

**IN THE INCOME TAX APPELLATE TRIBUNAL
“C” BENCH, MUMBAI**

**BEFORE SHRI AMIT SHUKLA, JM &
SHRI S. RIFAUR RAHMAN, AM**

1. आयकरअपीलसं./ I.T.A. No. 725/Mum/2020
(निर्धारणवर्ष / Assessment Year: 2014-15)

M/s India Bullion And Jewellers Association Ltd. 185, Sheikh Memon Street, Mumbai-400 002	बनाम/ Vs.	DCIT Cir-4(1), R. No. 678, 6 th floor, Aayakar Bhavan, M. K. Road, Mumbai-400 020
स्थायीलेखासं ./जीआइआरसं ./PAN No. AAAC1449D		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

अपीलार्थीकीओरसे/ Appellant by	:	Shri Prateek Jain, Ld. AR
प्रत्यर्थीकीओरसे/ Respondent by	:	Shri R. N. D'Souza, Ld. DR
सुनवाईकीतारीख/ Date of Hearing	:	14.07.2022
घोषणाकीतारीख / Date of Pronouncement	:	10.10.2022

आदेश / O R D E R

Per Amit Shukla, Judicial Member:

1. The aforesaid appeal has been filed by assessee against the order dated 04.12.2019 passed by the Ld. CIT (Appeals)-9, Mumbai, for the quantum of assessment passed u/s 143(3) for A.Y. 2014-15. The assessee had taken the following grounds:-

1. On the facts and circumstances of the Appellant's case the Id. CIT(A) erred in confirming the action of Id. A.O. in holding that the expenses incurred by the appellant for organizing the summit were capital in nature.

2. On the facts and circumstances of the Appellant's case the Id. CIT(A) erred in confirming the action of Id. A.O. in making a disallowance of deferred expenses amounting to Rs. 3,80,43,067/- claimed by the appellant, for the reasons stated in the impugned order or otherwise.

2. The facts in brief are that appellant company is an association set up by the Reserve Bank of India for maintaining ethical trade in the market and set a code of conduct for fair trading activities in the market. It is an apex association of Manufactures, Traders and Businessman from the Bullion Industry. The Association collects the membership fees from the members every year which is been offered as income on year to year basis. The appellant association also indulges in activity of gold/silver melting, gold/silver assaying, computer touch and hallmarking. Further, the appellant also redresses problems relating to trade by giving timely advice and assistance in legal issues. The appellant association also sends

regular delegations to the government policy make to discuss issue afflicting the members of the association.

3. The Association was functional with full-fledged facilities like melting/refining, assaying, Dharam-Kanta, testing, etc. but the activities of the Association got standstill in the year 1980, because of Gold Control Act had come into existence. In year 2000, Gold Control Act was removed and the Association was again revived, but due to shortage of funds, the appellant was unable to restore its activities. Further in year 2012, the members of the Association decided that there was an urgent need to revive the Association for representation to the Government agencies to solve the day to day problem of Industry. Also, the appellant had started to lose its importance as comparison to the other newly formed bodies like GJF. For bringing out the Association to the limelight, it was decided to conduct annual event, India International Bullion Summit (IIBS) which must be held every year and peoples from the industry and government authorities should be called so that they could understand the needfulness and problems of the Industry.

4. In October 2013, the appellant organized 'India International Bullion Summit (IIBS)' for which it had incurred expenditure of Rs.3,80,43,067/- which included event expenses, advertisement, travelling, etc. In the books of accounts, the appellant reflected the said expenditure as 'Deferred current assets' under the head 'non-current assets', instead of debiting the same as annual expenditure in P&L account. The Auditor has treated the said expenditure as capital in nature, however while filing the return of income, the assessee had claimed expenditure in the computation of income as deduction from its income as revenue expenditure.

5. The AO noted that assessee is a no profit and no loss entity and there is hardly expenditure /receipts in the profit and loss account and this was, one time significant expenditure incurred to bring out the assessee into limelight. He also took note of the fact that the several years, the assessee could not revive its activity due to shortage of fund and for 20 years, no such expenditure was incurred. Thereafter, Ld. AO held that view taken by the Auditor is correct as assessee will get benefit of the expenditure over the large period of years and if this was the period expenditure allowable as deduction in the current year, the Auditor would have charged the

same to the profit and loss account and not capitalize as non-current long term capital asset. Thus, he disallowed the deferred revenue expenditure of Rs. 3,80,43,067/-.

6. Ld. CIT(A) noted that after the organizing the International Bullion Summit, over the period of time, the revenue has increased the details of expenditure incurred in organizing the Bullion Summit for the AY 2015-16 to 2019-20 was noted as under:-

A.Y.	Total Amount Expenditure	Revenue earned from the summit	Percentage of Summit expenses debited to the P&L A/c.
2014-15	38043607	Nil	Nil
2015-16	23642462	Nil	One tenth
2016-17	24853498	N.A.	One tenth
2017-18	1741670	9484879	One tenth
2018-19	1346383	10068729	Full
2019-20	5434642	12585729	Full

7. Thus, CIT(A) deduced that the expenses incurred in the Summit was strictly reduced from AY 2017-18 onwards, because the event gained popularity over the period and many of the expenses were sponsored by the members, because of the increase

in the brand value of the association. Thus, he held that these expenses had resulted into enduring benefit to the association in the form of increase in membership as well as sponsorship for the expenses to be incurred for the annual summit. The organization of summit directly resulted in the increase of the capacity of the association to earn income from various sources and it has led to increase in the membership. Thus, membership was only the profit making apparatus of the appellant association and accordingly, he concurred with the finding of AO as well as view taken by the Auditors.

