

| आयकर अपीलीय अधिकरण न्यायपीठ, कोलकाता |  
IN THE INCOME TAX APPELLATE TRIBUNAL  
"C" BENCH, KOLKATA

BEFORE DR. MANISH BORAD, HON'BLE ACCOUNTANT MEMBER  
&  
SHRI SONJOY SARMA, HON'BLE JUDICIAL MEMBER

I.T.A. No. 161/Kol/2023  
Assessment Year: 2012-13

Harmuny Entertainment Pvt. Ltd. 32A/28, Suren Sarkar Road Kolkata - 700010 [PAN : AACCH5841H]	Vs	DCIT, Circle-9(1), Kolkata
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अपीलार्थी/ (Assessee)	प्रत्यर्थी/ (Respondent)
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Assessee by :	Shri Manish Tiwary, A/R
Revenue by :	Shri G. Hukugha Sema, CIT

सुनवाई की तारीख/Date of Hearing : 13/04/2023  
घोषणा की तारीख /Date of Pronouncement: 07/07/2023

आदेश/ORDER

PER DR. MANISH BORAD, ACCOUNTANT MEMBER :

This is an appeal preferred by the assessee against the order of the National Faceless Appeal Centre, Delhi (hereinafter referred to as the "Id. CIT(A)"), passed u/s 250 of the Income-tax Act, 1961 (hereinafter the 'Act'), dated 31/01/2023 for the Assessment Year 2012-13.

2. The assessee has raised the following grounds of appeal:-

"1.) That on the facts and in the circumstances of the case, order u/s 250 of the Act dated 31.01.2023 passed by Ld. CIT (A), NFAC is arbitrary, unjustified and bad in law.

2.) That on the facts and in the circumstances of the case, Ld. CIT(A), NFAC erred in confirming the addition made by AO amounting to Rs. 6,85,53,691/- towards provision for bad and doubtful debts under provisions of Income Tax Act, 1961 without considering the fact that the same was actually written off from the accounts of the appellant in previous year.

3.) That on the facts and in the circumstances of the case, Ld. CIT(A), NFAC erred in confirming the addition of Rs. 3,12,27,393/- u/s 41(1) read with section 28(iv) of the Income Tax Act, 1961 on the presumption that liability

*ceased to exist even when the liability existed in the accounts of the appellant.*

*4.) That on the facts and in the circumstances of the case, Ld. CIT(A), NFAC erred in confirming the disallowance of expenses of Rs. 3,13,010/- made by AO under the head Pandel decoration.*

*5.) (a) That on the facts and in the circumstances of the case, Ld. CIT(A), NFAC erred in confirming the action of AO who disallowed expenses under the head Repairs & Maintenance amounting to Rs. 9,99,856/- treating the same as capital expenditure.*

*(b) Without prejudice to ground No. 5(a) above and on the facts and in the circumstances of the case, Ld. CIT(A), NFAC erred in confirming the action of AO in not allowing the depreciation u/s 32 of the Act despite treating the expenses under the Repairs & Maintenance amounting to Rs. 9,99,856/- as capital expenditure.*

*6.) That on the facts and in the circumstances of the case, Ld. CIT(A), NFAC erred in confirming the action of AO who levied interest u/s 234B to the tune of Rs. 1,17,38,637/- and u/s 234D to the tune of Rs. 1,31,122/-.*

*7.) That the appellant craves leave to add, alter, adduce or amend any ground(s) on or at the time of hearing of the appeal."*

