



IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, MUMBAI

BEFORE SHRI RAJESH KUMAR, AM AND SHRI AMARJIT SINGH, JM

आयकर अपील सं/ I.T.A. No.6913/Mum/2017
(निर्धारण वर्ष / Assessment Years: 2012-13)

M/s. India Index Services & Products Ltd. Plot No. C-1, Block G, Exchange Plaza, Bandra Kurla Complex, Bandra (E) Mumbai-400051.	बनाम/ Vs.	ACIT-14(2)(2) Aaykar Bhawan, 4 th Floor, Room No.432, M.K. Road, Mumbai-400020.
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAACI5633A		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Revenue by:	Shri Abirama Kartikiyen (DR)
Assessee by:	Shri Percy Pardiwala Sukh Sagar Syal

सुनवाई की तारीख / Date of Hearing: 05.03.2019

घोषणा की तारीख /Date of Pronouncement: 30/04/2019

आदेश / ORDER

PER AMARJIT SINGH, JM:

The assessee has filed the present appeal against the order dated 01.09.2017 passed by the Commissioner of Income Tax (Appeals)-22, Mumbai [hereinafter referred to as the "CIT(A)"] relevant to the A.Y.2012-13.

2. The assessee has raised the following grounds of appeal: -

- “1. On the facts and in the circumstances of the case and in law, the Ld. CIT(A) erred in confirming the action of the Ld. AO in disallowing Rs.74,43,942/- being research and administration fee incurred for strategic business planning by treating the same as capital in nature and the reasons assigned for doing so are wrong and contrary to the facts and circumstances of the case, provisions of Income Tax Act, 1961, and Rules made thereunder.
2. The appellant craves leave to add, alter, amend and/or modify the above grounds of appeal on or before the date of hearing.”



3. The brief facts of the case are that the assessee filed its return of income on 27.09.2012 declaring total income to the tune of Rs.20,17,28,860/-. The return was processed u/s 143(1) of the Act. Thereafter, the case was selected for scrutiny under CASS. Subsequently, notices u/s 143(2) & 142(1) of the Act were issued and served upon the assessee. The assessee company is engaged in the business of equity and commodity index related services. On verification, it was found that the assessee has debited an amount of Rs.79,99,486/- as professional fee. The assessee was asked to substantiate his claim, the details of payment are hereby mentioned as under.: -

Party Name	Nature of payment	Amount
Oliver Wyman Ltd.	Strategic business planning for index business (research and administration fee)	74,43,942/-
R.K. Dewan & Co.	Trademark registration/renewal charges	-
R.K. Dewan & Co.	Trademark registration/renewal charges	1,37,5000
R.K. Dewan & Co.	Trademark registration/renewal charges	55,000
R.K. Dewan & Co.	Trademark registration/renewal charges	29,000
R.K. Dewan & Co.	Trademark registration/renewal charges	1,500
	Total	76,97,442

4. The AO treated the same as capital in nature, therefore, the disallowed the claim of the assessee and expenses in sum of Rs.76,97,442/- was added to the income of the assessee. The total income of the assessee was assessed to the tune of Rs.21,06,97,952/-. Feeling aggrieved, the assessee filed an appeal before the CIT(A) who confirmed the addition of professional fee in sum of Rs.76,97,442/- raised by the AO, therefore, the assessee has filed the present appeal before us.

ISSUE NO. 1

5. Issue no. 1 is in connection with the disallowance Research and Administration fee in sum of Rs.74,43,942/- incurred for strategic business



