

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

**BEFORE SHRI ANIKESH BANERJEE, JUDICIAL MEMBER
&
SMT. RENU JAUHRI, ACCOUNTANT MEMBER**

**ITA No. 5261/MUM/2024
(A.Y. 2021-22)**

India Resurgence Asset Management Business Pvt. Ltd. Piramal Tower, Ganpatrao Kadam Marg, Mumbai, Delisle Road S.O. 400013	v/s. बनाम	Income Tax Officer-7(3)(1) Room No. 126-J, 1 st Floor, Aayakar Bhavan, M K. Road, Churchgate, Mumbai-400020
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAICP5573C		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

**ITA No. 5203/MUM/2024
(A.Y. 2021-22)**

Income Tax Officer – 7(3)(1) Room No. 126-J, 1 st Floor, Aayakar Bhawan, M K. Road, Churchgate, Mumbai-400020	v/s. बनाम	India Resurgence Asset Management Business Pvt. Ltd. Piramal Tower, Ganpatrao Kadam Marg, Mumbai, Delisle Road S.O. 400013
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No: AAICP5573C		
Appellant/अपीलार्थी	..	Respondent/प्रतिवादी

Assessee by :	Shri Ronak Doshi & Ms. Jinal Jain
Revenue by :	Shri Krishna Kumar

Date of Hearing	14.11.2024
Date of Pronouncement	31.12.2024

आदेश / ORDER

PER RENU JAUHRI [A.M.] :-

These cross appeals are filed by the assessee and the revenue against the order of the Learned Commissioner of Income-tax (Appeals), Mumbai/National Faceless Appeal Centre, Delhi [hereinafter referred to as "CIT(A)"] dated 09.08.2024 passed u/s. 250 of the Income-tax Act, 1961 [hereinafter referred to as "Act"] for Assessment Year [A.Y.] 2021-22.

2. The assessee has raised following grounds of appeal:

"1. On the facts and circumstances of the case and in law, the ld. CIT(A) erred in upholding the order passed by the Assessment Unit of National Faceless Assessment Centre (hereinafter referred to as "the AO") u/s. 143(3) r.w.s. 144B of the Act in assessing to tax reimbursement of rent received by the Appellant of Rs. 59,92,857 as income from other sources.

2. The Appellant prays that on facts, it be held that such rent reimbursement cannot be assessed independently under income from other sources as the said reimbursement effectively reduces rent expense claimed u/s. 37 of the Act."

3. The revenue has raised following grounds of appeal:

"1. Whether on the facts and in the circumstances of case and in law, the Ld.CIT(A) has erred in treating the other income as business income and allowing to set off the brought forward unabsorbed losses to the extent of Rs. 4,48,94,570/- against this income from other sources.

2. Whether without appreciating the fact that the assessee himself in its Return of Income and audited Balance Sheet has shown the reimbursement expenses under the head 'any other income and not under the head "Business and Profession", the Ld.CIT(A) has erred in treating the same as a part of business income.

3. The appellant craves to leave to add to or alter by deletion, substitution or otherwise, the grounds of appeal and to submit such statements, documents and papers as may be considered necessary, during the course of appeal proceedings."



4. The main issue in both the cross appeals pertains to treatment of rent reimbursement of Rs. 59,92,857/- received by the assessee from its group company as part of 'business income' or 'income from other sources'.

5. Brief facts of the case are that the assessee is an investment management company providing services to various Alternative Investment Funds (AIFs). The assessee had taken an office premises on lease to conduct its business activity. Certain part of this office space was also used by the employees of another group entity during the year under consideration. The assessee, accordingly, recovered part of the lease rental from this group entity on the basis of an agreement dated 21.05.2019 relating to premises sharing. Initially, the assessee had shown the amount of Rs. 59,92,857/-, received on this account as 'other income' while filing the I.T. return. During the course of assessment proceedings, Ld.AO sought to deny the setting off of business losses of previous years against this 'other income'. Thereafter, the assessee submitted s claim that the reimbursement amount goes to reduce the expenditure incurred from rent by the assessee, as such it has to be considered under the head 'business income' and not as 'income from other sources". The Ld. AO rejected the claim of the assessee and proceeded to treat this amount as 'income from other sources', thereby also disallowing the claim of brought losses against this income.