3. Brief facts of the case are that the assessee is a private limited company engaged in the business of event management. Nil income declared in the e-return filed on 29/09/2012. Based on information received from ADIT (Inv.), Unit-2(1), Kolkata, it was noticed that the assessee had claimed Rs.6,85,53,691/- as provisions for bad and doubtful debts, which has been allowed in the intimation u/s 143(1) of the Act and the assessee was allowed to carry forward business loss of Rs.3,51,11,683/-. Based on such information, notice u/s 148 of the Act was issued after recording satisfaction. In response, the assessee filed return. The ld. Assessing Officer noticed that in the profit and loss account, the assessee has claimed provision of bad and doubtful debts

at Rs.6,85,53,691/-but while computing the book profit the said amount was not added back. Though it was claimed by the assessee that the said amount is mere bad debt but since no *suo moto* disallowance on account of provision for bad and doubtful debts was made by assessee, hence Id. Assessing Officer proceeded to make addition of Rs.6,85,53,691/- (wrongly mentioned the figure of Rs.6,77,62,048/- in the assessment order).

3.1. The Id. Assessing Officer further noticed that the assessee has shown amount payable to Sampark Advertisement and Media Pvt. Ltd. (SAMPL), in the balance sheet as a sundry creditors at Rs.3,12,26,294/-. The Id. Assessing Officer called for the information from the Assessing Officer of SAMPL and found that SAMPL has already written off the said sum in its books and thus Id. Assessing Officer came to a conclusion that since the liability is not existing it falls under the provision of Section 41(1) r.w.s. 28(iv) of the Act and is liable to be taxed in the hands of the assessee and made an addition of Rs.3,12,26,294/-. The Id. Assessing Officer also noticed that the assessee has claimed pandel decoration expenditure at Rs.3,13,010/- and the said sum was payable to M/s. Amit Agencies, Kolkata, and the notice u/s 133(6) of the Act was returned unserved and this brought the AO to the conclusion that the assessee has claimed bogus expenditure and proceeded to disallow the sum of ₹ 313,010/-.

The Id. Assessing Officer also observed that the assessee has claimed an amount of ₹ 999,856/-on account of interior decoration of office premises paid to Unique Technicon India Pvt. Ltd.. The assessee claimed it as revenue expenditure but as per the Id. Assessing Officer

it was in the nature of capital expenditure and thus not deductible as expenses during the year and disallowed the repairs and maintenance charges at ₹ 999,856/-. Thus, after making the additions the income of the assessee assessed at ₹ 6,51,90,620/-.

3.2. Aggrieved, the assessee preferred an appeal before the Id. CIT(A) but failed to succeed on any of the grounds. Though the assessee filed detailed written submissions, the Id. CIT(A) was not satisfied and dismissed the appeal of the assessee giving general finding, observing as follows:-

*“7.DECISION:- I have considered the submission of the appellant and the assessment order of the AO passed u/s 147 r.w.s. 143(3) of the I.T. Act 1961. On consideration of the appellant's submissions made on the additions made by the AO are found without any substance as same submissions were filed before the AO who had considered those submissions and rejected after a detailed discussion on each and every point raised. I have noticed that AO had given opportunity of being heard to the appellant before making addition. AO had also discussed and incorporated appellant's submission in the assessment order. Further, AO is found to have given reasons as to why he had rejected the appellant's contentions. In the facts and circumstances of the case on hand, I am inclined to agree with the findings of the AO and all the additions made by the AO stand confirmed. All the grounds of appeal taken by the appellant are dismissed.”*

4. Aggrieved, the assessee is now in appeal before this Tribunal.

5. The Id. Counsel for the assessee vehemently argued referring to the detailed written submissions filed before the Id. CIT(A) and also referred to various documents placed in the paper book. So far as the claim of bad debts of ₹ 6,85,53,691/-is concerned, it was stated that the assessee inadvertently debited the same under the head provision for bad and doubtful debts. The said amount was not recoverable from Mahuaa Media Pvt. Ltd.. It was submitted that the total bill of ₹

