for cutting of crops and trees to facilitate setting up of laying of transmission lines along the land that comes across. Assessee stated that it is a revenue expenditure incurred wholly and exclusively for the purpose of business. The AO asked the assessee to furnish the details of the expenditure and prove its genuineness. Assessee failed to do so. AO further noted that assessee in Form 3CD itself has qualified it as capital expenditure and therefore the AO disallowed the same.

6. The AO also found that the assessee has debited Rs.10,06,29,117 under miscellaneous losses and write offs, out of which Rs.7,08,22,810 is on account of provision for obsolescence of stores. Assessee explained that assessee has reduced the value of scrap material amounting to Rs.5,28,19,679 and charged the same as revenue expenditure. According to Accounting Standard AS-29 it has claimed loss on impairment of assets. Assessee also provided break-up of Rs.7,08,22,810. The ld. AO after verification of the same has disallowed Rs.1,80,03,210 on account of loss on obsolescence, as the same was also disallowed by assessee. However, as the assessee has not added back the same amount for the purposes of MAT computation, he made an addition of Rs.1,80,03,210 under MAT provisions.
7. Consequently, assessment order was passed computing total income of assessee as per normal computation at

Rs.779,23,88,670 and Book profit u/s. 115JB of the Act at Rs.1916,88,85,793.

8. Assessee preferred appeal before the Id. CIT(A), who confirmed the disallowance of Rs.283,27,459 being amount of expenditure towards crop and tree cut compensation paid to farmers and land owners under the normal computation of total income and further confirming while computing the MAT the addition of Rs.180,03,210 as provision for obsolescence holding that the above sum is a provision for obsolescence required to be added under MAT. Thus, the assessee is in appeal before us on the above two issues.
9. The Id. AR before us submitted a paperbook containing 15 pages, out of which 8 pages are written submissions and further relied on 5 different judicial precedents. The Id. AR submitted that the expenditure of Rs.283,27,459 is allowable to the assessee because same is incurred wholly & exclusively for the purposes of business. He further submitted that with respect to 4 major work divisions, the above amount was paid, and he submitted the break-up of the same. On the issue of addition of Rs.1,80,03,210 with respect to provision for obsolescence, he submitted that it is not only the provision, but it is a write off of the inventories which has been debited to the profit & loss account and is reduced from the assets in the balance sheet. Therefore, it is written off.

Accordingly, the same is not required to be added to the book profit.

10. The Id. DR vehemently submitted that now expenditure details of Rs.2,83,27,459 provided by the assessee at page 9-15 of the PB were not at all submitted before the Id. lower authorities and in absence of such details, the addition has been made. Therefore, there is no infirmity in the order of the Id. lower authorities. With respect to the addition of Rs. Rs.1,80,03,210 as provision for obsolescence of inventory, he submits that assessee himself has stated before the Id. lower authorities that the above sum is merely a provision and therefore same is required to be added back to the computation of book profit.
11. We have carefully considered the rival contentions and perused the orders of Id. lower authorities. Ground No.2 is with respect to expenditure towards crop and tree cut compensation paid to various farmers and landowners amounting to Rs.2,83,27,459 which was disallowed by the Id. AO and confirmed by the Id. lower authorities stating that as the assessee has failed to provide any details and further same is capital expenditure. On perusal of the order of the Id. CIT(A), we find that assessee has given details of these expenditure which is reproduced at para 8.2 of the appellate order as written submission of assessee. Assessee has submitted 4 annexures comprising of these details. The fact shows that assessee has paid for Mysore Division a sum of

Rs.9,29,767, for Davangere Division Rs.85,51,574, for South Bangalore Division Rs.1,85,67,899 and North Bangalore Division Rs.2,78,219; totalling to Rs.2,83,27,459. From details of this expenditure, we find that all this expenditure has arisen because of the court orders. The assessee has given an annexure where all these expenditures are stated to be tree cut compensation paid in pursuance of the order of court such as District & Session Court, etc. In some of the cases, the amount of DD is issued in favour of the Court itself. Similarly, for Davangere Division, in tabulation of expenditure, assessee has given reference to court case no., with respect to South Bangalore Division in the details given by assessee, assessee has paid substantial amount to Govt. of Karnataka for forest afforestation charges and also to one company, ETA Engineers Bangalore Pvt. Ltd. With respect to North Bangalore Division, the assessee has paid compensation to 3 private individuals.

