

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH: B: NEW DELHI

BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER  
AND  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

ITA No.6236/Del/2019  
Assessment Year: 2011-12

The DCIT, Circle-5(2), New Delhi 110002	vs.	M/s. Centum Learning Ltd., 127, Neel Gagan, Mandi Road, Sultanpur, Mehrauli, New Delhi 110030 <b>PAN AADCB 3842 R</b>
(Appellant)		(Respondent)

CO No. 147/Del/2019  
In ITA No.6236/Del/2019  
Assessment Year: 2011-12

M/s. Centum Learning Ltd., 127, Neel Gagan, Mandi Road, Sultanpur, Mehrauli, New Delhi 110030 <b>PAN AADCB 3842 R</b>	vs.	The DCIT, Circle-5(2), New Delhi 110002
(Appellant)		(Respondent)

For Assessee :	Shri Anil Bhalla, CA Shri Nitin Kumar Sharma, CA
Revenue For :	Shri Om Prakash, Sr. DR

Date of Hearing :	30.05.2023
Date of Pronouncement :	18.07.2023

**ORDER**

**PER CHANDRA MOHAN GARG, J.M.**

Above captioned appeals of revenue and cross objection of assessee have been filed against the order of CIT(A)-2 New Delhi dated 12.04.2019 for AY 2011-12.

2. The grounds of revenue are as follows:-

1. *Whether the Ld. CIT(A) has erred on facts and in law in allowing the expenses of Rs. 47,98,205/- incurred on repairs and maintenance even though they gave an enduring benefit to the assessee and were rightly amortized by the assessing office.*

2. *Whether the Ld. CIT(A) has erred on facts and in law in allowing the interest of Rs. 7,47,950/- on advance given to subsidies which was not for business purpose.*

3. *Whether the Ld. CIT(A) has erred on facts and in law in allowing the exchange loss of Rs. 12,61,920/- despite the fact that the assessee did not submit any proof regarding its allowability under the Income Tax Act, 1961.*

4. *Whether the Ld. CIT(A) has erred on facts and in law in allowing the production training expenses of Rs. 5,15,75,800/- despite the fact that the assessee did not submit any proof regarding its allowability under the Income Tax Act, 1961.*

3. The grounds raised by assessee in cross objection are as follows:-

1. *The Id. CIT(A) has erred both on facts and in law in upholding the action of the learned Assessing Officer in disallowing advances written off amounting to Rs. 6,37,583/- by not considering the submissions on merits filed during the appellate proceedings.*

2. *The Id. CIT(A) has erred both on facts and in law in holding repaid & maintenance expense amounting to Rs. 4,51,601/- as Capital in nature by incorrectly stating that the appellant company has admitted the expenditure to be capital in nature.*

2.1 *Without prejudice the learned CIT(A) has erred in not directing the allowance of consequential depreciation thereon.*

### **Ground no. 1 of Revenue and cross objection Ground no. 2 of Assessee**

4. The learned AR pressing into service cross objection ground no. 2 submitted that The Id. CIT(A) has erred both on facts and in law in holding repaid & maintenance expense amounting to Rs. 4,51,601/- as Capital in nature by incorrectly stating that the appellant company has admitted the expenditure to be capital in nature. On the other hand the Id. Senior DR contended that the Ld. CIT(A) has erred on facts and in law in allowing the expenses of Rs. 47,98,205/- incurred on repairs and maintenance even though they gave an enduring benefit to the assessee and were rightly amortized by the assessing office. The Id. Senior DR also submitted that the Id. CIT(A) has not adjudicate the issue by considering the relevant facts and circumstances and deleted the addition without any basis and restricted the disallowance only to Rs. 4,51,601/- on

the admission of assessee that the expenditure to such extent incurred on raising the said structure was capital in nature.

5. The Id. AR, in all fairness, submitted that the basis taken by the Id. CIT(A) is not relevant to the issue as there was no disallowance by the Assessing Officer in the assessment order for AY 2010-11 except addition u/s. 14A of the Act. The Sr. DR thus, rightly contended that the issue requires readjudication by the Id. CIT(A) afresh after allowing due opportunity of hearing to the assessee as well as to the Assessing Officer. In view of above ground no. 1 of revenue and ground no. 2 of cross objection of assessee are restored to the file of Id. CIT(A) for a fresh adjudication after allowing due opportunity of hearing to both the sides and without being influenced with the earlier findings of first appellate order.