10,22,52,783/- was raised to Mahuaa Media Pvt. Ltd., out of which part sum was received. The services were rendered during the period March, 2011 to 3<sup>rd</sup> August, 2011. For the outstanding amount of ₹ 6,85,53,691/-, various reminders were given by the assessee followed by legal notice to Mahuaa Media Pvt. Ltd.. Thereafter, assessee filed a winding up petition u/s 439 r.w.s. 433 and 434 under the Companies Act, 1956, and Hon'ble Delhi High Court admitted the winding up petition on 31/10/2012. Based on these facts, it is contended that the chances of recovery of the alleged sum was getting doubtful day by day and, therefore, the assessee decided to claim it as bad debts in its books. However, while preparing the financial statements, the said sum was reflected as provision for bad and doubtful debts, however, the nature of the said sum was bad debts u/s 36(1)(vii) of the Act. In support of this contention, reliance was placed on the decision of the Special Bench in the case of *DCIT vs. ShriShreyas S. Morakhia 40 SOT 432 (TBom) (Special Bench)* and the judgement of the Hon'ble Supreme Court in the case of *TRF Limited vs. CIT* reported in 323 ITR 397.

5.1. It was also submitted that the nomenclature is of no consequence, rather the substance of the matter should be looked into while deciding the allowability of expenditure and, therefore just for the reason that in place of bad debts, mentioning the said amount under the head "provision for bad and doubtful debts" should not have been taken as the basis to reject the claim of the assessee.

5.2. As regards the addition of ₹ 3,12,27,393/-, it was submitted that the said addition was made based on the observation that the sundry creditors, namely, SAMPL has written off the said sum in their books

of account and the said liability was not live. To controvert this fact, the Id. Counsel for the assessee referred to the judgement of the Hon'ble Calcutta High Court vide order dt. 08/01/2016, as per which the assessee has been directed to make payment of ₹ 10 lakh per month in lieu of the aforesaid debts. Based on this, it was further submitted that the alleged liability is active and the assessee is required to repay the said sum and in case liabilities exist in the books of the assessee and the creditor has right to claim over the same then in such cases addition on account of cessation of liability u/s 41(1) of the Act, is uncalled for. In support of this contention reliance was placed on the following judgements

- *CIT vs. Sugauli Sugar Works (P.) Ltd.* 236 ITR 518 (SC)
- *Goodricke Group Ltd. vs. CIT* 338 ITR 116 (Cal)
- *CIT vs. Chougule & Co. (P.) Ltd.* 189 FTR 473 (Bom)
- *Ambica Mills Ltd. vs. CIT* 54 ITR 167 (Guj.)
- *CIT vs. Silver Cotton Mills Co. Ltd.* 254 ITR 728 (Guj.)

6. As regards the disallowance of ₹ 313,010/- incurred by the assessee towards Pandel decoration, it was submitted that event management expenses to the tune of Rs.1,04,70,223/- was claimed, which included the sum of ₹ 313,010/-payable to Amit Agencies on account of Pandel decoration. The said addition was made just for the reason that the notice issued u/s 133(6) of the Act returned unserved and the inspector deputed was unable to trace out the said entity. It was submitted that before making such disallowance no show cause notice was issued to the assessee nor a copy of the inspector's report



was given. Since the adverse material obtained in the back of the assessee was never confronted nor any opportunity to cross-examine was awarded, the said disallowance is uncalled for. To support this contention reliance was placed on the judgement of the Hon'ble Supreme Court in the case of *Andaman Timber Industries vs. CCE* reported in 281 CTR 214 (SC) and *CIT vs. Eastern Commercial Enterprises* 210 ITR 103 (Cal).

7. As regards the disallowance of repairs and maintenance charges of ₹ 999,856/-, it was submitted that the said expenditure was revenue in nature incurred for interior decoration of office premises and in case the Honourable Tribunal does not hold it to be a revenue expenditure, then necessary directions may be given to allow depreciation under section 32 of the Act of the said sum.

