

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'C' BENCH  
MUMBAI**

**BEFORE: SHRI VIKAS AWASTHY, JUDICIAL MEMBER  
&**

**SHRI M.BALAGANESH, ACCOUNTANT MEMBER**

**ITA No.7889/Mum/2019  
(Assessment Year :2011-12)**

ACIT Circle-14(1)(92) R. No.460, 4 <sup>th</sup> Floor Aayakar Bhavan M.K.Road, Mumbai – 400 020	Vs.	M/s. Centaurus Group Research (India) P. Ltd., (Formerly known as Transmarket Group Research India Pvt. Ltd.,) Flat No.5B-306, 3 <sup>rd</sup> Floor, Five Star Twin CHS Ltd., Star Colony, Manpada Road Dombivali – 421 201
<b>PAN/GIR No.AACCT0266A</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Revenue by	Ms. Shreekala Pardeshi
Assessee by	None
<b>Date of Hearing</b>	<b>05/08/2021</b>
<b>Date of Pronouncement</b>	<b>12/08/2021</b>

**आदेश / O R D E R**

**PER M. BALAGANESH (A.M):**

This appeal in ITA No.7889/Mum/2019 for A.Y.2011-12 arises out of the order by the Id. Commissioner of Income Tax (Appeals)-21, Mumbai in appeal No.CIT(A)-21/DCIT-14(3)(1)/IT-396/2014-15 dated 30/09/2019 (Id. CIT(A) in short) against the order of assessment passed u/s.143(3) of the Income Tax Act, 1961 (hereinafter referred to as Act) dated 30/03/2014 by the Id. Dy. Commissioner of Income Tax-10(1), Mumbai (hereinafter referred to as Id. AO).

2. The only issue to be decided in this appeal is as to whether the Id. CIT(A) was justified in deleting the disallowance of expenses made u/s.37(1) of the Act in the facts and circumstances of the instant case.

3. None appeared on behalf of the assessee. We have heard Id. DR and perused the materials available on record. We find that assessee company is engaged in the business of analysis, investment, research, financial consultancy and providing related services and solutions and also trading in multi commodity exchange and in currency futures. The return of income for the A.Y.2011-12 was filed by the assessee company on 30/11/2011 declaring total loss of Rs.5,72,02,195/-. We find that assessee had shown the receipt of service charges of Rs.93,93,878/- and other income of Rs.22,23,526/- as business income and the same has been assessed as such by the Id. AO. These two sums were duly credited in profit and loss account of the business activity of the assessee. The assessee had debited total expenditure of Rs.10,66,45,068/- in its profit and loss account and had claimed loss of Rs.9,50,27,664/-. The Id. AO show-caused the assessee to justify the claim of huge expenditure vis-à-vis the income credited in the profit and loss account. In response thereto, the assessee submitted that even though substantial business activity has not been carried out during the previous year, still certain mandatory business expenditure had to be incurred by the assessee and that the income earned by the assessee in the form of service charges and other income are not on account of cessation of business. Accordingly, it was pleaded that the entire expenditure debited in the profit and loss account is an allowable business expenditure. We find that the Id. AO did not heed to the aforesaid contentions of the assessee and the Id. AO observed that since the expenditure debited by the assessee is

11 times more than the income declared by the assessee, he proceeded to allow only 25% of the total expenditure claimed by the assessee and disallowed the remaining 75% of the expenditure in the sum of Rs.3,32,27,022/- after reducing the suo moto disallowance of expenses made by the assessee in the return of income.

3.1. Before the Id. CIT(A), the assessee reiterated the submissions by stating that the assessee company was incorporated in 2004 and is a subsidiary of Transmarket Group LLC-USA and that the assessee company was run on a 24 hour shift basis. Its' staff strength was 45 excluding 2 Directors. The assessee also gave break-up of expenditure of Rs.10,66,45,068/- as under:-

• Loss from Commodity Futures	:	Rs.1,46,29,741	
• Depreciation	:	Rs.1,18,34,254	
			Rs.2,64,63,995
• Payment/provision for employees:		Rs. 87,83,374	
• Operating Expenses	:	Rs. 7,11,66,145	
• Finance Charges	:	<u>Rs. 2,31,454</u>	Rs.8,01,80,973
<b>Total</b>	<b>:</b>		<b>Rs.10,66,45,068</b>

3.2. Assessee also gave detailed explanation for major expenses incurred by it together with the copy of ledger account and explanation thereon as under:-

*ITA No.7889/Mum/2019*  
*M/s. Centaurus Group Research (India) P. Ltd.,*  
*(Formerly known as Transmarket Group Research*  
*India Pvt. Ltd.,)*

