THE INCOME TAX APPELLATE TRIBUNAL
"E" Bench, Mumbai
Shri Shamim Yahya (AM) & Shri Amarjit Singh (JM)

I.T.A. No. 805/Mum/2017 (Assessment Year 2011-12)
I.T.A. No. 4711/Mum/2018 (Assessment Year 2012-13)
I.T.A. No. 4712/Mum/2018 (Assessment Year 2013-14)
I.T.A. No. 4713/Mum/2018 (Assessment Year 2014-15)

ACIT-3(1)(2)/DCIT-14(1)(2) Room No. 607 6th Floor Aayakar Bhavan M.K. Road Mumbai-40 020.	Vs.	M/s. Experian Credit Information Company Pvt. Ltd. 201, 2nd Floor, Plantia C-59, G-Block, Bandra Kurla Complex, Bandra-East Mumbai-400 051. PAN : AABCE6822A
(Appellant)		(Respondent)

Assessee by	Shri Ketan Ved
Department by	Shri Manpreet Duggal
Date of Hearing	28.05.2021
Date of Pronouncement	02.08.2021

O R D E R

Per Shamim Yahya (AM) :-

These are appeals by the Revenue against respective orders of learned Commissioner of Income Tax (Appeals) [in short learned CIT(A)] for aforesaid assessment years. Since issues are common and connected they are being disposed of by this common order.

2. The grounds raised in ITA No. 805/Mum/2017 for A.Y. 2011-12 is as under :

> 1. "Whether on the facts and circumstances of the case and in law, the Ld, CIT(A) erred in allowing the depreciation claimed by the assessee on his assets without appreciating he facts that the business of the assessee had not commenced within the six months of the issue of the certificate of registration from RBI as per CICRA, 2005? "
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> 2. "Whether on the facts and circumstances of the case and in law, the Ld, CIT(A) erred in allowing technology recharge cost to the extent of Rs 4,07,89,789/- as revenue expenditure without appreciating the fact that the

assessee had incurred the said expenditure to set up technology and platform which would help him in conducting the business in the future?"

3. For all other financial years only one common ground relating to ground No. 2 above is raised. We are referring to facts and figures of A.Y. 2011-12

Apropos ground No. 1

3. Brief facts of the case are that during the course of assessment proceedings, the Assessing Officer observed from the annual report of the company that it is engaged in the business of providing credit information service and the assessee received the certificate of registration for commencing the business of credit information, issued by the RBI, on 17/2/2010 under the Credit Information Companies Regulation Act 2005 (CICRA). Under the terms of registration received from the RBI, the company was required to commence business within 6 months of grant of such registration. The assessee claimed that it commenced business operation from 12/8/2010. The annual report further stated that the company operates as a credit bureau, with 49% shareholding held by the Experian UK and the balance 51% held by seven Indian partners, being leading banks and NBFCS. The report also stated that the company collected information from various sources and provides Experian Credit Reports to lenders and consumers to reduce risk and facilitate responsible lending to consumers, in compliance with RBI guidelines. It is also stated that intangible asset comprise of expenditure incurred by the company on internal design and development of databases and development fees paid for Customising Credit Bureau Platform (CBV2) for Indian operations. All expenditure that can be directly attributed or allocated on a reasonable and consistent basis to create and make the asset ready for its intended use are capitalised by the company. The report states that the company commenced its business operations 12/8/2010 and consequently capitalised WIP, which consisted of cost incurred towards development and designing of databases and credit bureau platform. Therefore during the course of assessment proceedings, the assessee was requested to furnish complete details regarding

business activity and modus operandi. The assessee vide its letter dated 3/12/2013 furnished a detailed note on its business activity. The assessee also filed various submissions during the scrutiny on the nature of business and its commencement which was considered by the Assessing Officer.

4. The AO noted that the assessee had obtained a certificate of registration, issued by the RBI on 17/2/2010 permitting it to commence the business of providing credit information. It was therefore imperative for the assessee to commence its business activity latest by 16/8/2010 i.e is within 6 months of the impugned RBI letter failing which its certificate of registration would lapse unless otherwise approved by the RBI. The Assessing Officer opined that it is providing credit information and the predecided electronic formats, the company needs to have a suitable database of the credit history/trackrecords of the individuals to be able to provide credit reports thereon and the required software, to be able to store, process the data that are generated and desired reports. That the activity claimed to have been launched during the year i.e. core bureau products consisting of CIR. That the entire range of services rendered by the assessee is based on the availability of a comprehensive and up-to-date database on suitable software to operate it. That in the absence of such data, no worthwhile reports can be generated even if the software delivery platforms are ready. That no user of such CIR would find a report based on limited and incomplete data to be of use for the purpose intended. That the user of such reports i.e. banks/NBFCs/FIs would find utility therein, only is credit track record of the individual is culled out from a comprehensive database. That it is seen from the details of customers from whom the assessee has signed agreements for furnishing data, submitted by the assessee by its letter dated 3/12/13 that most of its database has been built and generated much after the day when it claims to have commenced business.

5. That significant part of the database was scattered and built-up, by receiving from bank/MBA CS/FIs much later, the assessee could have

commenced business with the aid of a relatively small database and if the database was insufficient the utility of CIR to the user thereof was itself doubtful. That moreover, the assessee company had claimed that it had issued CIR to 32 persons, resulting in earning an aggregate fee of Rs. 4004/- during the previous year as per its profit and loss account. That therefore, the assessee was requested to explain the complete step by step procedure for generating and issue of CIR and furnish the copies of CIR issued to 32 customers from whom the assessee had claimed to have received in aggregate fee of Rs. 4004/-. The assessee furnished written submissions and the copies of reports which was considered by the Assessing Officer.

6. The Assessing Officer stated that the assessee did not produce evidence in support of third party such as UAT certificate signed by the software providers/vendors, the said implementation certificate was a self serving document with questionable authenticity. That also, despite several opportunities to provide suitable certificate/documentation from the likes of third party software, to prove the readiness of the software, the assessee failed to discharge this onus and was not able to prove with cogent evidence that the software was ready and installed, to be able to conduct its business. That moreover, since the database was not ready, so must be the software, in view of the direct nexus between the two. That further non-availability of complete database and software too leads to an inescapable conclusion that the assessee was in no position to have been able to commence its business activity, as has been claimed by it. That it is apparent that the assessee had an RBI deadline in order to not loose its certificate, to conduct the impugned business activity, as has been claimed by the assessee. It is apparent that the assessee had an RBI deadline to meet in order to not lose its certificate to conduct the impugned business and the alleged conduct of business of issuance of CIR to 32 persons is an arrangement created, to give it the resemblance of having commenced business to meet RBI norms, notwithstanding the fact that the substratum need by it to conduct such

business i.e. database and software was not ready. That moreover, the assessee inspite of repeated opportunities was not able to furnish details of any such or similar CIR report which was generated and issued either to an individual or any financial institution. That the further claim of receipt of fee of Rs. 4004/- during the year was nothing but facade created by the assessee to show that it has commenced his business. That since the business was not set up and commenced as strongly claimed by the assessee, the claim of the assessee for all the expenses debited to profit and loss account was rejected by the Assessing Officer as far as depreciation was concerned ,the same was also rejected as it cannot be claimed by an entity which is yet to commence its business. That the other income earned by the assessee of Rs. 2,81,98,850/- does not have any nexus with the business activity, and has been disallowed under the head "income from other sources". The Assessing Officer also relied on the decision of the Hon'ble Supreme Court in the case of Alkali Chemicals and Fertilisers in the assessee's case. Thus in view of the fact and circumstances, the Assessing Officer concluded that the assessee company was yet to set up and commence its business activities and, therefore, the income of Rs. 2,81,98,850/-was disallowed and added back to the total income of the assessee.

7. Upon assessee’s appeal learned CIT(A) deleted the disallowance by holding as under :

> “5.2.4 It is noted that the appellant is in the business of providing credit information and is duly registered with RBI. Amongst many related services, one of the services is providing Credit Information Report (CIR) giving information regarding borrower's credit accounts and credit ratings etc. This activity requires availability of requisite computer hardware and software. The appellant entered into a software licence agreement with Experian Ltd. (EL) w.e.f. 21/11/2009. As per the agreement, EL was to develop and maintain software platform called Credit Bureau Platform (CBV2). The appellant also pointed another vendor, "SAS" on 15/01/2010 for providing software required in relation to CBV2 and signed an agreement on 01/05/2010. The customised CBV2 was delivered by EL March 2010. The appellant was receiving non-standard data formats from various

banks with Indian names and addresses that was creating certain problem in data upload. However, due to efforts of EL and SAS, the appellant claims that by August 2010 they could successfully provide matches sample enquiries. Accordingly, they announcedl2/08/2010 as the date on which CBV2 was ready for intended. This was duly intimated to RBI through letters, copies of which are placed on record.

5.2.5 To carry out its business, the appellant requires to enter into Membership Agreement (MA) and Service Agreement (SA). Broadly speaking, MA enables appellant to get data from banks etc. and SA is an agreement to provide various credit reports such as CIR 2 clients. Up to this point, there is no ambiguity or doubt about the dates, facts or details.

5.2.6 As per the details submitted, the appellant had already entered MA with 25 banks/FIs etc. by the date of commencement of business claimed as 12/08/2010. Even as per the table given at Para 8 of the assessment order, the Assessing Officer has noted 5 banks ruling one nationalised bank namely Punjab National Bank and one multinational bank namely Barclays Bank as customers with whom appellant had entered into Membership Agreement. Thus, if at all, there can be a dispute between the number of agreements signed before 12/08/2010 as per the Assessing Officer and as per the appellant. However, the fact remains that substantial database of individuals was available with the appellant as on that date. It is not important whether that much database was capable of generating very high quality CIR reports or relatively lesser quality reports. Nevertheless, it is seen that vide letter dated 23/12/2013, the appellant had submitted details of agreement with banks etc., to the Assessing Officer which clearly shows 25 agreements were entered into on or before 10/08/2010. It is contended by the appellant that by 12/10/2010 it had a database of 27.4 3 million records out of which 19.43 million records were processed as on 12/08/2010. There is no adverse finding about the amount of data collected by the appellant and processed in the assessment order.

5.2.7 During the relevant year, 32 individual customers approached the appellant for CIR report's and paid service fee. Of these, 28 customers were given a Nil report and balance for reports were appropriately issued. All details relating to these 32 individual customers were submitted to the Assessing Officer vide letter dated 16/01/2014. The details therein are not disputed.

5.2.8 Distilling all the objections of the Assessing Officer, it can be said that the primary objection was that the appellant did not have sufficient database to make it possible even to generate a single CIR report. Secondly, 32 individual customers were too low a number to establish commencement of business. New age software and data processing based business is extremely different from bricks and mortar business Information technology is a dynamic and complex service capable of growing exponentially. Apart from conjectures and surmises, there is nothing to conclude that the claim of the appellant that its software CBV2 platform was functional on 12/08/2010

was incorrect. Particularly so, when the appellant has duly reported operational status to RBI.

5.2.9 Accepting that the software for processing data was operational, it has now to be seen whether the appellant had any data available for processing. As can be seen from the details filed before the Assessing Officer, the appellant had already entered into service agreements with 25 banks/FIs etc., including several nationalised, private Indian and multinational banks such as PNB, ICICI, Kotak Mahindra Bank, HSBC, Indiabulls Financial Services Ltd, Barclays Bank etc. although these 25 financial institutions together would not cover each and every individual bank customer in India, together these institutions would have a huge database of past and present clients.

