

License Fee paid for Long Term Right to use Telecommunication Spectrum is Capital Expenditure

FACT OF THE CASE

1. While considering the return filed by the assessee-Company, the Assessing Officer was of the view that by paying license fee the assessee got the right to use telecommunication spectrum and the license so acquired should be treated as intangible assets hence, the assessee was entitled to claim the depreciation on the same. However, the assessee claimed it as revenue expenditure.
2. On appeal, the Commissioner of Income Tax (Appeals) held that the annual payment made to an authority (Government) for the business operations of the assessee (businessman) is revenue in nature and allowable under section 37(1) of the Act.

DECISION OF THE CASE

1. Confirming the order of the first appellate authority, the Tribunal bench comprising ITAT President G S Pannu and Judicial Member Kul Bharat held that “the Ld.CIT (A) has given a finding on fact that the Revenue share fee was for the operation and usage of the right given under the license and had not result into creation of capital asset or advantage.
2. The Income Tax Appellate Tribunal (ITAT), Delhi bench has held that the license fee paid for the long term right to use telecommunication spectrum amount to capital expenditure under the Income Tax Act, 1961.