Nature of expenses	Amount	Remarks	Annexure
Rent	1,90,53,809	The said expenditure pertains to rent paid for space occupied for setting up the office and was paid in Advance. The said expense not being directly relatable to the project was debited to profit and loss account	3A
Directors Remuneration / Staff Salaries	70,54,243	The said expenses not being directly relatable to the project was debited to profit and loss account	3B
Repairs and Maintenance- Others	22,16,980	The said expenditure was incurred by the Appellant in relation to repair and maintenances carried out in office.  The said expenses not being directly relatable to the project was debited to profit and loss account	3C
Legal and professional fees	1,52,74,908	The said expenditure was incurred by the Appellant for seeking assistance from professionals on various matters such as fee paid for filing of income tax return. Accountancy, PF/ESIC/PT/TDS obtaining transfer pricing certificate and other tax related queries  The said expense not being directly relatable to the project was debited to profit and loss account	3D
Electricity expenses	12,31,193	The entire office has a backup UPS  The said expense not being directly relatable to the project was debited to profit and loss account	3E
Payment to auditors	9,92,700	The said expenditure was incurred by the Appellant in relation to statutory audit carried for the subject year  The said expense not being directly relatable to the project was debited to profit and loss account	3F
Telephone/ Communication expenses	38,31,082	The company has multiple 20MEG leased line from Mumbai to London and 45MEG Internet Lines and similar	3G

		ancillary infrastructure  The said expense not being directly relatable to the project was debited to profit and loss account	
Finance Costs	231,454	This includes interest expense charged by bank  The said expense not being directly relatable to the project was debited to project was debited to profit and loss account.	3H
Loss on sale of Assets	1,36,18,402	This includes sale of various Assets to fund various expenses as the Cash shortfall due to business loss was very high  The said expense not being directly relatable to the project was debited to project was debited to profit and loss account	3I
General Expenses	50,14,454	The said expense not being directly relatable to the project was debited to project was debited to profit and loss account	3J

3.3. The assessee pleaded that the genuineness of the expenses incurred by the assessee has not been doubted by the Id. AO. The assessee even pointed out that the reason for having reduced receipt of service charges was in view of the fact that assessee's major client in London had to wind up their business. As a result, the assessee's mark up was reduced from 20% to 5%. It was also pointed out that no defects were pointed out in the books of accounts / vouchers and supporting evidences submitted by the Id. AO. The book results of the assessee has not been rejected u/s.145(3) of the Act by the Id. AO. Hence, it was vehemently argued that the Id. AO ought not to have made any adhoc disallowance of expenditure in the assessment merely on the ground that

the same did not commensurate with the business receipts earned by the assessee.

3.4. We find that the Id. CIT(A) had deleted the entire disallowance of expenditure on adhoc basis made by the Id. AO by giving a categorical finding that the Id. AO had not even whispered in the assessment order as to how a particular expenditure of the assessee is excessive and not incurred for the purpose of business u/s.37(1) of the Act. The Id.CIT(A) also observed that it is not the case of the Id. AO that the expenditure debited by the assessee are personal in nature. The Id. CIT(A) thereafter, relied on the decision of the Hon'ble Supreme Court in the case of J.J. Enterprises vs. CIT reported in 254 ITR 216 and proceeded to delete the adhoc disallowance made by the Id. AO. Before us none of the categorical findings recorded by the Id. CIT(A) had been controverted by the Revenue. It is not in dispute that assessee had indeed earned business income in the form of service charges of Rs.93,93,878/- and same has been assessed as business income by the Id. AO. This itself goes to prove that assessee had indeed carried on business during the year. Once, it is accepted that assessee had carried on business during the year, and when the expenditure debited in the P & L account are not doubted either on its genuineness or on its incurrence for the purpose of business of the assessee by the Id. AO, the expenditure thereon, claimed as deduction by the assessee would become allowable expenditure. It is not the case of the Id. AO that the expenditure claimed by the assessee are personal in nature or expenditure incurred were in the capital field. We further hold that the incurrence of business expenditure whether it is commensurate with the business receipts earned thereof is of absolutely no relevance to decide the allowability of business expenditure. Hence, we do not find

any infirmity in the order of the Id. CIT(A), granting relief to the assessee. Accordingly, the grounds raised by the Revenue are dismissed.

**4. In the result, appeal of the Revenue is dismissed.**

Order pronounced on 12/08/2021 by way of proper mentioning in the notice board.

**Sd/-**  
**(VIKAS AWASTHY)**  
JUDICIAL MEMBER

**Sd/-**  
**(M.BALAGANESH)**  
ACCOUNTANT MEMBER

Mumbai; Dated 12/08/2021  
KARUNA, *sr.ps*

**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.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
ITAT, Mumbai