12. Before the ld. lower authorities, in the absence of proper details, the genuineness of this expenditure was also questioned and disallowed. On verification of the details produced before us, though there is a reference to court orders in some of the cases, the nature of compensation paid to individual parties is not available. Further, in some of the compensation paid to private parties, we do not find any reference for any court order also. Therefore, it is apparent that neither the assessee has produced the complete details before the ld. lower authorities, nor the ld. lower

authorities have verified and investigated this compensation paid by assessee with respect to genuineness of the payment. Therefore, in view of the above facts, we restore ground No.2 of the appeal back to the file of Id. AO with a direction to the assessee to provide the complete details of tree cut compensation paid by the assessee to the respective persons and also to produce the copies of the relevant court order to prove the genuineness of the expenditure. Similarly, when the compensation is paid to private parties, the assessee is directed to produce evidence based on which such compensation is derived and how the same is paid. The Id. AO on furnishing this information by the assessee, may examine the same and decide the allowability of such expenditure. Accordingly ground No.2 of the appeal of the assessee is allowed with the above directions.

13. With respect to ground No.3 regarding provision for obsolescence of Rs. Rs.1,80,03,210 added by the Id. AO to the computation of book profit u/s. 115JB of the Act, it clearly shows that assessee has made addition of Rs. Rs.1,80,03,210 on account of loss of obsolescence under the normal provisions for computation of income. This sum has not been added back by the assessee while computing book profit u/s. 115JB of the Act. When the assessee was questioned, the Id. AO noted that it is simply a mistake on the part of assessee. During appeal, assessee submitted that the same is on actual write off inventory by debiting the profit & loss account and reducing the carrying value of the inventory in the

balance sheet. It is also a fact that the assessee has not claimed it as an expenditure or allowance under the normal computation of total income. As the complete facts are not available as neither assessee has produced the annual accounts nor such examination has been carried out by the Id. lower authorities, we are not in a position to say that according to Explanation 1(i) to section 115JB of the Act, whether assessee has provided this sum as an amount set aside as provision for diminution in the value of any asset or not. The Id. lower authorities have gone on the presumption that it is covered under the above provisions. But the assessee submitted before us that it is not a provision for diminution in the value of any asset, but it is actual write off. In view of this, we restore ground No.3 of the appeal back to the file of the Id. AO with a direction to the assessee to show that the above amount is not a provision, but an actual write off. The Id. AO may examine the same and if it is found that it is actual write off, same is not hit by provisions of Explanation 1(i) to section 115JB of the Act and therefore is not required to be added back to the book profit. The Id. AO after examination of the same is directed to decide the issue afresh. Accordingly, ground No.3 of the appeal is allowed with the above directions.

14. In the result, appeal of the assessee is allowed for statistical purposes.

15. **ITA No.2220/Bang/2024** is filed by assessee for AY 2018-19 with respect to taxability arising on capital gain under RFCTLARR Act amounting to Rs.11,00,24,125.
16. Briefly stated the facts show that assessee filed its return of income on 6.10.2018 declaring total income of Rs.563,34,43,820 which was selected for complete scrutiny. Assessment was framed u/s. 143(3) r.w.s. 144(3A) & (3B) on 12.4.2021. The total income of the assessee was computed at same total income as per return, however, a sum of Rs.11,00,24,105 was found to be income chargeable to tax u/s. 112 of the Act. This is clear from the computation of total income as per computation sheet along with assessment order dated 12.4.2021. The assessee filed appeal before the Id. CIT(A), who passed order on 23.9.2024. The claim of the assessee is that during the year it has received compensation of Rs.11,00,24,105 which was wrongly disclosed as capital gain and paid tax thereon @ 20%. This is under mistaken belief as tax deduction of source at Rs.1,14,50,162 was also made therein. The assessee submitted that the above sum is not chargeable to tax in view of the provisions of section 96 of the relevant Act and the Circular of CBDT.
17. The Id. CIT(A) after considering the explanation of assessee found that nowhere the issue raised in the appeal has been discussed by the AO and therefore the appeal of assessee was found to be invalid and dismissed.

