

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

**BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI RAJESH KUMAR, ACCOUNTANT MEMBER**

**ITA No.6438/M/2019
Assessment Year: 2012-13**

M/s. Indasia Fund Advisors Pvt. Ltd., 3, Scheherazade, Justice Vyas Road, Colaba, Mumbai - 400 005 PAN: AAACI1377D	Vs.	ACIT (OSD)-3, Room No.608, 6 th Floor, Aayakar Bhavan, M.K. Road, Mumbai - 400020
(Appellant)		(Respondent)

Present for:

Assessee by : Shri Rajesh Sanghvi, A.R.
Revenue by : Shri Sanjay J. Sethi, D.R.

Date of Hearing : 25.08.2021
Date of Pronouncement : 26.10.2021

ORDER

Per Rajesh Kumar, Accountant Member:

The present appeal has been preferred by the assessee against the order dated 31.07.2019 of the Commissioner of Income Tax (Appeals) [hereinafter referred to as the CIT(A)] relevant to assessment year 2012-13.

2. The only issue raised by the assessee in the various grounds of appeal is against the confirmation of addition of Rs.52,55,643/- by Ld. CIT(A) as made by the AO by treating the repairs and maintenance expenses claimed as capital expenditure.

3. The facts in brief are that assessee filed the return of income on 27.09.2012 declaring total loss of Rs.78,01,275/-. Thereafter, the case of the assessee was selected under scrutiny and statutory notices were duly issued and served upon the assessee.

4. The assessee is engaged in the business of providing investment and financial advisory services. During the year the assessee has claimed repairs and maintenance expenses of Rs.57,17,092/- which were incurred on leased premises. Accordingly, the AO called upon the assessee to furnish the bills, vouchers and justification for the claim of said huge repairs and maintenance. The AO noted that assessee has paid Rs.39,77,185/- to M/s. Sara Interior, Rs.10,74,385/- to M/s. Ashok Plumbing Works and Rs.2,04,100/- to M/s. Mudra Home Décor Pvt. Ltd. According to the AO these expenses were incurred in demolishing and removing the existing civil structure and erecting new structure and therefore the expenditure incurred on creating an asset or creating benefit of enduring nature has to be treated as capital expenditure. Accordingly, a show cause notice was issued to the assessee which was replied by the assessee vide letter dated 23.12.2014 by submitting that assessee has taken premises on rent which were subjected to repairs and renovation in order to suit the requirement of the assessee and to use the space to the maximum and optimum level. The assessee submitted that the said expenditure has not resulted into creation of new assets or benefit of enduring nature but the rented building was repaired and altered in order to suit the requirement of the assessee in order to carry on its business efficiently. The reply of the assessee did not find favour with the

AO and he treated the expense of Rs.52,55,643/- as capital expenditure, however, allowed a depreciation of 10% which comes to Rs.5,25,564/- thereby making a net addition of Rs.47,30,079/-.

5. In the appellate proceedings, the Ld. CIT(A) upheld the order of AO by confirming the disallowance by holding that the assessee has spent huge money by way of repairs and maintenance of leased building and thus created new asset which has a longer span and the assessee would receive enduring advantage by undertaking these massive repairs.

6. After hearing both the parties and perusing the material on record, we find that that the assessee has incurred these expenses on repairs and renovation of building premises taken on lease by the assessee. The assessee has internally made some alternations and additions to suit its business as the assessee company was carrying on the business of investment and financial advisory services. We observe that assessee has incurred these expenses in order to modify the inner lay out of the building so that the business of the assessee is carried out more efficiently and effectively.

7. Considering the nature of the expenses and the building being on lease, we are of the considered view that expenditure of repairs has not resulted into creation of new assets/deriving a benefit of enduring nature. In our opinion the assessee has rightly claimed the expenses incurred by way of renovation and repairs as revenue in nature by charging the same to the profit

and loss account. Accordingly, we set aside the order of Ld. CIT(A) by directing the AO to delete the disallowance.

8. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 26.10.2021.

**Sd/-
(Mahavir Singh)
VICE PRESIDENT**

**Sd/-
(Rajesh Kumar)
ACCOUNTANT MEMBER**

Mumbai, Dated: 26.10.2021.

* Kishore, Sr. P.S.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The CIT (A) Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.