8. On the other hand, the ld. D/R vehemently argued supporting the order of the lower authorities and further submitted that the expenses claimed under the provisions of bad and doubtful debts are not allowable under the Act. The sum payable to the concern SAMPL, deserves to be added in the hands of the assessee since the said sum has already been written off in the books of SAMPL. So far as the Pandel decoration expenses of ₹ 3,13,010/-, it was submitted that it is a bogus expenditure as the sundry creditors is untraceable. Regarding repairs and maintenance expenses amounting to ₹ 999,856/-, the ld. D/R submitted that these are purely capital in nature and thus cannot be allowed as revenue expenditure.

9. We have heard rival contentions, perused the material placed before us and carefully gone through the decisions relied upon by the ld. Counsel for the assessee.

10. The first issue for our consideration raised in Ground No. 2, is regarding the addition of ₹ 6,85,53,691/-. We observe that the assessee is engaged in the business of event management and provided services to Mahua Media Pvt. Ltd. (MMPL), during the period March, 2011 to 3<sup>rd</sup> August, 2011 and raised a total bill of ₹ 10,22,52,783/-. The said sum has been duly reflected under the gross revenue of the assessee company and there is no dispute to this fact that the total amount of invoice raised to MMPL, has been booked as gross revenue/gross turnover. We further notice that out of the said sum, ₹ 3,38,00,568/- was received from time to time and tax at source was deducted. The sum of ₹ 6,85,53,691/- was receivable from the said company. The assessee gave several reminders for clearing the dues but MMPL did not pay the said sum though it acknowledged vide letter dt. 28/10/2011 that the alleged sum is payable to the assessee. Thereafter to recover the outstanding dues the assessee sent legal notice through the solicitor firm Fox & Mandal but still no recovery could be made. Thereafter, the assessee was forced to file the winding up petition before the Hon'ble Delhi High Court and the same was admitted on 31/10/2013. Order of the Hon'ble Delhi High Court is placed at pages 78 to 108 of the paper book. Thereafter MMPL has gone into liquidation and an official liquidator was appointed on 27/02/2017. Recently the Honourable Delhi High Court vide order dt. 01/08/2022, has held that the official liquidator shall be free to sell the



office furniture, fixtures and fittings and other immovable property to the applicant, subject to the parties agreeing on a value for the same. Considering these series of events which have occurred subsequent to MMPL having refused to pay the outstanding dues of the assessee clearly shows that the said sum has become bad debts.

10.1. Now, whether the assessee's claim of bad debts of sum of ₹ 68,553,691/- is allowable under the Act or not needs to be considered. The first ground on which the Id. Assessing Officer has made the addition is that the assessee has shown it as a provision for bad and doubtful debts. We, however, on perusal of the financial statements as well as the statement filed by the assessee find merit in the contention of the Id. Counsel for the assessee that it was an inadvertent mistake resulting into showing the bad debts claim as provision for bad and doubtful debts. Both the lower authorities ought to have considered this argument and considering the facts should have come to a conclusion that it was a bad debts claim and not provision for bad and doubtful debts. It has been rightly submitted by the Id. Counsel for the assessee that, nomenclature is of no consequences rather the substance of the matter should be looked into while deciding the liability of the expenditure. For this contention we find support from the judgement of the Hon'ble Supreme Court in the case of *KCP Ltd. vs. CIT 245 ITR 421 (SC)* and *M/s. Super Poly Fabriks Ltd. vs. CIT 217 CTR 107 (SC)*.

10.2. Now whether the assessee has rightly claimed the bad debts at ₹ 6,85,53,691/-, we notice that the total sale bill raised by the assessee to MMPL has been duly accounted for in the books as the sale. The alleged sum was not paid by MMPL even when various reminders

and legal notice was sent. The assessee claimed it as bad debts in the books for the financial year 2011-12 and kept its legal battle going on. Had the assessee recovered any sum it might have been offered to tax in the year of receipt. However, claiming bad debts in the books is a right available with the assessee under the provisions of the Income tax Act, provided u/s 36(1)(vii) of the Act, which reads as follows:-

