

**(5383)**

**In the High Court of Judicature at Madras**

**Dated: 03.10.2012**

**Coram**

**The Honourable Mrs.JUSTICE CHITRA VENKATARAMAN**

**and**

**The Honourable Mr.JUSTICE K.RAVICHANDRABAABU**

**Tax Case (Appeal) No.2308 of 2006**

**Commissioner of Income Tax**

**Chennai**

**... Appellant**

**Vs.**

**M/s. Kreon Financial Services Limited**

**(Formerly known as Tatia Financial Services Limited)**

**F-39, Annanagar East**

**Chennai**

**... Respondent**

**The name of the respondent has been changed by order of this Court dated 3.10.2012 in the memo filed by the counsel for the appellant.**

**Tax Case (Appeal) against the order of the Income Tax Appellate Tribunal Madras B Bench dated 25.11.2005 in ITA. No. 690/ Mds/ 2001 for assessment year 1996-97.**

**For Appellant : Mr.T.Ravikumar**

**Standing Counsel**

**For Respondent : Ms.G.Vardhini Karthik**

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## **JUDGMENT**

**(Judgment of the Court was delivered by K.RAVICHANDRABAABU,J.)**

**The Revenue is on appeal in respect of assessment year 1996-97. The following are the substantial questions of law raised at the time of admitting the appeal.**

**"1. Whether in the facts and circumstances of the case, the Tribunal was right in holding that expenses relating to issue of share capital would be eligible for deduction as a revenue expenditure?**

**2. Whether in the facts and circumstances of the case, expenditure which might otherwise be allowable as regular business expenditure would be allowed as such when incurred in relation to issue of share capital?"**

**2. The assessee had claimed share issue expenses of Rs.15,02,119/- as revenue expenditure. The said claim of the assessee was disallowed by the Assessing Officer on the ground that those expenses are capital in nature. Aggrieved by the order of the assessment, the assessee filed an appeal before the first Appellate Authority. As the Assessing Officer has disallowed the claim of the assessee by pointing out that they have not given any details regarding the claim for deduction in respect of sum of Rs.15,02,119/-, the assessee, before the first Appellate Authority, had given a break up details with regard to the expenses meted out by the assessee in respect of the share issues, which are as follows:-**

<b>1. Despatch and out of pocket exp.</b>	<b>Rs. 2,07,616.50</b>
<b>2. Registration Fees</b>	<b>Rs. 50,000.00</b>
<b>3. Printing expenses</b>	<b>Rs. 32,989.00</b>
<b>4. Listing Fees</b>	<b>Rs. 39,250.00</b>
<b>5. Stationery Exp.</b>	<b>Rs. 1,91,674.20</b>
<b>6. Travelling &amp; Meeting exp.</b>	<b>Rs. 26,635.85</b>
<b>7. Bank Charges &amp; Commission</b>	<b>Rs. 57,288.00</b>
<b>8. Lead Managers fees</b>	<b>Rs. 1,13,000.00</b>
<b>9. Advertisement</b>	<b>Rs. 7,74,665.30</b>
<b>10. Prof. Certificate</b>	<b>Rs. 9,000.00</b>
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	<b>Rs.15,02,118.65</b>
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**3. Out of the above total ten heads of expenses, the first Appellate Authority disallowed the claim in respect of printing expenses, lead manager fees and advertisement expenses by holding that those expenses are capital in nature. In so far as the other expenses are concerned, the first Appellate Authority allowed the claim of the assessee by holding that those expenses are revenue in nature. Aggrieved by the said order of the first Appellate Authority, the Revenue went on appeal before the Income**

**Tax Appellate Tribunal. The Tribunal rejected the appeal filed by the Revenue and confirmed the order of the first Appellate Authority by holding that the findings given by the Commissioner of Income Tax (Appeals) does not warrant any interference as the Commissioner of Income Tax (Appeals) has given categorical findings as to which are the expenses incurred in the regular course of the business and which are the expenses incurred in the capital field. The Tribunal has also noted that the Commissioner of Income Tax (Appeals) has passed the order only after getting remand report from the Assessing Officer with regard to each and every heads of expenses for which the deduction was sought for.**

**4. We have heard the learned counsel for respective parties and perused the orders of the authorities below and we find every justification in accepting the order of the Commissioner of Income Tax (Appeals) wherein and whereby the Commissioner has allowed the claim of deduction, except in the case of printing expenses, lead manager fees and advertisement expenses, totalling to Rs.3,08,791/-. As the said expenses are capital in nature, the same has been rightly rejected by the Commissioner of Income Tax (Appeals). Likewise, while considering the other expenses, the Commissioner has given categorical finding that the nature of the expenses is only revenue, as those expenses are to meet out the day today transactions of the business of the assessee.**

**5. In view of the factual finding rendered by the Commissioner of Income Tax (Appeals) based on the report received from the Assessing Authority, which has been accepted by the Tribunal and there being no contradiction in the finding of the Tribunal, we find no reason to interfere with the order. In the result, the appeal is dismissed and the questions of law raised are answered against the Revenue. No costs.**