

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'SMC', NEW DELHI
BEFORE SHRI N. K. SAINI, ACCOUNTANT MEMBER**

ITA No. 4359/Del/2016 : Asstt. Year : 2012-13

DCIT, Circle-3(2), New Delhi	Vs	M/s ASAS Investments Pvt. Ltd., 2, Shanti Farms, Chandanhola, Mehrauli, New Delhi-110074
(APPELLANT)		(RESPONDENT)
PAN No. AAHCA1209P		

**Assessee by : Ms. Rano Jain, Adv. &
Sh. Ashish Goel, CA
Revenue by : Sh. Rajesh Kumar, Sr. DR**

Date of Hearing : 01.02.2017	Date of Pronouncement : 28.04.2017
-------------------------------------	---

ORDER

This is an appeal by the department against the order dated 18.05.2016 of ld. CIT (A)-I, New Delhi.

2. Following grounds have been raised in this appeal:

"1. On the facts and in the circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs.58,71,093/- made on account of disallowance of "Business Promotion Expenditure".

2. On the facts and in the circumstances of the case, the ld. CIT(A) has erred in deleting the addition of Rs.21.10.266/- made on account of disallowance of "Tour and Travel Expenses".

2. The appellant craves leave for reserving the right to amend, modify, alter, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal.”

3. From the aforesaid grounds, it is gathered that the grievance of the department relates to the deletion of additions made by the AO amounting to Rs.58,71,093/- out of business promotion expenses and Rs.21,10,266/- out of tour and travel expenses.

4. The facts related to this issue in brief are that the assessee filed its return of income on 29.09.2012 declaring loss of Rs.53,34,193/-. Later on, the case was selected for scrutiny. During the course of assessment proceedings, the AO noticed that the assessee had shown total receipt of Rs.4,65,54,493/- from business operations and interest income of Rs.14,20,521/-. Against those receipts, the assessee had claimed various expenses like employment benefit expenses, financial cost, depreciation and amortization expenses and other expenses which on examination were found incomplete and non-satisfactory. The AO observed that the business promotion expenses were not supported by vouchers/invoices and merely credit card statement was furnished by the assessee which related to the payment to Hotel Leela. The AO disallowed business

promotion expenses and tour & travel expenses amounting to Rs.58,71,093/- & Rs.21,10,266/- respectively and added the same to the income of the assessee.

5. Being aggrieved the assessee carried the matter to the Id. CIT (A) and submitted that the assessee was in the business of consultancy, therefore, Directors of the assessee company were required to hold meetings and conferences with the prospective clients at Conference Rooms or Chambers of Five Star Hotels which had facility of renting business meeting chambers at conference rooms on hourly/daily/monthly/annual basis. It was further submitted that the assessee had booked chambers or conference rooms to meet high profile national and international tycoons and their officials in order to solicit the business. It was further submitted that in the earlier year business promotion expenses of Rs.48,67,423/- were incurred out of which the AO disallowed Rs.12,00,000/- which had been deleted by the then Id. CIT(A). It was further submitted that all the bills and vouchers of the business promotion expenses were submitted to the AO, during the course of assessment proceedings and the justification for such expenses was also provided. It was also submitted that the books of accounts of the assessee were audited and there was no qualification

form Auditors that any element of unverifiable and unvouched expenses was claimed by the assessee. Therefore, all the expenses incurred by the Directors and the employees for the purpose of business of the assessee could not be said to be personal in nature. It was further submitted that in the subsequent year also the assessee incurred expenditure of Rs.1,50,55,576/- on business meeting and conferences. The AO made 5% ad-hoc disallowance out of those expenses and accepted the very nature of those expenses having been incurred for the purpose of business. It was also submitted that the assessee had shown receipt of Rs.4,65,54,493/- from the consultancy and financial services. Therefore, it cannot be said that the expenses incurred by the assessee on business promotion were for personal benefit of the Directors. It was stated that the AO had not brought any material on record to prove that those expenses were of personal nature. Therefore, there was no justification in making the disallowance of Rs.58,71,093/- by the AO.

6. As regards to the disallowance made by the AO out of travelling expenses, it was stated that during the course of assessment proceedings, the assessee explained to the AO that the Directors have to travel throughout India and

abroad for procurement of business order for auxiliary services and the detailed of travelling expenses incurred alongwith copy of bills of travelling were provided to the AO. It was further submitted that copies of invitation received from Lee 115 Ltd. (London), Global Resource Linking Ltd., SUFFOLK 9, England and Parkar Lloyd London regarding the business proposal of loan syndication and auxiliary services were furnished. It was stated that the Directors of the assessee company met with the officials and directors of the above mentioned three companies in London. Therefore, the expenses claimed on travelling were wholly and exclusively for business purposes. It was further submitted that in the assessment year 2011-12, the assessee incurred expenses of Rs.22,64,594/- which were accepted by the AO and for the assessment year 2013-14, the assessee incurred tour and travelling expenses of Rs.1.29 crore out of which the AO disallowed only 5% expenses on ad-hoc basis. Therefore, disallowance of Rs.21,10,266/- made by the AO from tour and travelling expenses was highly unjustified. Hence, the same may be deleted.

