



ITA No.7014 /Mum/2019  
M/s. Future Retail Ltd.  
Assessment Year: 2014-15

**आयकर अपीलीय अधिकरण “एफ” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“F” BENCH, MUMBAI**

**माननीय श्री अमरजीत सिंह, न्यायिक सदस्य एवं**  
**माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।**  
**BEFORE HON’BLE SHRI AMARJIT SINGH, JM AND**  
**HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM**  
(Hearing through Video Conferencing Mode)

आयकर अपील सं./ I.T.A. No.7014/Mum/2019  
(निर्धारण वर्ष / Assessment Year: 2014-15)

<b>ACIT-Circle-9(3)(2)</b> Room No.418, 4 <sup>th</sup> Floor Aayakar Bhavan, M.K. Road Mumbai-400 020	<b>बनाम/</b> <b>Vs.</b>	<b>M/s. Future Retail Limited</b> GF, Knowledge House Off, Jogeshwari Vikhroli Link Rd. Shyam Nagar, Jogeshwari (East) Mumbai-400 064
<b>स्थायीलेखासं./जीआइआरसं./PAN/GIR No. AADCB-1093-N</b>		
(□ पीलार्थी/ <b>Appellant</b> )	:	(प्रत्यर्थी / <b>Respondent</b> )

<b>Assessee by</b>	:	Ms. Dinkle Hariya-Ld. AR
<b>Revenue by</b>	:	Shri Shanteshwar Swami-Ld. DR

<b>सुनवाई की तारीख/</b> <b>Date of Hearing</b>	:	01/07/2021
<b>घोषणा की तारीख /</b> <b>Date of Pronouncement</b>	:	01/07/2021

**आदेश / ORDER**

**Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by revenue for Assessment Year (AY) 2014-15 contest the order of Ld. Commissioner of Income-Tax (Appeals)-33, Mumbai, [in short referred to as ‘CIT(A)’], Appeal No. 507/17-18 dated 27/08/2019 on following grounds: -



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1. Whether on the facts and in the circumstances of the case and in law, the Ld.CIT(A) has erred in holding that the expenses on account of Real Estate, Research, due diligence expenditures and marketing research expenditure as revenue in nature and thereby deleting the disallowance by ignoring the fact that the assessee would be deriving enduring benefit from these expenses and hence the same are capital in nature?
2. Alternatively and without prejudice to the above, the Id.CIT(A) ought to have considered the expenses in the nature of preliminary expenses as per section 35D(2) of the Act and therefore allowable only as per provision of section 35D(1).

2. Having heard rival submissions, the undisputed position that emerges before us is that the issue raised by the revenue is covered in assessee's favor by the earlier decisions of this Tribunal in assessee's own case. In fact, Ld. CIT(A) has relied upon the orders of Tribunal for AYs 2010-11 and 2011-12 while adjudicating the appeal. No change in facts could be demonstrated before us and there is nothing on record which would indicate that the earlier decisions of Tribunal are not applicable to the facts of this year. In the above background, our adjudication to the appeal would be as given in succeeding paragraphs.

3.1 The material facts are that the assessee being resident corporate assessee stated to be engaged in retail trading of household / consumer products was assessed for the year u/s 143(3) on 19/12/2016. During the course of assessment proceedings, it transpired that the assessee incurred certain expenses as 'Due Diligence Expenditure' & 'Marketing Research Expenditure' for Rs.273.93 Lacs. The marketing research expenses were stated to be incurred to conduct survey studies and would include household count and profiling study, catchment area study, door to door interview, store interviews, price perception study etc. These were stated to have been conducted to facilitate identifying appropriate location for expansion of existing business. The due



diligence expenditure was stated to be incurred in connection with the proposed properties to be taken up for store site before setting up of new stores / outlet. The assessee would get due diligence of the property from an independent party to check the legality of the property. This would involve identification of legal problems associated with title of property, solutions and site measurement, drawing and design cost etc. Depending on due diligence report, the assessee would decide whether to open store at the new site or not.

3.2 The assessee claimed that all such expenditure was laid out wholly and exclusively for the purpose of business in terms of Sec.37(1) and hence, revenue in nature. However, disagreeing with assessee's submissions, Ld. AO opined that the nature of expenditure was such that it would give benefit for longer duration and therefore, the expenditure would be capital in nature. Similar view was taken in assessment orders of AYs 2010-11 to 2013-14. Finally, the expenditure was disallowed.

4. The Ld. CIT(A) noted that similar disallowance made in AYs 2010-11 to 2012-13 stood deleted during appellate proceedings. In fact, the revenue's further appeal for AYs 2010-11 & 2011-12 was dismissed by the Tribunal taking a view that expenditure was not capital in nature and hence an allowable deduction. Relying upon the same, the disallowance was deleted. Aggrieved, the revenue is in further appeal before us.

5. We find that this issue stood covered in assessee's favor by the decision of Tribunal in assessee's own case for AYs 2010-11 & 2011-12. We further note that revenue's appeal for AY 2012-13 has also been dismissed by coordinate bench of this Tribunal vide ITA No.4060/Mum/2018 dated 23/08/2019, a copy of which is on record. This



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order follows the Tribunal order for AYs 2010-11 & 2011-12. Therefore, facts being pari-materia the same, taking the same view, we dismiss the appeal.

6. The appeal stands dismissed.

*Order pronounced on 01<sup>st</sup> July, 2021*

**Sd/-**

**(Amarjit Singh)**

न्यायिक सदस्य / **Judicial Member**

**Sd/-**

**(Manoj Kumar Aggarwal)**

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 01/07/2021  
Sr.PS, Jaisy Varghese

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायक पंजीकार (Dy./Asstt.Registrar)**  
**आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.**