

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCHES "SMC", MUMBAI**

**BEFORE SHRI S. RIFAUR RAHMAN (AM) AND SHRI RAM LAL NEGI (JM)**

**ITA No. 5252/MUM/2018  
Assessment Year: 2012-13**

M/s Integrated Coreinfra Ltd., D-wing, Karma Sankalp, Corner of 6 <sup>th</sup> and 7 <sup>th</sup> Road, Rajawadi, Ghatkopar (East), Mubmai - 400077 PAN: AABCI18805K	<b>Vs.</b>	The Assistant Commissioner of Income Tax Cir. 14 (2)(1), Mumbai
<b>(Appellant)</b>		<b>(Respondent)</b>

Assessee by : Shri J.P. Bairagra (AR)

Revenue by : Shri C.S. Sharma (DR)

Date of Hearing: 25/09/2019

Date of Pronouncement: 20/12/2019

**ORDER**

**PER RAM LAL NEGI, JM**

The assessee has filed by the present appeal against the order dated 03.07.2018 passed by the Commissioner of Income Tax (Appeals)-22 (for short 'the CIT(A), Mumbai, pertaining to the assessment year 2012-13, whereby the Ld. CIT(A) has partly allowed the appeal filed by the assessee against the assessment order passed u/s 143(3) of the Income Tax Act, 1961 (for short the 'Act').

2. Brief facts of the case are that the assessee engaged in the business of construction of residential and commercial complex, filed its return of income for the assessment year under consideration declaring loss of Rs. 9,65,529/-. Since, the case was selected for scrutiny, the AO issued notice u/s 143 (2) and 142 (1) of the Act. In response thereof, the authorized representative (AR) of the assessee appeared before the AO and submitted the details called for. Since, the assessee had claimed training cost of Rs. 17,24,003/-, AO asked the assessee to prove the training cost incurred with supporting documents and to explain as to how the said expenditure was related to the business. The

assessee submitted that assessee incurred the expenses for training of Mr. Kanti Sawla, Director of the Company at Harward Business School. Mr. Sawla had gone USA to attend training programme, connected to the business of the company. However, the AO rejecting the contention of the assessee made addition of the said amount to the income of the assessee and determining the total income at Rs. 2,87,541/-. The assessee challenged the assessment order before the CIT (A). The Ld. CIT (A) after hearing the assessee rejected its contention and sustained the addition made by the AO. The assessee is in appeal before the Tribunal against the impugned order passed by the Ld. CIT(A)

3. The assessee has challenged the impugned order passed by the Ld. CIT (A) on the following effective ground:-

*“The Ld. Commissioner of Income Tax (Appeals) erred in confirming the disallowance of training expenses of Mr. Kantilal Sawla, director of the appellant company amounting to Rs. 17,24,003/- u/s 37 of the Income Tax Act, 1961”.*

4. Before us, the Ld. counsel for the assessee submitted that the impugned order suffers from infirmity as the findings are contrary to the evidence on record. The Ld. counsel invited our attention to page 34 of the paper book which is the copy of bill raised by the Harward Business School amounting to \$27,500/-, page 32 the details of training cost and copy of balance sheet at page 19 of the paper book to substantiate the cost claimed by the assessee. The Ld. counsel further pointed out that in the assessment year 2011-12, the similar claim of the assessee was rejected by the AO, however, in the first appeal, the Ld.CIT (A) allowed the same. The department did not challenge the action of the Ld. CIT (A). In view of the aforesaid facts, the Ld. counsel submitted that since the expenditure has been incurred wholly and exclusively for the purpose of the business of the assessee, the Ld. CIT (A) has wrongly confirmed the disallowance made by the AO. The Ld. counsel further pointed out that there is no change in the facts of the present case, the Ld. CIT (A) ought to have allowed the cost of a training expenses u/s 37 of the Income Tax Act.

5. On the other hand, the Ld. Departmental Representative (DR) relying on the findings of the Ld. CIT (A) submitted that since the assessee has failed to establish that the expenses were incurred exclusively for the purpose of business, the Ld. CIT (A) has rightly confirmed the addition made by the AO. The Ld. DR further pointed out that P & L account shows that the assessee's income consist of income from rent and interest income. Therefore, the Ld. CIT (A) has rightly held that the training expenses have no co-relation with the income of the assessee.

6. We have heard the rival submissions of the parties and also perused the material on record. As pointed out by the Ld. counsel, the Ld. CIT (A) has allowed the identical claim in assessee's own case for the AY 2011-12 holding as under:-

*“5.2 In view of the above factual matrix, I am of the view that once an expenditure incurred is not a capital expenditure or an expenditure incurred for personal expenses of the assessee or the said expenditure is for the purpose which is not an offence or is not prohibited by law and is not spent on advertising in any souvenir, brochure, tract, pamphlet or the like published by a political party, the assessee is entitled to the benefit of deduction under section 37. The AO has not brought on record any material to justify restriction of expenditure to 50% of the amount claimed. Therefore, in view of the aforesaid discussion and the binding precedents cited above, I am of the view that the appellant is entitled to deduction of full expenditure of Rs. 37,01,710/- debited in the P&L account on account of travel and training programme attended abroad by the managing partner of the firm. Therefore, disallowance of Rs. 18,50,855/- made by the AO is deleted.”*

7. In the year relevant to the assessment year 2011-12, the AO restricted the identical claim of the assessee to 50%. However, the Ld. CIT(A) deleted the disallowance holding that the assessee is entitled for deduction of full expenditure incurred on training programme of Managing partner. As pointed out by the Ld. counsel, the assessee has furnished the copy of bill raised by the Harward Business School in the name of Sawla Kanti, Director of the Company

for Rs. \$27,500.00. As per the details furnished by the assessee, this cost is inclusive of travelling expenses, hotel-booking expenses, car rental charges, and foreign exchange cost etc. The AO has mentioned in the order that the receipt/bill submitted by the assessee does not pertain to the assessment year under consideration. We notice that the assessee furnished the bill pertaining to the assessment year under consideration before the Ld.CIT (A) during appellate proceedings stating that it had inadvertently submitted the wrong bill. Further, the authorities below have not doubted the expenditure in question. The only ground of making disallowance is that the assessee has failed to establish that the expenditure was incurred wholly and exclusively for the purpose of business. As pointed out by the Ld. CIT (A) in the assessee's appeal for the AY 2011-12 that the expenditure was not in the nature of capital expenditure or personal expenses of the assessee. Therefore, it is wrong to assumed that the similar expenditure incurred by the assessee during the year relevant to the assessment year under consideration was not incurred for the purpose of business of the assessee. Hence, in our considered view the expenditure incurred on training of Director for betterment of the company in the present case is the expenses incurred wholly and exclusively for the purpose of business contemplated in section 37(1) of the Act. Therefore, taking into consideration the stand of the department in assessee's case for the AY 2011-12 and in the light of the evidence on record, we hold that the order of the Ld. CIT (A) is erroneous. Accordingly, we allow the sole ground of appeal of the assessee and direct the AO to delete the addition made on account of the disallowance made u/s 37 (1) of the Act.

In the result, appeal filed by the assessee for assessment year 2012-2013 is allowed.

Order pronounced in the open court on 20<sup>th</sup> December, 2019.

*Sd/-*  
(S. RIFAUR RAHMAN)  
ACCOUNTANT MEMBER

*Sd/-*  
(RAM LAL NEGI)  
JUDICIAL MEMBER

मुंबई Mumbai; दिनांक Dated: 20/12/2019

Alindra, PS

**आदेश प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A)-
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai