

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'SMC' NEW DELHI**

BEFORE SHRI SAKTIJIT DEY, JUDICIAL MEMBER

ITA No. 396/Del/2023
Assessment Year: 2018-19

Ashok Kumar Jain, D-132, Anand Niketan, Delhi-1100 21	Vs.	ITO, Ward-30(5), New Delhi.
PAN :AAFPJ2464A		
(Appellant)		(Respondent)

Appellant by	Shri J.P. Jain, Adv.
Respondent by	Shri Om Prakash, Sr. DR

Date of hearing	28.03.2023
Date of pronouncement	31.03.2023

ORDER

This is an appeal by the assessee against the order dated 20.12.2022 passed by National Faceless Appeal Centre (NFAC), New Delhi pertaining to assessment year 2018-19.

2. The dispute in the present is confined to the following two disallowances:

- i) Expenditure on repair and maintenance of electrical equipment and installation : Rs.12,80,215; &
- ii) Disallowance under Section 40(a)(i) of the Act on account of payment made to overseas entities towards advertisement expenses : Rs.3,62,220

3. At the time of hearing, learned counsel appearing for the assessee, on instructions, did not contest the disallowance of Rs.3,62,220 made under Section 40(a)(i) of the Act. Accordingly, assessee's ground on the issue is treated as not pressed, hence, dismissed.

4. As regards, disallowance of Rs.12,80,215, briefly, the facts are, in course of assessment proceedings the Assessing Officer, while verifying the financial statement noticed that the assessee has debited an amount of Rs.12,80,215 towards expenses on electrical instruments.

5. After verifying the details, he found that the major part of the expenditure was towards purchase and installation of LED lights in his hotel "Airport Motel".

6. Being of the view that by incurring the expenditure, the assessee has acquired capital assets with enduring benefits, the Assessing

Officer treated it as capital expenditure and disallowed the same. Though, the assessee contested disallowance before learned Commissioner (Appeals), however, he was unsuccessful.

7. I have considered rival submissions and perused the material available on record.

8. As could be seen from the facts on record, out of the total expenditure of Rs.12,80,215 claimed by the assessee, an amount of Rs.8,15,000 was for installation of LED lights and rest of the amount was for other routine expenses.

9. From the facts and material placed before me, it is observed that the assessee has replaced old bulbs/tube lights with new LED lights. Some other expenditure was incurred for regular repair and replacement. Thus, from the nature of expenditure incurred, it is evident that they are in the nature of consumables and not for acquiring any assets of enduring nature. I am of the view, replacement of old tube light with LED lights cannot be treated as capital expenditure. Therefore, I do not find any reason to sustain the disallowance made by the Assessing Officer. Accordingly, I delete the disallowance of Rs.12,80,215. The ground is partly allowed.

10. In the result, the appeal is partly allowed.

Order pronounced in the open court on 31st March, 2023.

**Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER**

Dated: 31st March, 2023.

Mohan Lal

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi