

**IN THE INCOME TAX APPELLATE TRIBUNAL,
MUMBAI BENCH "C", MUMBAI**

**BEFORE SHRI NARENDER KUMAR CHOUDHRY, JUDICIAL MEMBER
And
SHRI JAGADISH, ACCOUNTANT MEMBER**

**ITA No.5946/M/2025
Assessment Year: 2011-12**

IPFONLINE LIMITED, (Now known as ASAPP Info Global Services Pvt. Ltd.), A 303, Navbharat Industrial Estate, Zakaria Bunder Road, Mumbai – 400015.	Vs.	Dy. Commissioner of Income-Tax, Circle 6(1)(2), 563B, Aayakar Bhavan, Maharshi Karve Road, Churchgate, Mumbai – 400020.
(Appellant)		(Respondent)

PAN: AAACI 6329 P

Present for:

Assessee by : Shri. Shekhar Gupta/ Mrs. Renu Kapoor
Revenue by : Shri. Virabhadra S. Mahajan, SR. D.R.

Date of Hearing : 07.01.2026
Date of Pronouncement : 05.03.2026

O R D E R

Per : Narender Kumar Choudhry, Judicial Member:

This appeal has been preferred by the Assessee against the order dated 03.09.2025 impugned herein, passed by the National Faceless Appeal Centre (NFAC)/Ld. Commissioner of Income Tax (Appeals) (in short Ld. Commissioner) u/s 250 of the Income Tax Act, 1961 (in short 'the Act') for the A.Y. 2011-12.

2. In this case, the Assessee initially filed its original return of income on 30.09.2011, which was revised on 17.04.2012 declaring its income @ Rs.10,46,980/- and resulted into initially processing u/s 143(1) of the Act, however subsequently the same was selected

for scrutiny through CASS and resulted into making three additions/disallowances mentioned below:

1. Rs.57,28,466/- on account of disallowance of Bad and doubtful debts written off.
2. Rs. 66,62,474/- disallowance on account of non-deduction of TDS on payments made under various heads of expenditure.
3. Rs.18,48,077/- disallowance on account of prepaid expenses and provisions of expenses.

3. The Assessee, being aggrieved, challenged the said additions/disallowances before the Ld. Commissioner by filing First Appeal, who dismissed the same, affirming the aforesaid additions/disallowances. Thus the Assessee, being aggrieved, has preferred instant Appeal.

4. For the sake of brevity, we deem it appropriate to dispose of this Appeal by issue-wise.

5. Coming to the **first issue/ground**, which relates to the disallowance of Rs.57,28,466/- in respect of Bad debts u/s. 36(1)(vii) of the Act, we observe that the Assessing Officer during the Assessment proceedings asked the Assessee to provide the breakup and details of Bad debts and therefore the Assessee provided the same, however the Assessing Officer still doubted the claim of the Assessee mainly on the reason that the Assessee had not shown any sufficient efforts having been made to collect the said debts. Further, assuming that they are Bad debts, it is for the Assessee to establish that debts have become irrecoverable or realization is not possible. The circumstances should show that the debts were not realizable for some fault, on the part of the debtors.

6. The Assessing Officer on the aforesaid reason held the claim of Bad and doubtful debts written off, of Rs.51,28,466/-, as not

acceptable and added back said amount to the total income of the Assessee.

7. The Ld. Commissioner in the impugned order observed that evidently the criteria of which the Assessing Officer disallowed the writing off of Bad debts is not in harmony of the provisions of section 36(1)(vii) of the Act. However, at the same time, the Assessee has also not been able to prove that it is not hit by the restriction of the provision of section 36(2) of the Act. The Ld. Commissioner also observed that in view of the judgment by the Hon'ble Supreme Court in the case of *Catholic Syrien Bank Limited Vs. CIT (2012) 343 ITR 270*, the Assessee must prove all the ingredients of section 36(1)(vii) and section 36(2). Proper documentation and adherence to conditions are essential for claiming Bad debt deduction. The Assessee neither before the Assessing Officer nor before him has been able to discharge the onus cast upon it convincingly by presenting the above noted documents. The Ld. Commissioner therefore on the aforesaid reasons, ultimately affirmed the said disallowance qua bad debts written off, dismissing appeal of the Assessee. **Thus, the Assessee being aggrieved has filed this appeal.**

8. Having heard the parties and giving the thoughtful consideration to the peculiar facts and circumstances of the case it is observed that it is not in controversy that the Assessee has submitted complete details of Bad debts written off, such as date of bills, serial number, debtor's name and the amount written off. Further, as the bills were related to the period from 1999-2008 and the income has been shown in the relevant Financial Years (in short F.Y.), which amounts to compliance of the conditions, as prescribed in section 36(2)(i) of the Act.

9. The Assessee before us, has also filed the details of the Bad Debts written off (Page No.16-23) and Ledger Account for debtor's write off (Page No.25-26). Further, it is also a fact that the Hon'ble Apex Court in the *TRF Limited vs. Commissioner of Income Tax, Ranchi Civil Appeal No.5293 of 2003*, decided on 09.02.2010 has clearly laid down that after 01.04.1989, it is not necessary for the Assessee to establish that the Debt, in fact, has become irrecoverable. It is enough, if the Bad debt is written off, as irrecoverable, in the accounts of the Assessee.

10. Further, it is a fact that CBDT by taking cognizance of the aforesaid judgment of the Hon'ble Apex Court, issued a Circular No.12/2016, dated 30.05.2016 and clarified that in view of the judgment by the Hon'ble Supreme Court in the case of TRF Limited, claim for any debt or part thereof in any previous year, shall be admissible u/s 36(1)(vii) of the Act, if it is written off, as irrecoverable in the books of account of the Assessee for that previous year and if it fulfills the conditions stipulated in sub section (2) of section 36 of the Act, then no appeals may henceforth be filed on this ground and appeals already filed, if any, on this issue before various Courts/Tribunals may be withdrawn/not pressed upon.

11. From the CBDT circular, has become clear that the Revenue has accepted the judgment of the Hon'ble Apex Court in the case of TRF Limited and therefore the Revenue Authorities are not entitled to deviate from the dictum laid down by the Hon'ble Apex Court. Thus, the reason stated by the Assessing Officer in the Assessment Year for not allowing the claim of the Bad and doubtful debts on the reason that the Assessee has not shown to have made sufficient efforts to collect the said debts and the circumstances should show

that the debts were not realizable for some fault on the part of the debtors, is untenable.

12. We further observe that the Hon'ble Coordinate Bench of the Tribunal in the case of *Tutor Investment and Finance Private Limited vs. Deputy Commissioner of Income Tax, Central, Mumbai (ITA Nos.287 to 291/MUM/2025)* decided on 24.03.2025 has also dealt with an identical issue 'qua' disallowance made for not allowing the Bad debts as written off, by observing and holding as under: -

"7. Above two appeals having common issues involved are being taken up together. The assessee is a company engaged in the business of finance and hire purchase, leasing, business of lending loans and advance. Facts of the case are that the assessee advanced Rs.2,38,04,538/- to one Sri Ashok Chatterjee (Prop. Ashok Sudha Chatterjee). On account of non-recovery of the amount, it was written off in the books of account for both the years. The AO disallowed the claim while the Ld.CIT(A) upheld the action of the AO with an observation that the assessee failed to produce relevant evidences in support of recovery efforts made. He also disallowed the alternative claim of treating the said write off as a business loss u/s. 37 of the Act.

8.

9. We have carefully considered all the relevant facts of the case, rival submissions and materials placed on record alongwith case laws relied upon by the assessee. Section 36(2)(i) of the Act, 1961 provides as under:

(i) [no such deduction shall be allowed unless such debt or part thereof has been taken into account in computing the income of the assessee of the previous year in which the amount of such debt or part thereof is written off or of an earlier previous year, or represents money lent in the ordinary course of the business of banking or money-lending which is carried on by the assessee;] [Substituted by Act 4 of 1988, Section 11, for Clause (i) (w.e.f. 1.4.1989).]

9.1 Seen in the light of the admitted position that the assessee being engaged in the business of advancing loans and advances had given these loans in the ordinary course of its business and it was regularly reflecting the interest income thereon in the books of accounts. These facts are not disputed by the revenue in any manner. When the said loan became irrecoverable as enunciated in foregoing paras, as a prudent business measure, the entire amount inclusive of principal and interest was written off in the books of account and claimed as deduction u/s 36(1)(vii) r.w. section 36(2)(i) of the Act satisfying the conditions laid down. It is a settled law now that the bad debt is not required to be proved as

irrecoverable as was the position in the pre-amendment period before 01.04.1989. if the assessee advances money in the course of its business and if the advance become bad, it should be allowed as a bad debt in terms of s.36(1)(vii) r.w. 36(2)(i) of the Act. We have to look into the issue from the point of view of the assessee, whether assessee has advanced money and it became bad debt and same was written off in the books of accounts as bad debt. In the present case, assessee has advanced money in the ordinary course of carrying on business of the assessee and income earned from such business was offered to tax from year to year. Due to circumstances beyond the control of assessee, assessee was not able to recover the interest income on the impugned advance made to the borrower. As per the decision of Supreme Court in the case of **TRF LTD. V. Ld. CIT(A), 323 ITR 397**, it is enough if the irrecoverable debt has been written off in the books of accounts of assessee which is advanced in the ordinary course of business of assessee. The Courts have also been taking this view consistently.

9.2. The Hon'ble High Court of Bombay in **Ld. CIT vs. Smt. Padma S. Bora in (2015) 54 Taxmann.com 319** has held as reproduced here under:

"5. Having perused this paragraph carefully, we find that the Tribunal may have committed a mistake in erroneous reproduction of the Commissioner's findings, but that does not mean that the Appeal would raise any substituted question of law. The allowability of bad debts was a claim considered in depth by the Commissioner and eventually granted in favour of the Assessee. The Assessee is engaged in the business of money lending. Merely because the Assessee does not have license to conduct this business, does not mean that the claim of bad debts should be denied. The Commissioner has in relation to this claim of bad debts should be denied. The Commissioner has in relation to this claim held in his order at paragraph 4.2 that the Tribunal's order in the case of B.N. Khandelwal v. ITO [2007] 16 SOT 343 (Mum.), would assist the Assessee inasmuch as the amount is lent in ordinary course of money lending business. It was written off after making efforts to recover. The effort was unsuccessful. In such circumstances, the Tribunal did not commit any error in reaffirming the conclusion of the Commissioner of Income Tax (Appeals) and which is to be found in paragraph no. 4.2 of the Commissioner's order. The present Appeal also is continuation of the attempt by the Revenue to question such findings. The findings being purely of fact, the same do not raise any substantial question of law.

9.3. In the case of **CIT vs. B.D.A.Ltd. Bombay in 213. ITXA-201-2003.doc** dated 23.02.2024, Hon'ble Bombay High Court has taken similar view as under: Section 36(1) (vii) of the Act, which at the relevant time, reads as under:

"36(1)(vii) Subject to provisions of sub-section (2), the amount of any bad debt or part thereof which is written off as irrecoverable in the account of the assessee for the previous year."

The above clause, before its amendment w.e.f.1.4.1989 reads as under:

"36(1) – Subject to the provisions of sub-section (2) the amount of any debt or part thereof which is established to have become a bad debt in the previous year."

7 Therefore, the position before the amendment was that assessee could claim deduction in respect of the bad debt or part thereof which is established to have become bad in the previous year relevant to the assessment year in which the claim is made, whereas the position after the amendment is that assessee is entitled to deduction in respect of the amount of bad debt or part thereof which is written off as irrecoverable in the account of assessee in the previous year. In our view, it is not necessary that assessee should establish that the debt has gone bad during the previous year relevant to the assessment year in question. If assessee could show that it bonafidely believed that the debt had gone bad and the claim could, it is to be allowed for the year in which it is written off in the books of accounts.

8 We also find that one of the reasons the Assessing Officer has disallowed the claim of assessee is that assessee is not a money lender and hence, it could not be said that the amount advanced had become bad. We agree with the ITAT that it is not necessary that every businessman should register himself under Money Lending Act and make the claim in relation to any advance made by it only in the capacity of carrying on money lending business. As per the balance sheet of assessee, the said M/s. Ganges Soaps Pvt. Ltd. was assessee's debtor because assessee had given advance loan to it. The ITAT has come to a factual finding that the money was advanced during the course of business."

9.4 In the result, the orders of the Ld.CIT(A) with regard to the additions made in AYS 2016-17 and 2017-18 are set aside with a direction to the AO to delete the additions. Since we have already allowed the main ground of the assessee in both the above years, other legal grounds relating to reopening are academic only and do not require any adjudication."

13. We further observe that the Coordinate Bench of the Tribunal in the case of *M/s. Excellence Finance Private Limited vs. Deputy Commissioner of Income Tax Officer (ITA No.293/M/2025* decided on 28.04.2025), has dealt with the identical issue and ultimately deleted the identical addition, by observing and holding as under:

"7. We have heard the parties and perused the material available on record. For better understanding, let us peruse the relevant provisions of section 36(1) & 36(2) of the Act, as applicable to the instant case.

8. As per mandate of the provisions of section 36(2) of the Act for claiming any deduction for a bad debt or part thereof, no such deduction shall be allowed unless such debt or part thereof has been taken into account in computing the income of the Assessee of the previous year, in which the amount of such debt or part thereof is written off or of an earlier previous year. Admittedly, in the instant case, the Assessee has taken into account the irrecoverable interest amounts on the reasons mentioned above, in the previous years. We further observe that both the authorities below have specifically raised the issue that the Assessee has failed to provide any supporting document or necessary evidence qua "interest not recoverable". Admittedly, the CBDT, in order to avoid the litigations on the issue of liability of bad debts that are written off as irrecoverable in the accounts of the Assessee's and in the cases involving failure the part of the Assessee's to establish that the debt irrecoverable, has issued Circular no.12/2016 dated 30.05.2016 by following the directions of the Hon'ble Apex Court in the case of TRF Ltd. (CA No.5292 to 5294 of 2003) vide judgment dated 09.02.2010 wherein it was laid down "that after 01.04.1989, for allowing the deduction for the amount of any bad debt or part thereof u/s 36(1)(vii) of the Act, it is not necessary for Assessee to establish that the debt, in fact has become irrecoverable; it is enough if bad debt is written off as irrecoverable in the books of accounts of the Assessee", directed as under:

"4. In view of the above, claim for any debt or part thereof in any previous year, shall be admissible under section 36(1)(vu) of the Act, if it is written off as irrecoverable in the books of accounts of the assessee for that previous year and it fulfills the conditions stipulated in sub section (2) of sub-section 36(2) of the Act."

9. From the CBDT circular, it is clear that for claiming deduction of bad debts u/s 36(1) (vii) r.w.s. 36(2) of the Act, the Assessee is only supposed to make the debt or part thereof as admissible u/s 36(1)(vii) of the Act, as written off as irrecoverable in its books of accounts for the previous year on fulfilling the conditions stipulated in sub section 2 of sub section 36(2) of the Act but not to establish the reason of irrecoverable of debt. Admittedly, in the Assessee's case, the conditions as prescribed in the provisions of section 36(2) of the Act are fulfilled and the Assessee by producing the relevant documents has been able to establish the written off of the bad debt on account of interest, as irrecoverable in its books of accounts for the previous year, hence no addition as made by the AO and affirmed by the Ld. Commissioner, is sustainable. Hence, on the aforesaid analyzations, we are inclined to delete the same, thus the same is delete."

14. Thus, on the aforesaid analyzations, the above addition/disallowance qua Bad debts made by the Assessing Officer and sustained by the Ld. Commissioner, is liable to be deleted, and hence the same is deleted. **Resultantly ground/issue No.1 is decided in favour of the Assessee.**

15. Coming to **second issue/ground**, which pertains to the addition of Rs.18,48,077/- on account of disallowance made in respect of prepaid expenses and provision for expenses. We observe that the Assessee, in the profit and loss account claimed the amount of Rs.18,48,077/- under various heads as 'prepaid expenses and provision for expenses', which have been disallowed by the Assessing Officer mainly by holding that the same are in the nature of provisions or as prepaid relevant to the various expenses, not allowable, as per the provisions of the Act.

16. The Assessee, being aggrieved, also challenged the said addition/disallowance of Rs.18,48,074/- before the Ld. Commissioner, in First Appeal and submitted asunder: -

"3. The 6th, 7th and 8th grounds of appeal relates to disallowance of Rs. 18,48,077/- debited under the head "prepaid expenses and provisions for expenses".

The assessing officer has disallowed the same observing as under:

"The assessee has filed the details of expenses claimed in the profit and loss and the assessee has claimed Rs.18,48,077/- under various heads as "prepaid Expenses and Provision for Expenses Since, these expenses debited to the profit and loss account are in the nature of provisions or as prepaid relevant to various expenses not allowable as per the provisions of L. T. Act, hence disallowed and added to the total income of the assessee."

The assessee has claimed pre-paid expenses and has provided for expenses as under:

	[Rs.]
Prepaid Expenses	8,12,792
Provisions for expenses	10,35,282
Total	18,48,074

We have been instructed to submit that the prepaid expenses of Rs. 8,12,7957-has been inadvertently claimed and as such the assessee company wishes to withdraw its claim in respect of the said amount.

Further, in respect of provisions for expenses we are giving below the details of expenses provided during the year:

Sr. No.	Particular	Amount	TDS Amount	TDS	Documents	Remarks
.						

				%		
1	Courier Charges	103,332	2,069	2	Ledger Account, challans enclosed	Amount Consist of Rs.2068/- out of Challan Amount Rs.6633/-
2	Internet Charges	700			NA	
3	Editorial Expenses	4,900			NA	
4	Legal & Professional Charges	29,120	2,936	10	Bills, Challans enclosed	Amount Consist of Rs.2936/- out of Challan Amount of Rs.3871/-
5	Audit Fees & out of pocket Expense	882,400	88,716	10	Bills enclosed	Amount Consist of Rs.88716/- out of Challan Amount Rs.147155/-
6	Subscription Seller Commission	8,830			NA	
7	Xpress Print-Printing & Stationery	4,000			NA	
8	Technosoft Electronics	2,000			NA	
	Total Amount	1,035,282				

We have to submit that the assessee follows mercantile system of accounting and hence the provisions have been made in respect of expenses incurred during the year but paid in the subsequent year.

In respect of courier charges, legal and professional charges and audit fees, we are enclosing herewith a summary detailing the amounts incurred and TDS deducted from the said amounts along with TDS Challans. **(Annexure 3)** Hence, in view of the above, we shall request your goodself to kindly delete the addition made by the assessing officer. (We shall request your goodself to kindly admit the above as additional evidence under Rule 46A of the Income Tax Rules)."

17. The Ld. Commissioner, though considered the aforesaid submissions of the Assessee and also observed that it is trite that where the factum of pre-paid expenditure being actually paid and

the incurrance of expenditure for the purpose of business had not been disputed by the Revenue, and the Assessee had been consistently claiming the same in the year of incurrance and/or had been allowed by the Revenue in the past and given by the nature of expenditure of given pre-paid expenses in the overall context of the business of the assessee, which indisputably was not going to disturb the determination of profit/loss, such consistent claim of expenditure should not be disturbed. However, the Ld. Commissioner rejected the claim of the Assessee mainly by holding that the Assessee has not given any documentary evidence or has made any sincere attempt to convince the Assessing Officer as well as him, to prove that it has been claiming similar expenditure towards pre-paid expenses in the year of incurrance and the same was found to be correct and was allowed following the principle of consistency.

18. We have given thoughtful consideration to the determinations made by the authorities below on the issue/addition under consideration. Admittedly, the Assessee before the Ld. Commissioner accepted its fault for claiming Rs.8,12,795/- on account of pre-paid expenses, being part of the total expenses of Rs.18,48,074/- as inadvertently and therefore withdrew its claim in respect of said amount, however with regard to the provisions for expenses, the Assessee submitted details of expenses, as well as documents including TDS challans in the form of additional evidence under Rule 46A of the Income Tax Rules, 1962 (in short 'Rules'). Somehow, the Ld. Commissioner failed to determine the allowability of additional evidence and/or claim of the Assessee and rejected the same by holding contrary that the Assessee has not given any documentary evidence or made any attempt to prove that it has been claiming same expenditure towards pre-paid expenses, whereas, the Assessee before us proved contrary. Thus considering

the peculiar facts and circumstances in totality qua this issue, we deem it appropriate to remand this issue/addition to the extent of **Rs.10,35,282/-**{18,48,074/- -8,12,792/-}on account of provisions for expenses, for which Assessee has filed certain additional evidence, to the file of the Assessing Officer for decision afresh and factual verification. Rest of the amount of **Rs.812795/-**, which was claimed as pre-paid expenses inadvertently but withdrawn subsequently, **therefore is upheld. Resultantly**, the ground/issue no. 2 is allowed partly for statistical purposes.

19. Coming to the 3rd issue ground/addition of **Rs.66,62,474/-** the payments made under various heads of expenditure, wherein no TDS has been deducted by the Assessee, as alleged and as detailed below:

"Non Deduction of TDS on payments made;

The following payments were made by the assessee under various heads of expenditure on which it was reported that no TDS has been made

<i>Head of expenditure</i>	<i>Paid to</i>	<i>Amount</i>
<i>Conference - ISM</i>	<i>Ambience Hotels & Resorts</i>	<i>22,97,388</i>
<i>-do-</i>	<i>Om Sai</i>	<i>1,00,538</i>
<i>-do-</i>	<i>Major Minor Exims P Ltd</i>	<i>4,59,660</i>
<i>-do-</i>	<i>Exhibition expenses</i>	<i>10,00,141</i>
<i>Conference Solar 2010</i>	<i>The Lalit</i>	<i>11,23,228</i>
<i>-do-</i>	<i>The Bengal Chamber of Commerce</i>	<i>2,20,000</i>
<i>-do-</i>	<i>The Oberoi Grand</i>	<i>12,77,824</i>
<i>Adv, &Promotion</i>	<i>Truine Exhibitors</i>	<i>77,302</i>
	<i>Sub commission payable</i>	<i>1,06,393</i>
	TOTAL	66,62,474

20. We observe from the Assessment Order that the Assessing Officer made such addition/disallowance of Rs.66,62,474/- on the reason that the Assessee has not complied with the TDS provisions

and, therefore the said expenses are disallowed, as per the provisions of section (40a)(ia) of the Act.

21.The Assessee thus, being aggrieved with the aforesaid addition/disallowance u/s 40a(ia) of the Act, also challenged the same before the Ld. Commissioner and claimed as under:

The 9th and 10th grounds of appeal are against disallowance of Rs. 66,62,274/- u/s. 40(a)(ia) of the Income Tax Act.

The assessing officer has disallowed the following amounts for non-deduction of the TDS:

<i>Head of expenditure</i>	<i>Paid to</i>	<i>Amount</i>
<i>Conference – ISM</i>	<i>Ambience Hotels & Resorts</i>	<i>22,97,388</i>
<i>-do-</i>	<i>Om Sai</i>	<i>1,00,538</i>
<i>-do-</i>	<i>Major Minor Exims P Ltd</i>	<i>4,59,660</i>
<i>-do-</i>	<i>Exhibition expenses</i>	<i>10,00,141</i>
<i>Conference Solar 2010</i>	<i>The Lalit</i>	<i>11,23,228</i>
<i>-do-</i>	<i>The Bengal Chamber of Commerce</i>	<i>2,20,000</i>
<i>-do-</i>	<i>The Oberoi Grand</i>	<i>12,77,824</i>
<i>Adv, & Promotion</i>	<i>Truine Exhibitors</i>	<i>77,302</i>
	<i>Sub commission payable</i>	<i>1,06,393</i>
	TOTAL	66,62,474
<i>Head of expenditure</i>	<i>Paid to</i>	<i>Amount</i>

*Regarding payment made to Ambience Hotel & Resorts Rs.22,97,388/-, we are enclosing the bills regarding payment made to them. (Annexure 4) The payment is made towards food expenses paid directly to the hotel. The assessee relies on the Board Circular No.: 715/1995 (Copy enclosed) (**Annexure 5**) according to which TDS was not to be deducted on food bills paid directly to the hotel. (We shall request your goodself to kindly admit the above hotel bills as additional evidence under Rule 46A of the Income Tax Rules.)*

*Regarding payment made to The Lalit Hotels Rs.11,23,228/, we are enclosing the bills regarding payment made to them. (**Annexure 6**) The payment is made towards food expenses paid directly to the hotel. The assessee relies on the Board Circular No.: 715/1995 according to which TDS was not to be deducted on food bills paid directly to the hotel. (We shall request your goodself to kindly admit the above hotel bills as additional evidence under Rule 46A of the Income Tax Rules.)*

Regarding payment made to The Oberoi Grand Rs.12,77,824/-, we are enclosing the bills regarding payment made to them.

(Annexure - 7). The payment is made towards food expenses paid directly to the hotel. The assessee relies on the **Board Circular No.: 715/additional 1995** according to which TDS was not to be deducted on food bills paid directly to the hotel. (We shall request your goodself to kindly admit the above hotel bills evidence under Rule 46A of the Income Tax Rules.)

Regarding payment made Om Sai Rs.1,00,538/-, the said amount represents amount paid for colour copying in respect of Indian Steel Conference. The assessee has deducted TD58 24. Bills enclosed- Annexure B) (We shall request your goodself to kindly admit the above bills additional evidence under Rule 46A of the Income Tax Rules.)

Exhibition expenses Rs. 10,00,141/-, The assessee bridges the gap between buyers and Sellers and bring them together in a single platform for the said purpose the assessee holds exhibitions for the benefit of the Indian Steel Industries. The assessee has held an exhibition (conference) namely Indian Steel Conference at Hotel The Leela Kempinski Gurgaon owned by Ambience Hotels and Resorts. We are enclosing herewith-the details of expenses incurred.

Particulars	Amount (Rs.)
Exhibition Expenses	3,72,373.00
Courier Charges	8,498
Printing & Stationery - General	76,296
Conveyance Expenses	2,695
Travelling Expenses - Staff (Domestic)	2,36,478
Travelling Expenses - Others (Foreign)	2,77,006
Printing & Stationery - Trade Fairs	26,795
Total	10,00,141

Exhibition expenses Rs. 3,72,373/-: This expenses includes food expenses, venues expenses, electrical expenses, A. V. equipment, furniture equipment's and logistics for exhibition participation. We are giving below the break-up of Rs. 3,72,372/-

Date	Particulars	Vch. Type	Vch. No.	Amount (Rs.)
26.09.2010	Synapse Information Services Pvt. Ltd.	Purchase Journal	PUR/NOV/0093 /11/10-11 (TDS deducted Rs.27,575/-)	2,75,750
30.11.2010	Advance Others - Sujit Senugupta and Abhijit saha	Petty cash payment	JNL/NOV/0062/ 11-10	96,273

15.03. 2011	Petty cash Baroda	Petty cash payment	PCP/BAR/0004/ 03-11	350
			Total	3,72,373

In respect of payment made to Synapse Information Services Pvt. Lt. The assessee has made payment of Ra. 2,75,750/- and has deducted TDS Rs. 27,575/ The payment was made for audio Visual presentation and stall design. (Copy of challan enclosed - Annexure 9) (We shall request your goodself to kindly admit the above challan as additional evidence under Rule 46A of the Income Tax Rules.)

Courier Charges Ra. 8,498/-: This expenses includes domestic and international courier deliveries for conference materials and documents. The amounts petty nature and tax is not deductible.

Printing & Stationery - General Rs.76,296/-: This expenses covers business cards, brochures, handouts, letterheads and general office stationery used in conference planning. The amounts are petty in nature and tax is not deductible.

Conveyance Expenses Rs. 2,695/-: This expense includes taxis, auto-rickshaw, fuel reimbursements and local transport costs for conference team members. The amounts are petty in nature and tax is not deductible.

Travelling Expenses Staff (Domestic) Rs.2,36,478/-: This amount represents ticket expenses on which tax is not deductible.

Travelling Expenses Others (Foreign) Rs. 2,77,006/-: This amount represents tickets and hotel expenses on which tax is not deductible.

Printing & Stationery-Trade Fairs Rs. 26,795/-: This expenses includes stand graphics, roll-ups, promotional flyers and other print collateral specific to trade fair exhibitions. The amounts are petty in nature and tax is not deductible.

We have to further submit that around 272 delegates had attended the conference and the assessee has collected participation fees from the delegates amounting to Rs. 13,59,510/-.

*Major & Minor Exims Pvt. Ltd. Rs. 4,59,660/-: The assessee entered into a joint agreement with Major & Minor Exims Pvt. Ltd. on 07-01-2011 to jointly organize conference on Steel Markets in Gurgaon. (Copy enclosed) (**Annexure 10**) The terms and conditions are mentioned in the said agreement. As per the agreement the surplus generated would be distributed equally and losses, if any, would also be borne equally. As per the agreement the assessee had incurred loss of Rs. 4,59,660/-and the assessee has share of loss to*

them. The amount incurred by the assessee is in the nature of reimbursement of expenses and hence the question of deduction of tax does not arise. The assessee relies on the decision of **Hon'ble Bombay High Court in the case of Pr. CIT vs. Goldman Sachs (India) Finance Pvt. Ltd. (Income Tax Appeal No. 682 of 2017).** (Copy enclosed - Annexure 11) The Hon'ble Bombay High Court held in para 4, 5 and 6 of the order as under:

4. Learned counsel for the Revenue fairly brought to our notice that for earlier assessment years, this Court had by an order dated 28.2.2019, dismissed the Revenue's Income Tax Appeal No. 1742 of 2016 the ground that the payment made for reimbursement of costs, deduction at source is not necessary-The Court-observed-as under:

"3. The Tribunal, however, held that, the amount in question was by way of reimbursement of costs. The Tribunal held 2 of 3 14. os itxa 652-17.doc that Assessee had paid such sums towards administrative costs such as the employee coat, rent, finance and legal corporate recharge etc. The Tribunal noted that, GSIPL had provided services to the assessee by deploying its employees for such work and the cost was for reimbursement for such expenses besides other related expenditure. Revenue was unable to dislodge these findings of fact recorded by the Tribunal. That being the position, we must proceed on the basis that the payment in question was in the nature of reimbursement of costs. As held by the Supreme Court in the case of Director of income Tax v/s. A.P. Moller Maersk A.S. reported in 78 taxmann.com 287 and consistently followed by this Court in the number of decisions, liability to deduct tax at source in such a case, would not arise. No question of law arises."

5. In that view of the matter, it is not necessary to examine the correctness of the Tribunal in relation to the first question.