*“(vii) subject to the provisions of sub-section (2), the amount of<sup>4</sup> any bad debt or part thereof which is written off as irrecoverable in the accounts of the assessee for the previous year]:<sup>5</sup> Provided that in the case of a bank to which clause (viiia) applies, the amount of the deduction relating to any such debt or part thereof shall be limited to the amount by which such debt or part thereof exceeds the credit balance in the provision for bad and doubtful debts account made under that clause;]”*

10.3. In the above provisions reference made to sub-Section (2) of Section 36 and subject to Section 36(2) of the Act if the assessee can claim and amount has bad debts which is written of as irrecoverable. Section 36(2) of the Act reads as follows:-

*“(2) In making any deduction for a bad debt or part thereof, the following provisions shall apply –*

*[(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;]*

*(ii) if the amount ultimately recovered on any such debt or part of debt is less than the difference between the debt or part and the amount so deducted, the deficiency shall be deductible in the previous year in which the ultimate recovery is made;*

*(iii) any such debt or part of debt may be deducted if it has already been written off as irrecoverable in the accounts of an earlier previous year <sup>24</sup>[(being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier assessment year)], but the <sup>25</sup>[Assessing] Officer had not allowed it to be deducted on the ground that it had not been established to have become a bad debt in that year;*

*(iv) where any such debt or part of debt is written off as irrecoverable in the accounts of the previous year <sup>26</sup>[(being a previous year relevant to the assessment year commencing on the 1st day of April, 1988, or any earlier*

assessment year)] and the [25](#)[Assessing] Officer is satisfied that such debt or part became a bad debt in any earlier previous year not falling beyond a period of four previous years immediately preceding the previous year in which such debt or part is written off, the provisions of sub-section (6) of [section 155](#) shall apply;  
[27](#)(v) where such debt or part of debt relates to advances made by an assessee to which clause (viii) of sub-section (1) applies, no such deduction shall be allowed unless the assessee has debited the amount of such debt or part of debt in that previous year to the provision for bad and doubtful debts account made under that clause.]”

10.4. Now going through the Section 36(2)(i) of the Act, one of the condition that 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. The said condition is duly fulfilled in the case of the assessee as the amount of bad debts claimed has already been taken into account while computing the income by way of showing it as gross receipts and the outstanding amount was standing as sundry debtors. It clearly shows that the assessee has made justified claim under section 36(1)(vii) of the Act and the same should have been allowed as an expenditure during the year. We find support from the judgement of the Honourable Supreme Court in the case of *TRF Limited (supra)*, wherein the Hon’ble Court, has held as follows:-

“4. This position in law is well-settled. After 1-4-1989, 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. However, in the present case, the Assessing Officer has not examined whether the debt has, in fact, been written off in accounts of the assessee. When bad debt occurs, the bad debt account is debited and the customer's account is credited, thus, closing the account of the customer. In the case of companies, the provision is deducted from sundry debtors. As stated above, the Assessing Officer has not examined whether, in fact, the bad debt or part thereof is written off in the accounts of the assessee. This exercise has not been undertaken by the Assessing Officer. Hence, the matter is remitted to the Assessing Officer for de novo consideration of the above-mentioned aspect only and that too only to the extent of the write off.”

11. Respectfully following the ratio laid down by the Honourable Apex Court in the case of *TRF Ltd. (supra)* and under the given facts and circumstances of the case, the finding of the Id. CIT(A) is set aside and bad debt claim of Rs.6,85,53,691/- is allowed. Ground No. 2 raised by the assessee stands allowed.