18. The Id. AR filed a paperbook containing 36 pages and submitted with copies of compensation award and claimed that as according to the respective Act, section 96 provides that such compensation is neither chargeable to tax under the Income Tax Act or stamp duty, etc., and for which relevant circulars have been issued and therefore such sum could not have been taxed by the AO. It was found that though the assessee has offered the above sum as income, but later it was found that such income is not chargeable to tax, the Id. AO should himself have granted the benefit to the assessee. It was submitted that Id. CIT(A) is also incorrect in dismissing the appeal of assessee, when the above amount was shown to be not chargeable to tax.
19. The Id. DR stated that when the assessee has offered the same amount as taxable income, the Id. CIT(A) is correct in dismissing the appeal of assessee.
20. We have carefully considered the rival contentions and perused the orders of Id. lower authorities. No doubt, in this case the assessee has offered the amount of compensation received u/s. 96 of RFCTLARR Act as capital gain. The above amount has also been taxed by the Id. AO in the tax computation sheet. As the assessee found that it is an error on the part of the assessee as well as on the part of the AO in offering the above amount and taxing the above amount respectively, despite statutory provisions exempting it. The assessee filed an appeal before the Id. CIT(A).

According to the provisions of section 246A of the Act, if any assessee is aggrieved by a specific order, he has the right to file an appeal before Id. CIT(A). In the present case, the assessee is aggrieved as in the tax computation sheet, the Id. AO has charged to tax the income of Rs. Rs.11,00,24,125 and levied a tax of Rs.2,20,04,821 under the provisions of section 112 of the Act. Therefore, no doubt the assessee is aggrieved with the assessment order. The Id. CIT(A) can also investigate fresh claims made before him. As the claim of assessee is that above sum is exempt u/s. 96 of RFCTLARR Act, the Id. CIT(A) is duty bound to look into the provisions and then decide whether income is chargeable to tax or not. Therefore, we do not approve of the action of Id. CIT(A) in dismissing the appeal of the assessee stating that the issue does not arise as per the assessment order. If the view of Id. CIT(A) is taken to be correct, then in that case, no fresh claims can ever be raised before the appellate authorities. Such is not the provisions of the law. Accordingly, we restore the appeal of the assessee to the file of the Id. CIT(A) to decide the issue afresh, whether sum of Rs.11,00,24,125 received by assessee as compensation is chargeable to tax or not. The assessee is directed to produce the relevant information before him and the Id. CIT(A) after granting opportunity of hearing to the assessee, is directed to decide the issue afresh in accordance with the law.

21. Accordingly, the appeal of the assessee, specifically ground Nos. 2 & 3 of the appeal is partly allowed for statistical purposes.

22. **ITA No.2221/Bang/2024** is filed by the assessee for AY 2019-20 wherein the only issue raised by assessee is, whether interest paid by assessee to claims for delayed payments under the order of courts to obtain clear title of the land, whether such payments is directly attributable to expenditure for making the asset ready, is revenue expenditure or capital expenditure?
23. The ld. CIT(A) has considered this issue wherein a sum of Rs.2,64,80,347 paid by assessee as interest on delayed compensation to farmers for acquisition of land as per court orders claimed it to be revenue expenditure, but treated by the ld. AO as capital expenditure and the ld. CIT(A) confirmed that the amount is an expenditure of capital nature.
24. The assessee aggrieved with the appellate order dated 23.9.2024 preferred this appeal. The ld. AR submitted a paperbook containing 63 pages. The ld. AR referred to the written submissions dated 24.12.2024 and relied upon the order of the court on enhanced compensation, details of payment made to farmers pursuant to that court orders and interest payment of Rs.208.70 lakhs to be paid to Karnataka Industrial Area Development board for delayed payment. The ld. AR has also relied upon several judicial precedents as well as assessment order u/s. 143(3) for AY 2017-18 dated 11.12.2019 placed at page 56-63 of PB to show that similar issues arose in that year, on examination, ld. AO accepted the claim of assessee.