5.2.10 It would be unreasonable to conclude that this number would be so miniscule and negligible as to make it impossible for the appellant to generate any CIR report. Obviously, as the appellant enters into more and more Membership Agreements, the database would increase and the accuracy as well as the reach of its CBV2 software would enhance. Just as all principles of market research/statistical formulae can be applied to a relatively small sample size, so also can a processing software be applied are comparatively smaller database. Further, just as a larger sample size will improve the quality of statistical analysis, so also will a larger database improve quality of a report like CIR. However, the quality of these reports is not crucial in deciding whether or not the appellant could have commenced business with the limited database that it possessed as on 12/08/2010. Assuming that the appellant possessed database supplied only by Punjab National Bank only few million accounts/names in their list of clients, the appellant still be able to generate CIR reports in respect of those individuals and analyse their credit ratings with only the track record available in the database of Punjab National Bank. Admittedly, such a report would be not very robust credit rating report and may not be able to give any analysis about an individual who is not or has never been a client of the said bank. However, that does not mean that the appellant was not engaging in business activity just because of such data handicap, unless there is any contrary finding of fact. In the instant case, there is no such finding of fact.

5.2.11 Coming to the small number of clients CIR procured by the appellant during the year, the conclusion of the Assessing Officer that it was done merely to create resemblance of having commenced business appears to be based on conjectures and not on any hard investigative finding. There is nothing to indicate that these customers were kind of dummy customers shown only to establish that business had commenced. Setup or commencement of business cannot be dependent upon the number of customers opted or the value of business done. Even if one genuine customer has been provided any goods or services, it will have to be accepted that business has commenced. Moreover, for a business like this, data from banks/FIs etc., is akin to raw material. Procurement of raw material and processing thereof has to be treated as commencement of business and cannot be subject to a certain volume of sales or even quality of products

sold during the year. A new entrant in a market may undergo the entire business process of procurement of raw material, processing it but may end up with making very meagre sales or may end up selling poor quality product. It is for the market forces in to decide whether that business will prosper or fail in future. It is not for the Assessing Officer to dismiss the existence of an any such business which has very meagre sales in its 1st year of operations and conclude that business activity has not commenced.

5.2.12 In deciding this issue, I find guidance in decision of Hon'ble ITAT A Bench, Mumbai, *[2016] 71 taxmann.com 374 (Mumbai - Trib.)Pinebridge Investments Capital India (P.) Ltd.v.Income Tax Officer,* Range 6(1)(4), Mumbai. The headnotes read as below:

Section 37(1) of the Income-tax Act, 1961 - Business expenditure - Allowability of (Setting up of business) - Assessment year 2007-08 - Whether business may be commenced subsequently, but for purpose of allowing expenses, it has to be seen when business can be said to be 'set-up' - Held, yes - Whether where assessee-company incorporated with an object to make investment in other companies had received funds in form of share capital or other sources before 11-10-2006 when it got NBFC registration certificate and thereafter it had started making due diligence for potential investee companies, it could be said that assessee-company was ready to commence its business and, thus, its business was set-up on 11-10-2006 - Held, yes [Paras 10.1 and 11,1 J fin favour of assessee]

5.2.13 While deciding the case, Hon'ble ITAT made the following observation:

"It may be noted from the perusal of the proviso to 'sect/on 3' that in the case of newly set up business, the previous year shall be the period beginning with the date of setting up of the business or, as the case may be, the date on which the source of income newly comes into existence and ending with the said financial year. Thus, one needs to find out when the business of the assessee-company can be said to be 'set-up'. The business may be commenced subsequently, but for the purpose of allowing the expenses, it has to be seen when the business can be said to be 'set-up' It is noted from the 'Notes to the Computation Sheet' attached with the return of income that assessee had clearly given its date of setting up of business as 11-10-2006 being the date on which the assessee-company received NBFC registration certificate from RBI. On this date, the assessee was legally and commercially competent to do its business. The expression "setting-up" means, as defined in the Oxford English Dictionary, "to place on foot" or "to establish", and in contradistinction to "commence". The distinction is this that when a business is established and is ready to be commenced, then it can be said that business is 'set-up'. But before it is ready to commence business, it is not setup. In other words, for setting up of business, what is required is readiness for commencement of business and actual commencement of business would not be necessary."[Para 10]

