

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "E" MUMBAI

BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI NARENDER KUMAR CHOUDHRY (JUDICIAL MEMBER)

ITA No. 1146/MUM/2023
Assessment Year: 2018-19

DCIT, Circle-14(1)(2),
Room No. 455, 4th floor,
Aayakar Bhavan, M.K. Road,
Mumbai-400020.

Vs.

M/s Experian Credit Information
Company of India Pvt. Ltd.,
5th floor, East Wing, Tower 3
Equinox business Park,
LBS Marg Kurla West
Mumbai-400070.

PAN No. AABCE 6822 A
Respondent

Appellant

Assessee by : None
Revenue by : Mr. B.K. Bagchi, DR

Date of Hearing : 21/06/2023
Date of pronouncement : 22/06/2023

ORDER

PER OM PRAKASH KANT, AM

This appeal by the Revenue is directed against order dated 07.02.2023 passed by the Ld. Commissioner of Income-tax (Appeals) – National Faceless Appeal Centre, Delhi [in short ‘the Ld. CIT(A)’] for assessment year 2018-19 raising following grounds:

- 1. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) was right in allowing technology cost to the extent of Rs.6,45,73,278/- as revenue expenditure ignoring the fact that the assessee had incurred to set up technology and*



platform which would help him in conducting the business in the future.

2. *The appellant prays that the order of CIT(A) on the above ground be set aside and that of the Assessing Officer be restored.*

2. At the outset, regarding the delay of two days in filing the appeal, the Ld. Departmental Representative (DR) submitted that due to holiday on 08th and 9th April, the appeal has been filed on subsequent date i.e. 10th April and therefore, appeal might be admitted in view of General clauses Act, which prescribe as under:

Section 10 in The General Clauses Act, 1897

10 Computation of time.

(1) Where, by any¹⁹ [Central Act] or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open: Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1877 (15 of 1877)²⁰, applies.

(2) This section applies also to all¹⁹ [Central Acts] and Regulations made on or after the fourteenth day of January, 1887.

2.1 In the view of the submission of the Ld. DR, there is no delay in filing the appeal and accordingly the appeal is admitted.

2.2 We further note that despite notifying for the hearing neither anyone attended on behalf of the assessee nor any adjournment was sought, therefore the appeal is heard ex-parte qua the assessee after hearing the arguments of the Ld. DR.



3. Briefly stated, facts of the case are that in the assessment completed u/s 143(3) r.w.s. 143(3A) and 143(3B) of the Act, the Assessing Officer made various disallowance including disallowance of technology cost of Rs.6,45,73,278/-.

3.1 However, the Ld. CIT(A) deleted the addition following the finding of the Tribunal in earlier years in the case of the assessee. The relevant finding of the ld CIT(A) is reproduced as under:

“9. Ground of Appeal No. 2 – Holding Technology cost of Rs.16,44,33,196/- as capital expenditure and making addition of Rs.6,45,73,278/- after allowing depreciation.

Appellant debited Rs. 16,44,33, 196/- in P & L Account as 'Technology Cost' whose details are tabulated in para 4 of assessment order. AO held this as capital expenditure and disallowed the same after allowing depreciation @ 60% due to following reasons. Benefit of this cost benefits for long period of time. Hence, after allowing depreciation of Rs. 9,68,59,918 the AO made disallowance of Rs. 6,45,73,2781-holding it a "Capital in Nature".

b)Appellant contended that identical issue of holding Technology Cost as Capital Expenditure was decided in favour of Appellant by CIT(A)'s in cases of Appellant from AY 2011-12 to AY 2017-18. The details of orders of CIT(A) 's in cases of Appellant is as under:-

AY	Date of Order	Appeal No.	Reference to relevant para
2011-12	14 October 2016	CIT(A)-8/IT-594/14-15	Para 5.3.1 to 5.3.2 on page 54-55
2012-13	4 May 2018	CIT(A) 22, Mumbai/10268/2016-17	Para 5.4 on page 16
2013-14	4 May 2018	CIT(A) 22, Mumbai/210281/2016-17	Para 5.4 on page 17
2014-15	4 May 2018	CIT(A) 22, Mumbai/10861/2016-17	Para 5.4 on page 17
2017-18	29 April 2022	National Faceless Appeal Centre	Para 7.3 on page 12



c)Further, the Appellant stated that Hon'ble ITAT Mumbai upheld the orders of CIT(A) and allowed deduction of "Technology Cost" as recurring in nature and does not result in generation of any new asset or any right of permanent nature in cases of Appellant for AY 2011-12 to AY2014-15 in ITA's No. 805, 4711 to 4713/Mum/2017 and 2018 vide order dated 02.08.2021. The relevant part of judgement of Hon'ble ITAT is asunder:-

"14. We have heard both the parties and perused the records. We find that the issue here is whether the assessee's claim of technology recharge cost is revenue expenditure or capital expenditure. The order of the Assessing Officer is again thoroughly based upon surmises and conjecture with no cogent material whatsoever. The opinion of the Assessing Officer that cost and expenses are incurred not to earn income during the year but continue to provide benefit over a period of years is totally a surmises and conjecture. Moreover, in tax laws there is no concept of deferred revenue expenditure. Moreover, we are of the opinion that the Assessing Officer has not brought on record any cogent material how these items are in capital in nature. On the other hand learned CIT(A) has analysed expenditure in detail and has found that these expenses are basically revenue in nature and they should not be treated as capital expenditure. Here we note that learned CIT(A) was rightly referred to the decision of Hon'ble Supreme Court in the case of Empire Jute Co. Ltd. (124 ITR 1). It may be gainful to refer to the exposition in the case of Empire Jute Co. Ltd. (supra) wherein it was observed that "there may be cases where expenditure, even if incurred for obtaining an advantage of enduring benefit, may, none the less, be on revenue account and the test of enduring benefit may break down. It is not every advantage of enduring nature acquired by an assessee that brings the case within the principles laid down in this test. What is material to consider is the nature of the advantage in a commercial sense and it is only where the advantage is in the capital field that the expenditure would be disallowable on an application of this test. If the advantage consists merely in facilitating the assessee's trading operations or enabling the management and conduct of the assessee's business to be carried on more effectively or more profitably while



leaving the fixed capital untouched, the expenditure would be on revenue account, even though the advantage may endure for an indefinite future. " On the touchstone of the above said Hon'ble Supreme Court decision and on the facts and circumstances of the case in our considered opinion learned CIT(A) has taken correct view of the matter and it does not need any interference in our part.

d) Respectfully following the above mentioned orders of CIT(A)'s and Hon'ble Jurisdictional ITAT in Appellants case on an identical issue the Technology Cost is treated as Revenue Expenditure and is allowed deduction us 37 of Act. Addition/Disallowance made by the AO of Rs.6,45,73,278/- is hereby deleted. Grounds of Appeal No. 2 is allowed."

4. Since, the Ld. CIT(A) has followed a binding precedent on the issue in dispute in the case of assessee itself, therefore, we do not find any error in the order the Ld. CIT(A) on the issue in dispute and accordingly, we uphold the same. The ground of appeal of the Revenue is accordingly dismissed.

5. In the result, the appeal filed by the Revenue is dismissed.

Order pronounced in the open Court on 22/06/2023.

Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER

Mumbai;
Dated: 22/06/2023
Rahul Sharma, Sr. P.S.



Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Assistant Registrar)
ITAT, Mumbai