25. The Id. DR vehemently supported the orders of the lower authorities.
26. We have carefully considered the rival contentions and perused the orders of Id. lower authorities. The facts of the case show that the assessee has acquired the land for the purposes of business by paying compensation to various parties. There was a claim of enhanced compensation also. After the settlement of compensation by enhancing it the Honourable Karnataka High Court has also awarded interest on enhanced compensation vide order dated 9.4.2018. The enhanced compensation was awarded by 10% along with statutory benefits. The claim of interest was also decided by the Court of Sr. Civil Judge, Bellary vide award dated 29.11.2018 by providing interest u/s. 28 of the Land Acquisition Act as per para-No.5. Accordingly, the interest in delay in payment of sale consideration of Rs.208,70,245 was determined for the period 1.3.1988 to 26.10.2004. This interest was paid on 16.2.2019 and therefore claimed by the assessee as revenue expenditure. The assessee's claim is that an identical issue arose in the case of assessee for AY 2017-18 wherein the issue on interest on delayed payment was examined during the scrutiny proceedings completed by the AO u/s. 143(3) and no addition was made by the Id. AO. Therefore, the Revenue has taken a stand that the same is allowable as revenue expenditure to the assessee. It was also the claim that once the Revenue has accepted the stand and no addition is made, unless there is a

change in the facts and circumstances of the case in subsequent years, on the principle of consistency, the Revenue should not have changed its stand and made an addition/disallowance in the hands of the assessee. The amount of interest paid by the assessee is also on account of acquisition of land. However, the liability of interest, whether capital or revenue, is required to be decided according to the Income Tax Act wherein the provisions are according to section 37(1) of the Act, wherein in one year such claim is accepted as revenue expenditure, the Revenue could not have taken a different stand for this year that the same is capital expenditure. Therefore, we direct the Id. AO to verify whether in AY 2017-18 identical issues arose or not, because from the assessment order produced before us, there is no mention about such issue because probably no addition or adverse view has been taken. It is the claim of assessee that there was similar issue, however, no evidence of any query raised during the assessment proceedings or the annual accounts for that year, whether such interest expenditure is claimed as revenue expenditure and allowed, is produced before us. Further, it is also an established fact that interest can be capitalized to the asset only till the period for which it has been put to use. Here, the asset has already been put to use or not, has also not been ascertained. Therefore, we restore the whole issue back to the file of the Id. AO, with a direction to the assessee to first show that identical issue has been examined, and decision has been taken in favour of assessee on

similar facts and further whether the amount of interest expenditure is incurred for the asset has already been put to use or not? The Id. AO shall examine the same and after giving an opportunity of hearing to the assessee, decide the issue afresh. Accordingly, ground nos. 2 & 3 of the appeal is restored back to the file of Id. AO.

27. In the result, the appeal of the assessee for AY 2019-20 is allowed for statistical purposes.
28. Thus, the appeals of the assessee for AY 2017-18 & 2019-20 are allowed for statistical purposes and for AY 2018-19 is partly allowed for statistical purposes.

Pronounced in the open court on this 08<sup>th</sup> day of January, 2025.

Sd/-

Sd/-

( SOUNDARARAJAN K.)  
JUDICIAL MEMBER

( PRASHANT MAHARISHI )  
VICE PRESIDENT

Bangalore,

Dated, the 08<sup>th</sup> January, 2025.

*/Desai S Murthy /*

Copy to:

1. Appellant      2. Respondent      3. Pr. CIT 4. CIT(A)  
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.