

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'C' NEW DELHI**

**BEFORE SH.N.K.SAINI, ACCOUNTANT MEMBER
AND
SH.K.N.CHARY, JUDICIAL MEMBER**

**ITA No. 3269/Del/2016
(ASSESSMENT YEAR: 2011-12)**

ACIT, Circle-24(1), New Delhi.	vs	Spice Retail Ltd., Shop No.1/628, Plot No.628, Pankha Road, Janakpuri, New Delhi-110058. PAN-AAACM0294P
(Appellant)		(Respondent)

Appellant by	Sh. Arun Kumar Yadav, Sr. DR
Respondent by	None
Date of Hearing	14.12.2017
Date of Pronouncement	15.12.2017

ORDER

PER K.N.CHARY, JM

Aggrieved by the order dated 22.03.2016 in Appeal No.425/14-15/94/15-16 passed by the Ld. Commissioner of Income Tax (Appeal) [in short "CIT(A)"]-28, New Delhi for the AY 2011-12, the Revenue filed this appeal on various ground.

2. Briefly stated facts are that the assessee is a company engaged in the business of retail trading of mobile handsets, its accessories and mobile repairing. For the assessment year 2011-12, the assessee filed the return of income on 28/09/2011 declaring a total loss of Rs. 8,89,27,185/- against which the Ld. AO completed the assessment at a loss of Rs.6,60,06,514/-by making certain

disallowances, on account of advertisement and marketing expenses and training and recruitment charges. In the appeal preferred by the assessee, Ld. CIT (A) deleted these additions stating that these issues are fully covered in favour of the assessee in their own case by the Tribunal, for the assessment year 2008-09 by way of order dated 30/08/2013 in ITA No. 5660/Del/2011 and for the assessment year 2009-10 by order dated 01.02.2016 in ITA No. 4933/Del/2012, as such, while respectfully following the same, the additions made for this assessment year shall also be deleted. Hence, the revenue is in this appeal before us.

3. Ld. DR vehemently relied on the assessment order; whereas the Ld. AR submitted that since the Ld. CIT(A) gave relief to the assessee while relying upon the decision of the Tribunal for earlier years, no interference could be made with such an order.

4. We have perused the impugned order. Ld. CIT(A) recorded a finding that the issues involved in this matter for this assessment year were fully covered by the decisions of the Tribunal for the assessment years 2008-09 and 2009-10 wherein the relief was granted to the assessee on the ground that the Ld. AO did not allow the depreciation on the part of the expenditure incurred for advertisement and marketing, if it all the Ld. AO had to treat a part of such as such expenditure as capital nature. So also it was held by the Tribunal that the Recruitment and Training Expenses incurred by the assessee are allowable as revenue expenditure. The observations made by the Ld. CIT(A) could not be controverted by the Ld. DR and there is no dispute that for the earlier years, after considering the entire facts

pleaded by the parties which are similar to the facts involved for this assessment year, the Tribunal held that the Ld. AO was not justified in making additions on account of disallowance of the Advertisement & Marketing Expenses and Training & Recruitment Charges. In these circumstances, we do not find any reason to take a different view from the one that was taken for the earlier years. We, therefore, uphold the findings of the Ld. CIT(A) and find that this appeal is devoid of any merits. The grounds of appeal are, therefore, dismissed.

5. In the result, appeal of the revenue is dismissed.

The order is pronounced in the open court on 15th December, 2017.

**Sd/-
(N.K.SAINI)
ACCOUNTANT MEMBER**

**Sd/-
(K.N.CHARY)
JUDICIAL MEMBER**

Amit Kumar
Date:- 15.12.2017

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI