

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

**Before Dr. B. R. R. Kumar, Accountant Member,  
Sh. Anubhav Sharma, Judicial Member**

**ITA No. 759/Del/2011 : Asstt. Year: 2005-06**

M/s Hindustan Information Technology, I-50, Jangpura Ext., New Delhi-110052 (APPELLANT)	Vs	Income Tax Officer, Ward-12(4), New Delhi (RESPONDENT)
<b>PAN No. AABCH7406A</b>		

**Assessee by : Sh. Tarun, Adv.  
Revenue by : Ms. Parul Singh, CIT-DR**

<b>Date of Hearing: 18.06.2024</b>	<b>Date of Pronouncement: 21.06.2024</b>
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**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the assessee against the order of Id. CIT(A)-XI, New Delhi dated 03.11.2010.

2. Following grounds have been raised by the assessee:

*"(1) The appellant prays that the assessment framed under section 143(3) of the Act be amended since it is not based on facts.*

*(2) Assessing Authority erred in disregarding the basic conditions prescribed for making an assessment under section 143(3) and the relevant order is not based on material available with the A.O;*

*(3) The Ld.CIT(A) has confirmed the additions of Rs. 10,70,460.00 by disregarding the Expenditure on Employees Salary , Conveyance .Depreciation and Other Expenses.*

*(3) The Ld.CIT(A) has also ignored the facts that appellant company has received business Income of Rs. 12,50,000/-from M/s Leading Edge Communication Pvt. Ltd. during the year and that business activity already mentioned in "Memorandum and Article of Association" of the company. Company is headed by*

*Mr. Harminder Bhatia. The venture has been set up for using the expertise of Mr. Harminder Bhatia by promoters.*

*Appellant Company & Leading Edge Communication Pvt. Ltd. are separate identity in the eye of law and also doing separate business with separate clients. Therefore, disallowance of expenditures on premise of doing business with the associated company is a wrong treatment by the A.O.*

*(4) The expenditure is incurred on Business Activities only. Ld CIT(A) has also confirmed the disallowances of expenditure which were disallowed by AO on ad-hoc basis.*

*(5) The Appellant company has received "Marketing Fee related to Computer Harware & Accessories of Rs. 12,50,000.00 during the assessment year 2005- 2006 from M/s Leading Edge Communication Pvt. Ltd. Company has incurred the total Expenditures of Rs. 10,70,460.00 under section 37(1) of the Income Tax Act,1961 against the income of Rs. 12,50,000.00 for the Assessment Year 2005-06 - A.O. has disallowed Rs.10,70,460.00 total Expenditures without any basis and ignoring. Details of expenditure as :*

*Company has booked the Expenditures during the Assessment Year 2005-2006 as follows:*

<i>Employees Remuneration</i>	<i>Rs.8,00,841.00</i>
<i>Conveyance</i>	<i>Rs.1,83,256.00</i>
<i>Others Expenses</i>	<i>Rs.86,363.00</i>
<i>Total:</i>	<i>Rs.10,70,460.00</i>

*8. The appellant prays that the said addition of Rs.10,70,460.00 be deleted."*

3. The appeal in this case has been filed on 08.02.20211 in the ITAT. From the record, we find that the Id. CIT(A) confirmed the addition of Rs.10,70,460/- on account of employees remuneration, conveyance and other expenses.

4. The Id. AR submitted that the company is already been inexistence and the employees remuneration is prerequisite for operation of the company. In the absence of employees salary,

the company cannot run its day to day affairs and also the company has earned interest income of Rs.12,50,000/-.

5. On this issue, the submission of the Id. DR is as under:

*"1. Assessing Officer has not given Opportunity for hearing:*

*This contention of the appellant is factually wrong as can be seen from the assessment order page 1 wherein the Ld. AO has mentioned that -*

*"vide order sheet dated 13.03.2007 during the course of assessment proceedings the appellant was asked to furnish details/documents and reason for claiming of expenses against income under head "other sources" even though the assessee company has not carried out any business activities. The appellant could not furnish any details/documents till first half of October, 2007 hence, show cause notice was issued on 09.10.2007 for 02.11.2007. The assessee again could not furnished reason for claiming of expenses details and evidences in respect of expenses including complete name and address to whom salary paid other then part details."*

*This fact was also reiterated by Ld. CIT(A) in his order on page number 3 wherein he has noted that-*

*"The records reveals that repeated opportunities were allowed by the AO to the appellant to establish the expenditure and on each and every occasion the appellant failed to do so."*

*The Ld. AO was well aware of the business activities carried out by the appellant and nowhere in the order Ld. AO has wrongly mentioned the nature of the business of the company.*

3. *Business Income of Rs. 12,25,000/- received from M/s Leading Edge Communication Pvt. Ltd.*

i) *In the instant case the appellant has shown income received from M/s Leading Edge Communication Pvt. Ltd. under the head*

*"other sources". During the assessment proceedings the appellant was asked by the Ld. AO the reasons for claiming of expenses against income under head "other sources" even though the appellant has not carried out any business activities, which the appellant failed to explain inspite of various opportunities being given by the Ld. AO. In fact the no details such as name and addresses to whom salary was being paid was furnished before the Ld. AO.*

*ii) The fact that M/s Leading Edge Communication Pvt. Ltd., is doing business with Government department is not disputed. However, during the assessment proceedings and the appellate proceedings before Ld. CIT(A) the appellant could not provide a satisfactory explanation for the marketing fees received from M/s Leading Edge Communication Pvt. Ltd. and corresponding expenses claimed against no business income.*

*4. The appellant has quoted Hon'ble ITAT's order for subsequent assessment year A.Y. 2008-09 which is related to deemed dividend under sec. 2(22)(e) and has no relevance in this year."*

6. We find that the employee's salary expenses have not been disputed by the revenue authorities and hence the disallowance cannot be made merely on the ground that the appellant has not carried any business activity though the assessee has earned Rs.12,50,000/- on account of marketing. Hence, keeping in view the specific facts of the case, we hold that no disallowance is called for on account of salary, conveyance and other office expenses.

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

Order Pronounced in the Open Court on 21/06/2024.

**Sd/-**

**(Anubhav Sharma)**  
**Judicial Member**

**Sd/-**

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**Dated: 21/06/2024**

\*Subodh Kumar, Sr. PS\*

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

**ASSISTANT REGISTRAR**