

**INCOME TAX APPELLATE TRIBUNAL
[DELHI BENCH "C": NEW DELHI]**

**BEFORE SHRI KUL BHARAT, JUDICIAL MEMBER
A N D
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER
(Through Video Conferencing)**

ITA. No. 7842/Del/2017
(Assessment Year: 2011-12)

ACIT, Circle : 11 (2) New Delhi.	Vs.	M/s. Hindustan EPC Company Ltd. [Formerly known as Moser Bear Engineering Construction Ltd.] 616A (16A 6 th Floor) Devika Tower, Nehru Place, New Delhi – 110 019. PAN: AAFCM9606E
(Appellant)		(Respondent)

Assessee by :	N o n e;
Department by:	Ms. Anita Barnwal, Sr. D. R.;
Date of Hearing :	02/08/2021
Date of pronouncement :	02/08/2021

ORDER

PER PRASHANT MAHARISHI, A. M.

1. This appeal is filed by the ld. ACIT, Circle 5 (1), New Delhi, against the order passed by the ld. CIT (Appeals)-38, New Delhi, dated 18.09.2017 wherein the ld. CIT (Appeals) has deleted the disallowance of repairs and maintenance expenses of Rs. 1,97,64,495/- holding it to be revenue expenditure whereas the ld. Assessing Officer disallowed the same holding it to be capital expenditure vide his order dated 7.03.2014 passed under Section 143(3) of the Income Tax Act, 1961 (the Act) determining the total income of the assessee at Rs. 6,73,29,940/- against the return of income filed on 30th September, 2011 and subsequently revised at Rs. 3,98,22,640/- in the case of assessee company which is engaged in the business of providing engineering, procurement and construction services.

2. The ld. Assessing Officer found that assessee has claimed expenditure on electrical, interior work, AC works and dismantling work claimed as a revenue expenditure. According to the Assessing Officer the assessee has incurred repairs expenditure of Rs. 76,24,522/- by bill dated 11.03.2011 from Real System Interiors Pvt. Ltd. for civil interiors and electrical work and by bill dated 17.10.2011 of Rs. 1,16,013/- for dismantling work from the same party. Assessee has also incurred a sum of Rs. 1,30,64,180/- by bill dated 8.03.2011 from Times Interiors Pvt. Ltd. According to the Assessing Officer the high cost of these expenses makes it evident and looking at the description these are construction relating expenditure and same should be capital expenditure. Accordingly these expenses were held to be capital expenditure in nature and the Assessing Officer granted depreciation at the appropriate rates.
3. Assessee aggrieved filed an appeal before the ld. CIT (Appeals), who allowed the claim of the assessee. Therefore, Revenue is in appeal before us.
4. The ld. Sr. DR supported the order of the ld. Assessing Officer and submitted that the expenditure are capital in nature, therefore, are not allowable. She extensively read the order of the ld. Assessing Officer.
5. Despite notice none appeared on behalf of the assessee and, therefore, the issue in the appeal is decided on the merits of the case as per information available on record.
6. We have carefully considered the arguments of the ld. DR and perused the orders of the lower authorities. The fact shows that assessee is carrying on business activity in a rented premises of approximately 15,000 sq. ft. for which it is paying rent of Rs. 4.42 crores per annum. For making the premises usable for its business assessee looking at its business standard appropriately modified some structures by replacing it and repairing it. Just because the expenditure is high, the expenditure does not become capital expenditure and leads to enduring benefit to the assessee. According to the provisions of Section 30(a) where the assessee occupies a rented premise assessee is entitled to deduction of repairs expenditure. In this case assessee is not the owner of the premises, but a tenant and has incurred the expenditure to modify the rented premises to suit its business requirements. Therefore, such repair expenditure is statutorily allowable to

the assessee as deduction. The ld. Assessing Officer was merely guided by the amount of the expenditure, but not by the nature of the expenditure. The ld. CIT (Appeals) has also decided the issue as per para 3.2 of her decision wherein she relied on the decision of Hon'ble Supreme Court in the case of CIT Vs. Saravana Spinning Mills Ltd. (2007) 293 ITR 201 (SC) and justified the deletion of the disallowances. The ld. DR could not show us any infirmity in the order of the ld. CIT (Appeals). Accordingly, we confirm the order of the ld. CIT (Appeals) in deleting the disallowance of repairs and maintenance expenses of Rs. 1,97,64,495/- incurred by the assessee as a tenant to suitably modify the premises for its business needs. Accordingly the solitary ground of appeal is dismissed.

7. In the result appeal of the ld. Assessing Officer is dismissed.

Order pronounced in the open court on : 02/08/2021.

**Sd/-
(KUL BHARAT)
JUDICIAL MEMBER**

**Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

Dated : 02/08/2021.

MEHTA

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

ASSISTANT REGISTRAR
ITAT, New Delhi

Date of dictation	02.08.2021
Date on which the typed draft is placed before the dictating member	02.08.2021
Date on which the typed draft is placed before the other member	02.08.2021

Date on which the approved draft comes to the Sr. PS/ PS	02.08.2021
Date on which the fair order is placed before the dictating member for pronouncement	02.08.2021
Date on which the fair order comes back to the Sr. PS/ PS	02.08.2021
Date on which the final order is uploaded on the website of ITAT	02.08.2021
date on which the file goes to the Bench Clerk	02.08.2021
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the order	