8. We have heard the rival submissions and also perused the relevant findings given in the impugned order as well as material placed on record. As noted above, the Auditors have treated the expenditure incurred on International Bullion summit during the year under consideration as capital expenditure and have classified as intangible asset under the head 'non-current assets' in the balance sheet. However, the appellant association has claimed the deduction of entire amount of Rs. 3,80,43,067/- while computing the total income in the return of income. The appellant company was collecting yearly membership fees from the members and also

earning revenue by providing melting, hall marking, assaying services which was mostly utilized by its members. Since for more than two decades the activities of the association were stand still, however from the financial year 2013-14, it started gaining momentum after an international event was organized called 'India International Bullion Summit' which was addressed by now Hon'ble Prime Minister of India who had addressed the industry and various peoples from different government agencies. The issue here is, whether the expenditure incurred on such a summit is revenue in nature or it is capital expenditure which has given rise to any enduring benefit or any kind of intangible asset. The plea of 'enduring benefit' has to be seen in the context of the economical realities of the business and whether the expenditure is part of the profit earning process to enable the assessee to carry on business then it has to be reckoned as revenue expenditure. Even if the expenditure has given some advantage of 'enduring benefit' in the business, it cannot be held as it is capital expenditure. Before us, it has been pointed out that in AY 2018-19, expenditure on account of organization summit have been allowed by the AO as revenue expenditure in the order passed u/s 143(3) and in AY 2015-16, the

same stands allowed by the Ld. CIT(A). In AY 2016-17 and 2019-20, the same stands accepted, though no scrutiny assessment has been passed. Thus, it was contended that such expenditure not only is a regular expenditure, but also has been held as revenue expenditure. This fact also goes to show that it is a recurring expenditure incurred by the assessee and it cannot be held that the international summit conducted in this year has given a long term asset or intangible asset giving 'enduring benefit' to the assessee or creating any profit making apparatus. Before us, the detail of expenditure incurred on summit has also been given which are as under:-

SR. NO.	PARTICULARS	NATURE OF EXPENSES	AMOUNT
1	A-1 FLOWERS DECORATORS	FLOWERS DECORATION	82880
2	ADWORLD	BANNER EXP	48262
3	BRANDSOL MERCHANDISING LLP	LAPEL PIN,FLAG	447205
4	GLOBAL ADVERTISES	DISPLAY HORDING CHARG	489622
5	GAUTAM ADVERTISING	ADVERTISEMENT	1208926
6	GLOBAL ADVERTISES	ADVERTISEMENT	489622
7	IN DO MAX INTERNATSONA	ADVERTISEMENT	521289
8	KATALYST INERTAINMENT P LTD	FASHION SHOW	615398
9	KANCHANA DESIGN STUDIO	DRESS EXP	53000
10	LAKHANI HIRES AND CATERS	HOTEL FOOD	9130629
11	MOONSTUCK ADVERTISING	PRINTING EXP	2817526
12	MINI MAX ADS PVT LTD	HORDINGSEXP	1421000
13	NORVICSON ADVERTISING	ADVERTISEMENT	77584
14	REPLIKATEINC	EVENT EXP	2981751
15	RASIK PUBLICITY CO	ADVERTISEMENT	1292773
16	ORION & DIGITAL PVT LTD	ADVERTISEMENT	56653
17	O'MARK PR & EVENT	ADVERTISEMENT	133091
18	RADICAL DESIGNS	EVENT EXP '	254390
19	SILVER EMPORIUM PVTTLTD	SILVER ARTICLE	811280
20	THE AWARD GALLERY	TROPHY EXP	625801
21	TALENT & BEYOND ENT PVT LTD	FASHION SHOW	1230000
22	RISING EVENTS	DINNER,SHOW SETUP	10172818
23	NETBIZ SYSTEMS	WEBSITE EXP	359000
24	MANALUAGTAP	FASHION SHOW	2723107
		TOTAL RS	38043607

9. From the nature of the expenditure, it cannot be held that these are capital expenditure creating any intangible asset or any enduring benefit to the assessee. Even though Auditors may have classified it has to be a capital expenditure and capitalized as intangible asset, but it has not change the character of the expenditure incurred which is prima facie can be seen from details as incorporated above is revenue expenditure. Otherwise, it is a trite law that nature of income and expenses merely by entry in the books of account does not define the character of the income or allowability of expenditure. Thus, it cannot be held that aforesaid expenditure incurred on Indian International Bullion Summit is a capital expenditure. Accordingly, the deduction claimed by the assessee is allowed.

10. In the result, the appeal filed by the assessee is **allowed**.

Orders pronounced in the open court on 10th October, 2022.

Sd/-

(S. Rifaur Rahman)
Accountant Member

मुंबई Mumbai;दिनांक Dated : 10/10/2022

Sr.PS. Dhananjay

Sd/-

(Amit Shukla)
Judicial Member

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent

3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT- concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायकपंजीकार (Dy./ Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई/ ITAT, Mumbai