5.2.14 The above decision took into consideration ratios of *Western India Vegetable Products Ltd.* v. C/T[1954] 26 ITR 151 (Bom.) (para 10), *CITv.*

> *Ralliwolf Ltd.* [1980J 121 ITR 262 (Bom.) (para 10), CIT Vs. *Saurashtra Cement & Chemical Industries Ltd.* [1973]
>
> 91 ITR 170 (Guj.) (para 10) and *DHL Express (I) (P.) Ltd.* v. Asstt CIT (2009) 124 TTJ 108 (Mum.) (para 10.1).
>
> 5.2.15 Questions such as lack of 3rd party/vendor certification etc., raised by the Assessing Officer are not relevant in deciding the issue. In the instant case, relying on decisions of jurisdictional courts and considering the facts and circumstances, it cannot be denied that the appellant had set up its business from the date of registration with RBI and the business commenced on 12/08/2010 as also intimated to RBI. Therefore, the income shown has to be treated as "business income" and not "income from other sources" and deduction of business expenses and depreciation has to be allowed as per law. These grounds of appeal are therefore allowed."

8. Against the above order the Revenue is in appeal before us.

9. We have heard both the parties and perused the records. We find that the issue in dispute here is whether the assessee has commenced the business on the date claimed or not. The assessee was duly granted registration by the RBI and as per the terms of the Registration the assessee was to commence the business within six months. The Assessing Officer's doubt is that the assessee could not have arranged infrastructure. He was also of the opinion that the assessee's claim of issuing CIR reports to 32 persons is also only an arrangement. That earning of fee of Rs. 4004/- is too small. In our considered opinion except for the surmises and conjectures, the Assessing Officer's hypothesis has no legs to stand. There is no law that there is a presumption that if the assessee earns a smaller income, commencement of business should be doubted. The claim that the issue of CIR to 32 persons is an arrangement is not backed by any inquiry whatsoever from those 32 persons by the Assessing Officer. The Assessing Officer has clearly misled himself. No case has made out that there was any examination of assessee's infrastructure and it was found lacking. Moreover, in our considered opinion the Assessing Officer has no technical qualification whatsoever in commenting upon the technological preparation of the assessee in delivering output. In our considered opinion learned CIT(A) has passed a correct order and has analysed

all the facts pointed out by the Assessing Officer. Hence, the order of learned CIT(A) does not need any interference from our part. Accordingly, we uphold the same. In the result, this issue is decided in favour of the assessee and against the Revenue.

Apropos ground No. 2

10. During the assessment proceedings, the Assessing Officer observed that the appellant company had claimed the technology recharge cost of Rs. 10,18,95,804/-in its profit and loss account out of which Rs. 5,13,62,128/- was considered as capital and the balance as a revenue in nature. On perusal of the items, the Assessing Officer noted that all relate to the creation of intangibles which constitute the primary assets/resource, to enable the company to conduct the business. That the expenses were set up for a technology to enable the company to conduct its business and therefore only of capital nature. That the costs were related to intangibles, which are not owned by the company, but are a key resource for the conduct of its business. That they represented technology cost, which are the most critical resource for enabling the assessee to conduct its business and provide a benefit of an enduring nature to the company. That it is the CBV2 software platform and all related intangibles that enable the company to run its business. Such costs are not of a revenue nature but clearly an intangible capital item. That these costs are not expensed out to earn income during the course of the financial year, but continue to provide benefit over a period of years and are the core asset of the company for the conduct of its business. That the costs are, therefore, held to be of capital nature, being an intangible asset on which depreciation shall be allowed as and when the appellant is eligible to claim it, upon the commencement of its business. That the assessee's claim that the technology costs are of revenue item and hence charged to its profit and loss account was, therefore, rejected. The Assessing Officer, therefore, disallowed the entire technology recharge cost of Rs. 10,80,95,804/- as capital expenditure and added it back to the total income of the assessee.