### **Ground no. 2 of Revenue**

6. The Id. Senior DR submitted that the CIT(A) has erred on facts and laws in allowing the interest Rs. 7,47,950/- on the advance given to subsidiaries which was not for the business purposes of the assessee. On the other hand the Id. AR submitted that the Assessing Officer disallowed interest on borrowed funds due to interest free advances given to the subsidiaries which was deleted by the Id. CIT(A) by taking note of the fact that the assessee has already added back Rs. 24,08,382/- as interest to others in the computation of income hence double addition/disallowance made by the Assessing Officer was not required. The Id. AR has also contended that the interest free advances given to the subsidiaries, who are also in the same line of business, were out of commercial expediency therefore the same cannot be disputed.

7. On careful consideration of above and findings of Id. CIT(A) in para 6.5, we are in agreement with the view taken by the Id. CIT(A) based on preposition rendered by Hon'ble Supreme Court in the case of SA Builders reported as 288 ITR 1 (SC) and keeping in view the fact of suo motto reduction of claim of interest by the assessee in the computation of income amounting to Rs. 24,08,382/- we find that no interference is called for in the conclusion drawn by the Id. CIT(A) in deleting the addition and allowing the interest of Rs. 7,47,950/- to the assessee. Accordingly, ground no. 2 of revenue is dismissed.

### **Ground no. 3 of Revenue**

8. Apropos this ground the Id. Senior DR submitted that the Id. CIT(A) has erred on facts and in law in allowing the exchange loss of Rs. 12,61,920/- despite the fact that the assessee did not submit any proof regarding its allowability under the Income Tax Act, 1961. On the other hand, the Id. AR pressing the rule of consistency submitted

that similar claims were allowed to the assessee in immediately preceding AY 2010-11 and succeeding AY 2012-13 in the scrutiny assessments order u/s. 143(3) of the Act and therefore the claim of assessee was rightly allowed.

9. On careful perusal of relevant part of assessment order and first appellate order para 6.7, we note that the Assessing Officer made addition in absence of details of claim on foreign exchange loss and the Id. CIT(A) allowed the same by following rule of consistency and keeping in view assessment orders passed by the Assessing Officer for under scrutiny for immediately preceding and succeeding AYs 2010-11 & 2012-13 wherein the Assessing Officer accepted identical claim of assessee and no disallowance was made therein. The conclusion of Id. CIT(A) also gets supports from the judgment of Hon'ble Supreme Court in the case of Woodward Governor India P. Ltd. 312 ITR 254 (SC). Accordingly, we are unable to see any valid reason to interfere with the findings of the Id. CIT(A) and consequently, ground no. 3 of revenue is dismissed.

#### **Ground no. 4 of Revenue**

10. The Id. Senior DR submitted that the Ld. CIT(A) has erred on facts and in law in allowing the production training expenses of Rs. 5,15,75,800/- despite the fact that the assessee did not submit any proof regarding its allowability under the Income Tax Act, 1961. Therefore impugned first appellate order may kindly be set aside by restoring that of the Assessing Officer. On the other hand the Id. AR submitted that the Assessing Officer made disallowance without any basis and no disallowance was made on this issue in the immediately preceding and subsequent assessment years therefore the Id. CIT(A) rightly granted relief to the assessee.

11. On careful consideration of above, we note that before making disallowance the Assessing Officer noted that the assessee debited an amount as production training expenses and on being show caused the assessee did not file any reply to the above and the Assessing Officer allowed 1/5 of claim and disallowed remaining 4/5 part of the claim amounting to Rs. 5,15,75,800/- by holding that the expenses incurred on trading will give enduring benefit to the assessee for next 4-5 years. The Id. CIT(A) in paras 6.8 to 6.10 deleted the addition by observing that the denial of trading expenditure to a training organisation on the ground of enduring advantage is not called for. We are unable to understand the observations of the Id. CIT(A) in para 6.10 that the training expenditure has been incurred on the customers at not the staff of the appellant company therefore the question of enhancement of human capital does not arise. On being asked by the bench the Id. AR submitted that the assessee was not allowed to substantiate that the training expenses has been incurred as per requirement of business of assessee which is not of enduring in nature therefore the assessee has no

objection if the matter is restored to the Id. CIT(A) for afresh adjudication of grievance of assessee. The Id. Senior DR also candidly agreed to the submission of assessee.

