

आयकर अपीलीय अधिकरण
मुंबई पीठ " ई "
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री गगन गोयल, लेखा सदस्य के समक्ष
IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "E", MUMBAI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER
आअसं.1785/मुं/2022 (नि.व. 2017-18)
ITA NO.1785/MUM/2022(A.Y.2017-18)

Dy. Commissioner of Income Tax- 3(3)1,
Room No.609, 6th Floor,
Aaykar Bhavan, M.K.Road,
Mumbai – 400 020.

..... अपीलार्थी /Appellant

बनाम Vs.

M/s. Sikraft Infotech Private Limited,
105, B-Wing, Mittal Tower,
Nariman Point, Mumbai 400 021.
PAN: AAFCS-9598-F

..... प्रतिवादी/Respondent

अपीलार्थी द्वारा/ Appellant by : Shri Dilip K. Shah

प्रतिवादी द्वारा/Respondent by : Shri Anuj Kisnadwala

सुनवाई की तिथि/ Date of hearing : 30/08/2022

घोषणा की तिथि/ Date of pronouncement : 19/09/2022

आदेश/ ORDER

PER VIKAS AWASTHY, JM:

This appeal by the Revenue is directed against the order of Commissioner of Income Tax (Appeals), National Faceless Appeal Center, Delhi [in short the 'CIT(A)']dated 09/05/2022 for the assessment year 2017-18.

2. The solitary issue agitated by the Revenue in appeal is against findings of the CIT(A) in holding Software Development Expenditure as revenue in nature.

3. Shri Anuj Kisnadwala appearing on behalf of the assessee submitted that the assessee is engaged in the business of process automation software and hardware engineering including software development, export of technical services, etc. During the period relevant to the assessment year under appeal, the assessee had claimed expenditure towards Software Development Rs.7,09,55,807/-. The said expenditure was in the nature of salaries of Engineers, hotel expenses, insurance, travel expenses, etc. In assessment proceedings the Assessing Officer held the expenditure on Software Development as capital in nature. Aggrieved by the assessment order dated 20/12/2019, the assessee filed appeal before the CIT(A). The CIT(A) after examining the facts held that the expenditure on Software Development, is regular business expenditure and has been incurred for Development of Software for use of clients including export to overseas clients. The CIT(A) reversed the findings of Assessing Officer and held the expenditure to be on revenue account. The Id.Authorized Representative of the assessee supporting the findings of CIT(A) submitted that the Assessing Officer has erred in assuming that the Software Development expenditure is towards development of software for self use of the assessee, whereas, the aforesaid expenditure was towards development of software for the clients of the assessee.

4. Per contra, Shri Dilip K. Shah representing the Department vehemently defended the assessment order. The Id.Departmental Representative submitted that the CIT(A) has erred in holding Software Development Expenditure as revenue in nature.

5. Both sides heard. The Software Development expenses claimed by the assessee are in the nature of payment of salaries and allowances to the

Engineers, travelling expenses, etc. The assessee is engaged in the process of providing automation, software and hardware engineering. The said expenditure is in the regular course of business of the assessee, which has been named as Software Development Expenditure. The CIT(A) has given a categorical finding that the said expenses are not towards Software Development for use by the assessee but for rendering services to the clients including overseas clients. Thus, the expenditure has been incurred in the regular course of business of the assessee and for earning revenue and profits, hence, the expenditure is on revenue account. The Id.Departmental Representative has not been able to controvert the findings of the CIT(A). We find no infirmity in the order of CIT(A) on this issue, hence, the same is upheld and the appeal of Revenue is dismissed being devoid of any merit.

Order pronounced in the open court on Monday the 19th day of September , 2022.

Sd/-

(GAGAN GOYAL)

लेखा सदस्य/ACCOUNTANT MEMBER

मुंबई/ Mumbai, दिनांक/Dated 19/09/2022

Vm, Sr. PS(O/S)

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त(अ)/ The CIT(A)-
4. आयकर आयुक्त CIT
5. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT,
Mumbai
6. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar)/ Sr. Private Secretary
ITAT, Mumbai