11. Upon assessee's appeal learned CIT(A) deleted the disallowance. He noted the assessee's submission as under :-

"The appellant submits that during the previous year relevant to the assessment year 2011-12, the appellant incurred an amount of Rs. 10,18,95,804 towards technology costs. Of the total costs of Rs. 10,18,95,804/-, the appellant has considered an amount of Rs. 5,13,62,128/- as capital expenditure, an amount of Rs. 97,43,887/- has been disallowed as the amount was pre-operative in nature. The deduction was claimed in respect of the balance amount of Rs. 4,07,89,789/- as being revenue in nature.

Particulars	Amount	Amount (Rs.)
Amount debited to profit and loss account		10,18,95,804
Less: Pre-operative expenses		(97,43,887)
Less: Amounts treated as capital expenditure as per return a. CBV_2 license fees b. CBV_2 matching fees and fixed team fees c. SAS license fees and customization cost	 83,43,661 1,00,18,467 3,30,00,000	(5,13,62,128)
Balance treated as revenue expenditure in the return		4,07,89,789

2. The details of Rs. 40,789,789/- are as under:

	Particulars	Amount
1 .	Software maintenance fees	11,42,081
2.	Computer hardware installation and maintenance cost	3,87,505
3.	CBV_2 support and maintenance cost	1,81,17,617
4.	Technical services recharges	1,13,40,598
5.	Global Value Added Products ("GVAP") annual license and support fees	98,01,988
	Total	4,07,89,789

3. The nature of above expenses is as under:

i. Software maintenance fee-Rs. 11,42,081

The amount of Rs. 11,42,081 is incurred towards annual maintenance cost for the CBV_2 software. These costs are incurred towards the smooth functioning of the business and not towards acquisition of the CBV_2 platform. The software maintenance costs are incurred towards increasing the stability of the platform. The said expenditure is

recurring and therefore revenue in nature. Accordingly a deduction has been claimed under section 37(1) while computing the total income.

ii. Computer hardware installation and maintenance cost - Rs. 3,87,505

The amount of Rs. 3,87,505 in incurred towards hardware installation and support services for the stability of the CBV_2 platform.

iii. CBV_2 support and maintenance cost - Rs. 1,81,17,617

The above expenses are towards maintenance cost for the CBV_2 software from 12 August 2010 to 31 March 2011. These are additional monthly cost for standby resources from EL to support CBV_2 team of the appellant.

The expenses also cover support services provided by EL to stabilize the CBV_2 software and to improve the functionalities with regard to matching of data.

The above expenditure is revenue in nature. Accordingly a deduction has been claimed under section 37(1) while computing the total income.

iv. Technical Service Recharges-Rs. 1,13,40,598

The CBV_2 platform is on the server which is located in United Kingdom. Also, the data within the CBV_2 system is stored in the data storage centre maintained in the United Kingdom. The server as well the required infrastructure for the data and the CBV_2 platform is maintained by EL. The TS recharges are towards maintenance of infrastructure and data storage facility. The said expenditure is revenue in nature. Accordingly a deduction has been claimed under section 37(1) while computing the total income.

v. GVAP monthly license and support fees-Rs. 98,01,988

The amount of Rs, 98,01,988 is towards GVAP annual license and support services of the value added products viz. account review, portfolio benchmarking triggers etc. These costs are charged to the appellant on a monthly basis by EL for additional support and hence are recurring in nature. Accordingly a deduction has been claimed under section 37(1) while computing the total income."