7. The Id. CIT(A) after considering the submissions of the assessee deleted the disallowance made by the AO.

8. Now the assessee is in appeal. The Id. Counsel for the assessee reiterated the submissions made before the authorities below and further submitted that the assessee was maintaining books of accounts in regular course of business which were duly audited and that the assessee furnished the complete detail of expenses incurred before the AO who did not raise any doubt about incurring of such expenditure. It was further submitted that the expenditure had been incurred for promotion of business of the company and as the assessee company is an inanimate person, no personal element was involved. The reliance was placed on the following case laws:

- *CIT Vs Sayaji Iron & Steel Co. 253 ITR 749 (Guj.)*
- *Coca Cola India Ltd. Vs JCIT (2006) 102 ITD 134 (Pune)*
- *Lavrids Knudsan Maskin Fabrik (India) Ltd. Vs Addl. CIT (2006) 102 TTJ (Pune) 882*
- *DCIT Vs Haryana Oxygen Ltd. (1999) 76 ITD (Del) 32*
- *Dinesh Mills Ltd. Vs CIT (2002) 254 ITR 673 (Guj.)*
- *CIT Vs S.S.P. (P) Ltd. (2011) 202 Taxman 386 (P&H)*
- *Friends Clearing Agency (P) Ltd. Vs CIT (2011) 332 ITR 269 (Del.)*

9. It was further submitted that the assessee is in the business of liasioning, auxiliary and syndication. Therefore,

it required to conduct various meetings with the clients at regular intervals and for the said purpose the assessee took various membership of chambers in reputed five star hotels where various meetings were conducted by the Directors and top executives. It was further submitted that by incurring the impugned expenses the assessee could have achieved the turnover of Rs.4.65 crores in the year under consideration and there was an increase of 45% as compared to the last year. It was also submitted that in the earlier year also the assessee incurred expenses of similar nature amounting to Rs.48,67,423/- out of those expenses the AO made ad-hoc disallowance of Rs.12,00,000/- which was subsequently deleted by the Id. CIT(A). Therefore, no disallowance was called for in the year under consideration and the Id. CIT(A) rightly deleted the same.

10. As regards to the disallowance out of tour and travelling expenses, it was stated that the expenses were incurred in order to attract more clients which in turn will increase the income of the assessee and that the expenses were fully verifiable from the books of accounts. A reference was made to page nos. 57 to 191 of the assessee's paper book which is the details of the business promotion expenses incurred by the assessee. It was further submitted

that the revenue department could not have put itself in the armchair of the businessman and decide about the reasonableness of the expenditure. The reliance was placed on the following case laws:

- *CIT Vs Dalmia Cement (P.) Ltd. 254 ITR 377 (Del.)*
- *DCIT, Central Circle-2 Vs A. K. Capital Services Ltd. in ITA Nos. 1143 & 1194/Del/2014 order dated 10.02.2016 (ITAT Del.)*
- *Ravi Marketing (P.) Ltd. Vs CIT (2006) 280 ITR 519 (Cal.)*
- *S.A. Builders Ltd. Vs CIT(A)(2007) 288 ITR 1 (SC)*

11. In his rival submissions the ld. DR reiterated the observation made by the AO and strongly supported the assessment order dated 27.03.2015.

12. I have considered the submissions of both the parties and carefully gone through the material available on the record. In the present case, it is noticed that the turnover of the assessee increased to Rs.4.65 crores and there was increase of about 45% in comparison to the preceding year and the assessee to achieve the said turnover incurred expenses of Rs.58,71,093/- under the head business promotion and Rs.21,10,266/- on account of tour and travelling expenses. Those expenses were incurred by the assessee for the exigency of the business and nothing was brought on record by the department to substantiate that the

personal element was involved. In the present case, although the AO alleged that the expenses were personal in nature, however, it was not brought on record that how and in what manner the assessee being a juristic person could have incurred personal expenses. In the present case, the AO did not doubt the incurring of expenses for the business purposes. He only made the disallowance by stating that the expenses were personal in nature but he could not bring any evidence or material on record to substantiate that those expenses were personal in nature. We, therefore, considering the totality of the facts, do not see any infirmity in the order of the Id. CIT(A) and accordingly do not see any merit in this appeal of the department.

13. In the result, the appeal of the department is dismissed.
(Order Pronounced in the Open Court on 28/04/2017)

Sd/-
(N. K. Saini)
ACCOUNTANT MEMBER

Dated: 28/04/2017

Subodh

Copy forwarded to:

- 1.Appellant
- 2.Respondent
- 3.CIT
- 4.CIT(Appeals)
- 5.DR: ITAT

ASSISTANT REGISTRAR