

**IN THE HIGH COURT OF DELHI AT NEW DELHI**

**02.12.2009**

**Present: Ms. Rashmi Chopra, Advocate for the Appellant.  
Mr. Ajay Vohra, Advocate with Ms. Kavita Jha and Ms. Akansha Aggarwal,  
Advocates for the Respondent.**

**ITA No. 1220/2009**

**THE COMMISSIONER OF INCOME TAX -III**

**Vs.**

**SAMTEL INDIA LTD**

**In this appeal we are concerned only with the disallowance of loan on cancellation of forward contracts in foreign currency in the sum of Rs.19,55,450/- by the Assessing Officer. The Commissioner of Income Tax (Appeal) [CIT (A)] confirmed this disallowance, however, the Income Tax Appellate Tribunal (ITAT) has reversed the decision holding that the assessee shall be allowed the said claim of loss. According to the assessee it had received foreign credit from the respective suppliers ranging from 90 days to 180 days which is technically known as usance credit. The payment under the letter of credit falls due for payment at the end of usance period as per the terms stipulated in the letter of credit. Keeping in view the possibility of foreign currency fluctuations, the assessee had entered into forward exchange contract with the purpose to hedge against enhancement of foreign currency liabilities incurred in relation to such import of raw materials and components and spare parts. The aforesaid loss of Rs.19,55,450/- was incurred from cancellation of such contracts.**

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**Learned counsel for the Appellant also does not dispute that such a loss would be admissible as deductions if it is incurred in the Revenue field. This was so held in the case of assessee itself in respect of the assessment year 2002-03 by this Court in ITA No.1120/2008. Order dated May 21, 2009 was passed in the said ITA preferred by the Revenue, dismissing the same and allowing the deduction of the aforesaid loss. The only dispute raised by learned**

counsel for the Revenue is that the CIT had given a categorical finding that the loss incurred could not be related to revenue account and without any discussion the Tribunal has reversed this finding. We find from the order of the CIT(A) that the contentions of the assessee to the effect that the assessee had received foreign credit from respective suppliers namely usance credit is not disputed nor it is disputed that the forward exchange contract was entered into by the assessee with the sole purpose to hedge against enhancement of foreign currency liabilities due to fluctuation in the foreign currency rates. Thus, these foreign exchange contracts wherein losses are suffered due to cancellation thereof in view of the payments to be made to the foreign suppliers, for which usance

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credit was taken. This would clearly be in the Revenue field. The Tribunal has taken into consideration these aspects as is clear from the following discussion:

4. We have considered the rival contentions and found from the record that in regard to import of raw-materials and components and spare parts, the assessee company has received foreign credits from the respective suppliers. The payment under the letter of credit arrangement called due for payment at the end of usance period as mentioned in the letter of credit. As the foreign currency rate was subject to fluctuation, the assessee company entered into forward exchange contract to hedge against enhancement of foreign currency liability incurred in relation to such import of raw-material and components and spare parts. As the loss on account of foreign exchange fluctuation was in respect of contract entered into in respect of trading goods. We do not find any merit in the action of the lower authorities for disallowing assessee's claim of loss on account cancellation of forward exchange fluctuation. The issue is also covered by the decision of jurisdictional High Court in case of Woodward Governor 294 ITR 451.

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We are, therefore, of the opinion that no question of law arises.  
Dismissed.

**A.K. SIKRI, J.**

**SIDDHARTH MRIDUL, J.**  
**December 02, 2009**  
**dn**

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