12. Learned CIT(A) considering the above deleted the disallowance holding as under :-

"5.3.2 In the course of appeal proceedings, the appellant has explained in detail the nature of expenses related to technology treated as revenue expenditure in the return. This explanation has been extracted above and is hence not repeated here. It would suffice to note that software maintenance fee towards annual maintenance cost for the CBV2 software, computer hardware installation and maintenance cost, CBV2 support and maintenance cost technical services recharges towards maintenance of data storage facility and GVAP monthly license and support fees towards customisation and value-added services are integral part of the profit-earning process and not for acquisition of an asset or a right of a permanent character. In a bricks and mortar world plant and machinery have to be repaired, maintained and at times modified or customised to cater to market demand. These expenses have to be treated as revenue in nature. In the virtual world of data analysis, similar repair, maintenance or modification has to be done to computer hardware and software platform/architecture. Applying the ratio of decision of Hon'ble Supreme Court in Empire Jute Company Ltd (124 ITR 1) cited by the-appellant, in my opinion, the impugned expenses cannot be considered as capital in nature. Perhaps, the Assessing Officer did because he did not fully understand the difference between a bricks and mortar business and a business that uses computers and software platform/architecture as machinery that requires regular upkeep, repair and maintenance. Accordingly, disallowance of Rs. 4,07,89,789/-is deleted. This ground of appeal is allowed.

13. Against the above order the Revenue is in appeal before us.

14. We have heard both the parties and perused the records. We find that the issue here is whether the assessee's claim of technology recharge cost is revenue expenditure or capital expenditure. The order of the Assessing Officer is again thoroughly based upon surmises and conjecture with no cogent material whatsoever. The opinion of the Assessing Officer that cost and expenses are incurred not to earn income during the year but continue to provide benefit over a period of years is totally a surmises and conjecture. Moreover, in tax laws there is no concept of deferred revenue expenditure. Moreover, we are of the opinion that the Assessing Officer has not brought on record any cogent material how these items are in capital in nature. On the other hand learned CIT(A) has analyaised expenditure in detail and has found that these expenses are basically revenue in nature and they should not be treated as capital expenditure. Here we note that learned CIT(A) was rightly referred to the decision of Hon'ble Supreme Court in the case of Empire Jute

Co. Ltd. (124 ITR 1). It may be gainful to refer to the exposition in the case of Empire Jute Co. Ltd. (supra) wherein it was observed that *"there may be cases where expenditure, even if incurred for obtaining an advantage of enduring benefit, may, none the less, be on revenue account and the test of enduring benefit may break down. It is not every advantage of enduring nature acquired by an assessee that brings the case within the principles laid down in this test. What is material to consider is the nature of the advantage in a commercial sense and it is only where the advantage is in the capital field that the expenditure would be disallowable on an application of this test. If the advantage consists merely in facilitating the assessee's trading operations or enabling the management and conduct of the assessee's business to be carried on more effectively or more profitably while leaving the fixed capital untouched, the expenditure would be on revenue account, even though the advantage may endure for an indefinite future."* On the touchstone of the above said Hon'ble Supreme Court decision and on the facts and circumstances of the case in our considered opinion learned CIT(A) has taken correct view of the matter and it does not need any interference in our part.

15. Accordingly all these appeals of the Revenue stands dismissed.

Pronounced in the open court on 2.8.2021.

Sd/-	Sd/-
(AMARJIT SINGH)	(SHAMIM YAHYA)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Mumbai; Dated : 02/08/2021

Copy of the Order forwarded to :

The Appellant
The Respondent
The CIT(A)
CIT
DR, ITAT, Mumbai

Guard File.

BY ORDER,

//True Copy//

(Assistant Registrar)
ITAT, Mumbai

PS