6. In the result, the Income Tax Appeal is dismissed.

The Bengal Chamber of Commerce Rs.2,20,000/-: The assessee had organized a Steel Raw Materials Conference on 21st and 22nd November, 2010 in Kolkata along with Bengal Chamber of Commerce & Industry. The assessee had paid Rs. 2,20,000/- to Bengal Chamber of Commerce & Industry towards their share of sponsorship and no tax was deductible.

Truine Exhibitors Rs. 77,302/: The assessee had to receive Rs.77,302/- on account of exhibition expenses in earlier years. The said party was unable to pay the amount and the same was adjusted towards stall expenses payable to them during the year in the course of an exhibition. (The amount was in the nature of barter expenses).

Sub commission payable Rs.1,06,393/-: The assessee had paid sub commission of Rs. 1,06,393/- to various people. The amounts were below the limits and hence no tax was deducted.

22. We further observe that the Ld. Commissioner though reproduced the aforesaid submissions of the Assessee in the impugned order, however without examining such claim, affirmed the aforesaid addition/disallowance by observing and holding as under: -

*"ii) **Ground of Non Deduction of TDS on payments made:** As regards the disallowance under section 40(a)(ia) of the IT Act, 1961 is concerned, it is noticed that the assessee has not furnished the details to demonstrate that it had complied with the provisions of TAX deduction at source, as per the relevant provisions of the IT Act, 1961 so as to avoid the incidence of mischief of section 40(a)(ia) of the IT Act, 1961. Merely stating that payees have shown the impugned payments as their income does not absolve the assessee from the noose of the mandatory provisions of section 40(a)(ia) of the IT Act 1961.*

Hence, I do not find any force in the contentions of the appellant. I, therefore, reject the appellant's ground of appeal and uphold the action of the AO in disallowing the expenses by invoking section 40(a)(ia) of the IT Act, 1961."

23. The Assessee before us has demonstrated that more or less the Assessee has spent the aforesaid expenses for paying the food bills, which are verifiable from the documents filed before this Hon'ble Court, which were also filed before the authorities below but the authorities below without examining the same, made the disallowance. The Ld. Counsel for the Assessee also drew our attention to the Circular No.715 dated 08.08.1995, which pertains to clarification of various provisions relating to tax deduction at source, as introduced through Finance Act, 1995, wherein question No.11 read as under:

"Question 11. Whether a contract for catering would include serving food in a restaurant/sale of eatables?

Answer: TDS is not required to be made when payment is made for serving food in a restaurant in the normal course of running of the restaurant/café."

24. The Assessee therefore claimed, as it has paid the food bills/ food expenses amounting to Rs.6,48,007.50 + 31,625.71 + 5,302.50 + 7,76,688.43 + 6,44,251.50 to the Ambience Hotels & Resorts Limited. Further, also paid the amount of Rs.6,48,007.50 + 3,162.71 + 5,25,302.50 + 7,76,688.43 + 6,44,251 + 6,17,575 to Leela Hotel and therefore the Assessee would be entitled to get the benefit of aforesaid CBDT Circular.

25. Further, the Assessee also demonstrated the fact that it has made the payment of Rs.1,00,538/- to M/s. Om Sai, which represent amounts paid for color coping in connection with the Indian Steel Conference and the Assessee has duly deducted the TDS @ 2% of such amount. The Assessee in respect of such claim, also filed additional evidence before the Learned Commissioner and requested to accept the bills as additional evidence under Rule 46A of the Rules but the Ld. Commissioner without paying any heed to the request of the Assessee, sustained the addition.

26. The Assessee further claimed that it has also incurred the amount of Rs.10,00,141/- as Exhibition Expenses, in order to bridge the gap between buyers and Sellers and bring them together in a single platform for the benefit of the Indian Steel Industries. The Assessee also submitted the details of the expenses, which read as under:

Particulars	Amount (Rs.)
<i>Exhibition Expenses</i>	<i>3,72,373.00</i>
<i>Courier Charges</i>	<i>8,498</i>
<i>Printing & Stationery - General</i>	<i>76,296</i>
<i>Conveyance Expenses</i>	<i>2,695</i>
<i>Travelling Expenses - Staff (Domestic)</i>	<i>2,36,478</i>
<i>Travelling Expenses - Others (Foreign)</i>	<i>2,77,006</i>
<i>Printing & Stationery - Trade Fairs</i>	<i>26,795</i>
<i>Total</i>	<i>10,00,141</i>

27. The Assessee further demonstrated the fact that the amount of Exhibition Expenses of Rs.3,72,373/- also includes the food expenses, venue expenses, electrical expenses, A.V. equipment, furniture equipment's and logistics for exhibition participation and the breakup of the same is as under: -

Date	Particulars	Vch. Type	Vch. No.	Amount (Rs.)
26.09 .2010	Synapse Information Services Pvt. Ltd.	Purchase Journal	PUR/NOV/0093/11/1 0-11 (TDS deducted Rs.27,575/-)	2,75,750
30.11 .2010	Advance Others – Sujit Senugupta and Abhijit saha	Petty cash payment	JNL/NOV/0062/11- 10	96,273
15.03 .2011	Petty cash Baroda	Petty cash payment	PCP/BAR/0004/03- 11	350
			Total	3,72,373

28. The Assessee with regard to payment of Rs.2,75,750/- made to Synapse Information Services Private Limited has claimed that it has duly deducted the TDS of Rs.2,75,750 on such amount and filed the challan of the above payment, being an additional evidence under Rule 46A of the Rules before the Ld. Commissioner, who somehow failed to consider the same.