planning holding that the same is capital in nature. The Ld. Representative of the assessee has argued that the assessee company is in the business of providing equity and commodity index related services and products to various participants in the Capital markets such as stock exchanges, asset management companies, insurance companies, investment banks and other organizations across the globe for business purposes. It is also argued that the assessee company took the services for the improvement of indices and meet requirement of market participants engaged the external device from Oliver Wyman who was having the sufficient expertise in the area of capital market at the international level for conducting the said research. The expenses for that is revenue in nature and is liable to be allowed. In support of his contention, the Ld. Representative of the assessee has placed reliance upon the decision (i) **Empire Jute Co. Ltd. Vs. CIT, 124 ITR 1 (SC)**, (ii) **CIT Vs. Carborandum Universal Ltd. (2008) 219 CTR 202 (Madras High Court)**, (iii) **CIT Vs. Praga Tools Ltd. (1986) 157 ITR 282**, (iv) **DCIT Vs. Reddiff.com India Ltd. 141 TTJ 679 (Mum)**, (v) **Glaxo Smith Kline Consumer Healthcare Ltd. Vs. ACIT, 112 TTJ 94 (Chandigarh) & CIT Vs. Kerala State Industrial Development Corporation Ltd.(1990) 182 ITR 62**. On the other hand, the Ld. Representative of the Department has strongly relied upon the order passed by the CIT(A) in question. In view of the arguments advanced by the Ld. Representative of the parties and perusing the record, we noticed that the assessee has paid in sum of Rs.76,97,442/- to Oliver Wyman for research and administrative fee. The consultant executed the following work as under.: -

“1.3 The nature of research work carried out by the consultant were as under:

(a) To review the existing company offerings compared to other leading competitors (domestic and International)

(b) Evolution of the need of appellant client base and targeting strategy across segment covering both existing and prospective customers.



- (c) Covering existing and potential new products that appellant company may considered launching either to address client needs or in response to competitive pressure*
- (d) Reviewing cost and effectiveness of current and potential products and distributing channels including benchmarking against international solutions that could be adopted in the Indian context.*
- (e) Evolution of the capital markets environment and implications on index business in general and appellant business specifically.*
- (f) Review index business initiatives taken by other leading exchanges/ Index providers.*
- (g) Identification of strategic options for appellant company based on the reviews of the market landscape and existing value promotion covering all areas defined as strategically relevant such as client coverage, product range, pricing and distribution channels.*
- (h) Providing an estimation of the monetary impact of the strategic options in terms of revenue and costs*
- (i) Develop a qualitative outline of the key cornerstones of each option, including underlying rationale, product focus, target client segment and ease of implementation.*
- (j) Sorting the strategic options by magnitude and suggest strategic priorities.*
- (k) Summarizing the strategic recommendations including the shortlisted 'proposed options to be considered for implementation.'*

6. In view of the nature of work of the Oliver Wyman, it is to be decided whether the expenses are capital in nature or revenue in nature. If the advantage consists merely in facilitating the assessee's trading operations or enabling the management and conduct of the assessee's business to be carried on more efficiently or more profitable while leaving the fixed capital untouched, the expenditure would be on revenue account, even though the advantage may endure for an indefinite future. No doubt, the question must be viewed in the larger context of business necessity and expediency. If the outgoing expenditure is related to the carrying on or the conduct of the business that may be regarded as an integral part of the profit-earning process and not for acquisition of an asset or a right of a permanent character the possession of which is a condition of the carrying on of the business, the expenditure may be regarded as revenue expenditure. In the instant case also the assessee is not going to get any right of a permanent character to which it can be assumed that the assessee



has incurred the expenses for capital in nature. The nature of work which has been mentioned above nowhere lies to this fact that the expenditure was capital in nature. Therefore, taking into account fact and circumstances mentioned above and relying upon the law settled in **Empire Jute Co. Ltd. (supra)** relied by the Ld. Representative of the assessee, we are of the view that the expenditure incurred in sum of Rs.74,43,942/- being research and administrative fee is for strategic business planning and is revenue in nature, therefore, we set aside the finding of the CIT(A) on this issue and allowed the claim of the assessee.

7. In the result, the appeal of the assessee is hereby ordered to be allowed.

Order pronounced in the open court on this 30/04/2019.

Sd/-

RAJESH KUMAR)
ACCOUNTANT MEMBER

Sd/-

(AMARJIT SINGH)
JUDICIAL MEMBER

Mumbai; Dated 30/04/2019
Vijay

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,

सत्यापित प्रति //True Copy//

(Sr. Private Secretary)
ITAT, Mumbai