

IN THE HIGH COURT OF DELHI AT NEW DELHI

03.11.2009

**Present: Ms. Sonia Mathur, Adv. for the Appellant.
Mr. Ajay Vohra, Ms. Kavita Jha and Mr. Sriram Krishna Adv. for
the Respondent.**

ITA No. 213/2007 TRIVENI ENGINEERING P.LTD

**The admitted facts are that the assessee herein was already in
the
business of manufacturing sugar. It had proposed to set up a
new unit at Khatoli
for the same business activity viz. to manufacture sugar.**

Certain expenditure

**were incurred on the construction of this new unit. Out of the
total expenditure**

**of Rs.9,42,40,035/- incurred by the assessee in the year, it had
apportioned a**

**sum of Rs.1,96,63,960/- to the Khatoli unit under different
heads. These**

**expenditure included amounts spent under the heads
insurance, administrative**

cost, trial runs and interest capitalized.

**Though, amount spent on trial run and interest paid on loan
was**

**capitalized in the books of accounts, during the assessment
proceedings the**

**assessee claimed the aforesaid expenditure as revenue
expenditure. The Assessing**

**Officer refused to do so as according to him the assessee had
itself capitalized**

the expenditure.

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**In appeal preferred by the assessee, CIT (Appeal) observed
that since the**

**assessee was already in the business of manufacturing sugar
and new unit was**

**added, the expenditure thereupon which is revenue in nature
can be claimed as**

**revenue expenditure and only that expenditure which was of
capital nature could
be capitalized.**

**Learned counsel for the Revenue submits that the CIT
(Appeal) did not go**

into the nature of expenditure. We find that this is not correct,

inasmuch as in
para 11 of the order passed by the CIT (Appeal) it is categorically mentioned that the trial run expenditure were incurred for testing the products.

Likewise, interest was paid on the loans taken and it cannot be disputed that in the normal course and in an ongoing business such interest paid on the loan taken is to be treated as revenue expenditure.

Second dispute is with regard to the fuel expenses. 20% of the fuel

expenses were disallowed by the Assessing Officer on the ground that the fuel

expenses claimed were excessive in nature. However, CIT (Appeal) as well as ITAT

held that such disallowance was not proper as the assessee had given

justification for this expense. It is a pure finding of fact.

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No question of law arises.

Dismissed.

A.K. SIKRI, J.

SIDDHARTH MRIDUL, J.

NOVEMBER 03, 2009

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