29. The Assessee further claimed that courier charges amounting to Rs.8498/- include all domestic and international courier deliveries for conference materials and documents, as the amounts was petty in nature, and therefore no TDS was deductible on such payment.

30. Further, the Assessee also claimed that the Assessee has also incurred the amounts of Rs.76,296/- and 2,695/- qua printing and stationery and conveyance expenses respectively. As the said amounts were petty in nature and therefore no tax was deductible.

31. Further, the Assessee has also demonstrated the fact that the amounts of Rs.2,36,478/- and 2,77,006/- pertains to travelling expenses of staff (domestic) and travelling expenses of others (Foreign) of which, no tax was deductible.

32. The Assessee further claimed that with regard to the payment of Rs.26,795/- which pertains to printing and stationery for trade fairs, consisting various heads like stand graphics, roll-ups, promotional flyers and other print collateral specific to trade-fair exhibitions, as the amount was petty in nature and therefore no tax was deductible on such amount.

33. The Assessee further claimed that around 272 delegates had attended the conference. Thus, the Assessee has collected the amount of Rs.13,59,510/- in total, as participation fees/delegate participation fees from delegates and entered into a joint agreement with Major and Minor Exims Private Limited on 07.01.2011 to jointly organize a conference on Steel Markets in Gurgaon. As per terms and conditions of agreement, the surplus generated was to be distributed equally and losses, if any, would also be borne equally. As the Assessee had incurred loss of Rs.4,59,660/- and has paid its share of loss to them, which amounted to reimbursement of expenses and therefore deduction of TDS of such amount, was not attracted.

34. The Assessee further claimed that the payment of Rs.2,20,000/- made to the Bengal Chamber of Commerce pertains to Conference of Steel Raw Materials on 21st and 22nd November, 2010 in Kolkata along with Bengal Chamber of Commerce and Industry towards their share of sponsorship and therefore no tax was deductible on such amount.

35. The Assessee further submitted that Assessee had to receive Rs.77,302/- from M/s. Truine Exhibitors on account of exhibition expenses in earlier years. The said party was unable to pay the amount and therefore the same was adjusted towards stall expenses payable to them during the year and in the course of an

exhibition. (The amount was in the nature of barter expenses). And therefore no such TDS was deductible on that particular amount, which was adjusted.

36. The Assessee with regard to the sub-commission amounting to Rs.1,06,393/- has claimed that it had paid sub commission of such amount to various persons below the limits, as prescribed for non-deduction of TDS and hence, no tax was deductible on such payments. The Assessee in support of aforesaid contentions or claim, has also filed relevant documents in the form of paper book with duly certification that the documents as indexed, except Circular No.12/2016, decision of the Supreme Court in the case of *TRF Limited vs. Ld. CIT(A)* and Circular No.715 dated 08.08.1995, have been submitted before Ld. CIT(A).

37. We have given thoughtful consideration to the peculiar facts and circumstances of the case. It is not in controversy that in Circular No.715 dated 08.08.1995 question No.11 is formulated as under:

“Whether a contract for catering would include serving food in a restaurant/sale of eatables?”

38. The CBDT replied/clarified such question as under:

“TDS is not required to be made, when payment is made for serving food in a restaurant in the normal course of running of the restaurant/café.”

39. Therefore as per circular, no TDS is liable to be deducted when payment is made for serving food in a restaurant in the normal course of running of the restaurant/café. And thus the claim of assessee qua food expenses, is required to be adjudicated in view of the above clarification in Circular.

40. We further observe that some of the expenses as observed above are petty in nature, which did not attract the provisions of TDS. Some payments adjusted by the Assessee and/or by using barter system, also did not attract any TDS provisions.

41. Further, with regard to payments made for ancillary services, like small conveyance expenses, Taxies and Auto Rickshaw fares, fuel reimbursement and local transport hired for conference team members, printing and stationery for trade-fairs, courier charges, etc., we are of view that if payments were made to the unorganized service providers and falls below than the prescribed limit, then the Assessee would be entitled the benefit of non-deduction of TDS.

42. We also observe from the certificate given in the paper book filed by the Assessee, that the Assessee before the Assessing Officer has not filed any such documents, as filed before the Ld. Commissioner and before this Court, as well. Thus, we are of the considered opinion that factual verification is imperative, and hence the issue qua disallowance/addition of **Rs.66,62,474** is remanded to the file of the Jurisdictional Assessing Officer (in short JAO), for decision afresh, by carrying out factual verification. **Resultantly, the issue/ground no. 3 is allowed for statistical purposes.**

43. In the result, the Assessee's Appeal is partly allowed, in the above terms.

Order pronounced in the open court on 05.03.2026.

**Sd/-
(JAGADISH)
ACCOUNTANT MEMBER**

**Sd/-
(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER**

M. Ranganath Vithal
Sr. Private Secretary.

Copy to: The Appellant
The Respondent
The CIT, Concerned, Mumbai
The DR Concerned Bench

//True Copy//

By Order

Dy/Asstt. Registrar, ITAT, Mumbai.