6. Aggrieved with the order, the assessee filed an appeal before Ld. CIT(A). Vide order dated 09.08.2024, the Ld. CIT(A) confirmed the action of the Ld. AO of treating the amount of Rs. 59,92,857/- as income from 'other sources'. However, he changed the head from 'other sources' to 'business income'.

7. Aggrieved with the order of the Ld. CIT(A), the assessee is in appeal before us. Ld. AR has submitted that merely because the assessee had erroneously shown the amount of rent reimbursement under the head 'other income', he cannot be precluded from claiming the same as reimbursement of rent to be adjusted against expenditure incurred on rent by it. In support of its claim, the assessee has cited several judicial pronouncements and has also furnished a copy of the Lease and license agreement dated 20.12.2018 with the licensor viz. Aasan Corporate Solutions Pvt. Ltd. He drew our attention to Para 12 (f) wherein he has been permitted by the licensor to partly share the premises with its group entities or subsidiaries.

In view of above facts, it was claimed by the Ld. AR that the assessee should be allowed to adjust the reimbursement received on account of rent from its group concern against the expenditure incurred on account of rent, claimed in the profit and loss account.

8. Ld. DR, on the other hand, strongly relied on the orders of the lower authorities. It was argued by him that the action of the assessee amounted to



subletting the premises, and therefore, the receipt of Rs. 55,29,857/- has rightly been treated as income from other sources by the AO.

9. We have considered the rival submissions and perused the material placed before us. We have also gone through the Leave and License agreement which expressly provides for sharing of licensed premises by the assessee with its group/subsidiary companies. Relevant provisions are contained in Para 12(f) of this agreement, which is reproduced below:

“12. COVENANTS OF THE LICENSEE

The Licensee hereby agrees, undertakes and covenants with the Licensor that the Licensee shall:

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(f)Not induct any third party or create any third party right in the Licensed Premises or any part or portion thereof, and shall not transfer or assign the benefit of this Agreement to any party or person. Provided that the Licensor may permit the Licensee to partly share the Licensed Premises and car parking with its group companies and/or subsidiaries. Provided further that, the Licensee alone shall remain liable and responsible to the Licensor at all times for its covenants and obligations under this Agreement.. Such group/ subsidiary company shall, at the option of Licensor, give appropriate writing/ undertaking not to claim protection under Maharashtra Rent Control Act, 1999 (as amended) or under any other law or such other writings as may, be deemed fit and proper by the Licensor. In any event before commencing the sharing of the Licensed Premises and car parking with such group/ subsidiary company/ies, the Licensee shall obtain written approval of the Licensor after disclosing all relevant, true and correct facts to the Licensor;”

10. We are, accordingly, of the view that the assessee has allowed its sister concern to use a part of the office premises as permitted by the Leave and License agreement and is, therefore, entitled to claim rent received as



reimbursement which effectively reduces its rent expenses claimed u/s 37 of the Act. The appeal of the assessee on this issue is allowed.

11. In the light of the above, Ld. AO is also directed to consider and allow the claim of brought forward losses as per the applicable provisions of the Act.

12. In the result, the appeal of the assessee is allowed and the revenue's appeal is dismissed.

Order pronounced in the open court on 31.12.2024.

Sd/-

ANIKESH BANERJEE

(न्यायिक सदस्य/JUDICIAL MEMBER)

Sd/-

RENU JAUHRI

(लेखाकार सदस्य/ACCOUNTANT MEMBER)

Place: मुंबई/Mumbai

दिनांक /Date 31.12.2024

अनिकेत सिंह राजपूत/ स्टेनो

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त / CIT
4. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण DR, ITAT,
Mumbai
5. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//
आदेशानुसार/ BY ORDER,



ITA No. 5261 & 5203/Mum/2024
A.Y. 2021-22

India Resurgence Asset Management Business Pvt. Ltd.

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण/ ITAT, Bench,
Mumbai.

