

## **HC allows deduction of Rs. 4 crore incurred by 'Idea' on an abandoned project**

**Summary – The High Court of Bombay in a recent case of Idea Cellular Ltd., (the Assessee) held that Where new cellular towers were constructed by cellular operator in addition to existing tower and no new business was set up, if project was abandoned, expenditure so far incurred would be allowed as business expenditure**

### **Facts**

- The assessee cellular company claimed a sum of Rs. 3.9 crore as revenue expenditure being the amount written off by the assessee in respect of expenses incurred on projects originally set up to put up cell sites, but later on abandoned.
- The Assessing Officer disallowed the expenses on the ground that it was spent by the assessee on sites bring into existence a new asset and new source of income, such expenditure was in the nature of capital expenditure.
- On appeal, the Commissioner (Appeals) agreed with the Assessing Officer.
- On further appeal, the Tribunal allowed the appeal of the assessee.
- On appeal to the High Court:

### **Held**

- The Tribunal applied the correct test. The Tribunal found that there is no dispute that the expenditure in question was incurred for the purpose of construction of a cellular tower, but the project was then abandoned due to the reason that the site was not suitable. The reasons assigned by the Assessing Officer and the first appellate authority are unsustainable, according to the Tribunal for the simple reason that cellular towers were being erected for the purpose of assessee's own business of providing cellular services to the customers. The towers are meant for the business of providing cellular services. It is by utilising these towers that such services are provided. It is not an independent source of income. It is only to make the cellular services provided more efficient, convenient and profitable. When the towers are not exclusively meant for leasing out to third parties for earning the revenue, but used for transmission of telephone signals of assessee's own cellular services, then, it cannot be said that the towers, which are used for the assessee's own business, are new source of income. A cellular tower can be a new independent source of income, if it is erected exclusively for leasing out to the other operators. However, on facts, this was not the position and the Tribunal, therefore, rightly concluded that in series of decisions, the High Courts and the Supreme Court of India has laid down the principle that if an expenditure is incurred for doing the business in a more convenient and profitable manner and has not resulted in bringing any new asset into existence, then, such expenditure is allowable business expenditure. In the present

case, no new business was set up, but towers in addition to which were already set up were proposed at site, which project was later on abandoned.