12. Now, we take up Ground No. 3, regarding addition of ₹ 3,12,27,393/- u/s 41(1) r.w.s. 28(iv) of the Act. We notice that during the course of carrying out the business, the assessee has claimed expenditure of ₹ 4,08,26,294/- for the services received from SAMPL and after paying part amount, balance of ₹ 3,12,26,294/- was outstanding to be paid. Since the assessee was not able to recover its funds from its debtors it was not able to the sundry creditors. One of these sundry creditors was SAMPL. Assessee has shown it as sundry creditors in its balance sheet for the year under consideration. The Id. Assessing Officer during the course of assessment proceedings issued notice to 'SAMPL' u/s 133(6) of the Act, asking to submit Ledger account of the assessee in their books. In the said Ledger account 'SAMPL' has stated to have written of the said sum of Rs.3,12,27,393/-, in other words 'SAMPL' has claimed it as bad debts in the books. Id. Assessing Officer based on this reply came to a conclusion that since 'SAMPL' has already written off the said sum, no liability remains to be paid at the end of the assessee and, therefore, provisions of Section 41(1) of the Act, are attracted on account of cessation of liability for the amount shown as payable to 'SAMPL' to be treated as income.

13. We notice that Id. Counsel for the assessee during the course of hearing has referred to various correspondences/reminder letters and

legal notice received by it from SAMPL for collection of outstanding dues. Our attention is also drawn to the fact that SAMPL has filed a suit before the Hon'ble Calcutta High Court and vide order dt. 08/01/2016, the Hon'ble Court has directed the assessee to make payment of ₹ 10 lakh per month in lieu of the aforesaid debts. A copy of the said order is placed at page 126 to 129 of the paper book and the relevant part of this order is reproduced below:-

*“On the persuasion of the Court, the appellant company has agreed to pay the petitioning creditor instalments of Rs.10,00,000/- per month until such time as the proceedings in Delhi High Court against the principal, Mahua Media Pvt. Ltd., are adjudicated and the decretal dues are realized in which case the respondent/petitioning creditor shall be paid off from out of the decretal dues of Mahua Media Pvt. Ltd. The first instalment of Rs.10,00,000/- shall be paid within 1 March, 2016 and the subsequent instalments shall be paid within the first week of each succeeding month. The instalments shall be paid until such time as the principal admitted amount along with interest, as directed by the learned Company Court, is liquidated in full or until the claims of the company from Mahua Media Pvt. Ltd. or any part thereof are realised pursuant to orders in the proceedings at Delhi. It is reiterated that as and when there is any realisation from Mahua Media Pvt. Ltd., the amount shall be paid to the petitioning creditor. Needless to mention that it will be open to the appellant company to make prayers before the Delhi High Court for direct payment by Mahua Media Pvt. Ltd. to the respondent/petitioning creditor, as prayed for by Mr. Bose, learned Senior Counsel appearing on behalf of the appellant. Subject to payment of instalments, as directed above, the winding up proceedings shall remain permanently stayed.*

*In default of payment of any two instalments, the stay shall stand vacated and the winding up proceedings shall revive.*

14. Going through the above order of the Hon'ble Jurisdictional High Court, as well as the series of reminders and notice issued by 'SAMPL' the assessee it remains an undisputed fact that though 'SAMPL' has written off the outstanding amount receivable from the assessee as bad debts in its books but it has been trying all through

from financial year 2011-12 till now to recover the said sum. It clearly indicates that the liability of the assessee had not extincted at any stage. SAMPL may have booked the bad debts in terms of provision u/s 36(1)(vii) of the Act but it does not mean that it has lost its hope of recovering the outstanding sum. Only in case SAMPL has not made any efforts to recover the amounts and has voluntarily stated that no sum is receivable from assessee, then the provision of Section 41(1) of the Act may have come into play. But in this case, the situation is totally different. SAMPL except claiming it as bad debt in its books has tried all the above methods including approaching before the Hon'ble Jurisdictional High Court to recover its amount and Hon'ble Court has also directed the assessee to pay Rs.10,00,000/- per month against the outstanding dues. Therefore, undoubtedly, as on 31/03/2012, there was an outstanding liability of sundry creditors in the name of SAMPL towards the services rendered by it to the assessee. The assessee has nowhere stated that the said liability is not payable. All documentary evidence have been placed before us to prove that the liability is active and the action is from both the sides i.e., the sundry creditor is trying hard to recover its amount and the assessee is trying hard to collect the sum from sundry debtors and repay the sundry creditors.