12. On careful consideration of above noted factual matrix of the issue, we find that the Assessing Officer made addition in absence of any explanation and reply of assessee the Id. CIT(A) granted relief to the assessee by considering irrelevant facts and untenable observations therefore the matter requires readjudication at the level of Id. CIT(A). Therefore ground no. 4 of revenue are restored to the file of Id. CIT(A) with the direction that the issue of claim of assessee regarding allowability of training expenses be readjudicate afresh after allowing due opportunity of hearing to the assessee and the Assessing Officer without being influenced from the earlier first appellate order. Accordingly, ground no. 4 of revenue is allowed for statistical purposes. Ground no. 5 of Revenue is general of nature.

**Ground no. 1 of cross objection of Assessee**

13. The Id. AR submitted that The Id. CIT(A) has erred both on facts and in law in upholding the action of the learned Assessing Officer in disallowing advances written off amounting to Rs. 6,37,583/- by not considering the submissions on merits filed during the appellate proceedings. The Id. AR submitted that the amount of notice pay recovery relating to the amount of notice pay recovery relating to FY 2010-11 reflected in the details on Page no.301 of the PB have been credited to Profit & Loss account of FY 2010-11. The total amount credited during FY 2010-11 was Rs.3,66,405/- which was offered to tax (Refer Page 307 to 308 of PB). This credit has been reduced from the salary (Refer Page 309 of the PB and net salary of Rs.44,03,66,409/- matches with schedule 20 of the financial statement for F ending on 31.03.2011 at Page no. 380 of PB. From the above facts it is clear that since the amounts due from left employees of the assessee company on account of notice period not served by them was accounted a since, the non-recoverability of the same is bad debt which is fully allowable under section 36(1) (vii) r.w.s. 36(2) of the Act.

14. On the other hand, the Id. Senior DR contended that the Id. CIT(A) uphold the disallowance why rightly observing that there was no reasonable cause not to provide the basic details of bed debt when the matter was being discussed with the AR. Therefore he was right and justified in upholding the stand of the Assessing Officer and in making disallowance of claim of bad debts.

15. On careful consideration of above submissions, we clearly note that the assessee despite opportunities given by the authorities below did not file details regarding its claim of bad debts on account of non recovery of amounts due from left employees on account of notice period not served by them. It is pertinent to mention that for claiming

bad debts the debt should be related to the business of assessee. The debts claim should have direct nexus with the carrying on of business or trade of assessee and it should be incidental to it. Neither the Assessing Officer nor the Id. CIT(A) has disputed that the assessee has shown the amount due to the employees of the company on account of notice period not served by them as its income and offered the same to tax debiting the accounts of respective employees. Subsequently, when the amounts could not re-covered the assessee claimed the same as bad debts and this factual position of recording of entries in the books of assessee has not been disputed by the authorities below. However, in absence of details submitted by the assessee supporting the claim of bad debts the Assessing Officer made disallowance which was upheld by the Id. CIT(A) on the similar line. Since, the Assessing Officer did not dispute identical claim during immediately preceding assessment years and in view of above noted factual position the claim of assessee seems to be allowable but the revenue authority should be allowed to verify and examine the details of claim of assessee. Accordingly, the issue is restored to the file of Id. CIT(A) to readjudicate the same after allowing due opportunity of hearing to the assessee as well as to the Assessing Officer, along with other two issues, which has already been restored to his file. Needless to say that the Id. CIT(A) will adjudicate the issue without being influenced with the earlier first appellate order. Accordingly, ground no. 1 of cross objection of assessee is also allowed for statistical purposes.

16. In the result, the appeal of the revenue is partly allowed and cross objection of assessee are allowed for statistical purposes.

Order pronounced in the open court on 18.07.2023.

Sd/-  
(PRADIP KUMAR KEDIA)  
ACCOUNTANT MEMBER

Sd  
(CHANDRA MOHAN GARG)  
JUDICIAL MEMBER

Dated: 18<sup>th</sup> July, 2023.

NV/-

Copy forwarded to :

1. Appellant
2. Respondent

3. CIT
4. CIT(A)
5. DR

*// By Order //*

Asstt. Registrar, ITAT, New Delhi