15. Under these facts and circumstances, we do not find any justification at the end of both the lower authorities of having invoked the provisions of Section 41(1) of the Act pertaining to cessation of liability and treating it as income in the hands of the assessee. Accordingly, the finding of the Id. CIT(A) is set aside, addition of



Rs.3,12,27,393/- is deleted and Ground No.3 raised by the assessee is allowed.

16. Apropos Ground No. 4, regarding disallowance of Rs. 3,13,010/- , we note that the assessee has incurred the said sum towards pandel decoration and the same is payable to Amit Agencies. The assessee has not been able to place any documentary evidence to prove that the said sum has been repaid subsequently. Confirmation of account of Amit Agencies has also not been filed. It thus adds to the suspicion created in the instant case that the said expenditure was bogus in nature and even the Inspector deputed to verify the address of the sundry creditor was not able to trace any whereabouts of the entity. Under these circumstances, as the assessee has miserably failed to prove the genuineness of the transactions of Rs.3,13,010/- incurred towards pandel decoration expenses, we fail to find any infirmity in the finding of the Id. CIT(A) in confirming the said disallowance. Thus, the addition of Rs.3,13,010/- incurred towards pandel decoration is confirmed. Ground No. 4 is dismissed.

17. Apropos Ground No. 5, disallowance regarding repair and maintenance expenses of Rs.9,99,856/-, we notice that during the year under consideration, a total sum of Rs.10,83,216/- was incurred under this head and Rs.9,99,856/- incurred towards interior decoration of office premises and amount was payable to Unique Technicon India Pvt. Ltd.. We note that during the year, the turnover of the assessee is Rs.10.91 Crores and total expenditure claimed during the year is Rs.14.43 Crores. The major expenses include display and flex printing expenses at Rs. 5.91 Crores. Under the head other expenses

Rs.31,76,834/- were incurred which *interalia* includes repair and maintenance expenses of Rs.10,83,216/-. The assessee is into the entertainment business and thus, interior decoration of the office is very important and with its help the assessee can impress its clients and can make better efforts to increase its business. Assessee also incurred office rent expenses. There is no immovable property in the form of an office under the head 'fixed asset'. It *prima facie* indicates that in the rental premises assessee has incurred some interior decoration work and same is subject to change as and when needed. Therefore, considering the total turnover of the assessee and the alleged sum being hardly 1% of the gross turnover and the assessee not having any self-owned office premises, we are inclined to hold that it is a revenue expenditure and the same should have been allowed by the Id. CIT(A). We accordingly reverse the finding of the Id. CIT(A) and allow Ground No. 5(a). Ground No. 5(b) being an alternative plea becomes infructuous.

18. Ground No. 6 is consequential in nature. Ground No. 1 and 7 are general in nature.

19. In the result, appeal of the assessee is partly allowed.

Order pronounced in the Court on 7<sup>th</sup> July, 2023 at Kolkata.

Sd/-

(SONJOY SARMA)  
JUDICIAL MEMBER

Sd/-

(DR. MANISH BORAD)  
ACCOUNTANT MEMBER

Kolkata, Dated 07/07/2023

*SJ Sarma*

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

1. अपीलार्थी / The Assessee
2. प्रत्यर्थी / The Respondent
3. संबंधित आयकर आयुक्त / Concerned Pr. CIT
4. आयकर आयुक्त (अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, कोलकाता/DR,ITAT, Kolkata,
6. गार्ड फाई/ Guard file.

आदेशानुसार/ BY ORDER,  
TRUE COPY

Assistant Registrar  
आयकर अपीलीय अधिकरण  
ITAT, Kolkata