

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'I-1', NEW DELHI**

Before Sh. N. K. Saini, AM and Sh. Sudhanshu Srivastava, JM

ITA No. 1870/Del/2017 : Asstt. Year : 2006-07

ITA No. 1871/Del/2017 : Asstt. Year : 2007-08

Nokia India Pvt. Ltd., TEC, Level 18, DLF Cyber City, Phase-III, Building No. 5, Tower- A, Gurgaon-122002	Vs	Addl. Commissioner of Income Tax, Special Range-6, New Delhi
(APPELLANT)		(RESPONDENT)
PAN/GIR No. AAACN2170R		

ITA No. 1872/Del/2017 : Asstt. Year : 2006-07

ITA No. 1873/Del/2017 : Asstt. Year : 2007-08

ITA No. 1874/Del/2017 : Asstt. Year : 2008-09

ITA No. 1875/Del/2017 : Asstt. Year : 2009-10

ITA No. 1876/Del/2017 : Asstt. Year : 2011-12

ITA No. 1877/Del/2017 : Asstt. Year : 2012-13

Nokia Corporation, C/o-Luthra & Luthra Law Offices, 103, Ashoka Estate, Barakhamba Road, New Delhi-110001	Vs	DCIT(International Taxation), Circle2(2)(2), New Delhi-110002
(APPELLANT)		(RESPONDENT)
PAN/GIR No. AABCN3748E		

**Assessee by : Sh. Ranjan Vora , CA,
Sh. Abhinav Vijn, CA &
Ms. Garima Pande, CA**

**Revenue by : Sh. Sanjay I. Bara, CIT DR
Sh. Kumar Pranav, Sr. DR**

Date of Hearing : 26.02.2018	Date of Pronouncement : 27.02.2018
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ORDER

Per Bench:

These appeals by the assessee are directed against the separate orders passed by the AO u/s 147/143(3) r.w.s. 144C(1) of the Income Tax Act, 1961 (hereinafter referred to as the Act) as per following details:

S.No.	Appeal No. Assessee	Assessee	Assessment Year	Order of the AO dated
1	ITA No.1870/Del/2017	Nokia India Pvt. Ltd.	2006-07	31.01.2017
2	ITA No.1871/Del/2017	Nokia India Pvt. Ltd.	2007-08	30.01.2017
3	ITA No.1872/Del/2017	Nokia Corporation	2006-07	30.01.2017
4	ITA No.1873/Del/2017	Nokia Corporation	2007-08	30.01.2017
5	ITA No.1874/Del/2017	Nokia Corporation	2008-09	30.01.2017
6	ITA No.1875/Del/2017	Nokia Corporation	2009-10	30.01.2017
7	ITA No.1876/Del/2017	Nokia Corporation	2011-12	30.01.2017
8	ITA No.1877/Del/2017	Nokia Corporation	2012-13	30.01.2017

2. During the course of hearing, the Id. Counsel for the assessee submitted that he has the instruction to withdraw these appeals by stating in application dated 23.02.2018 as under:

“SUB: WITHDRAWAL OF APPEAL FILED BEFORE THIS INCOME TAX APPELLATE TRIBUNAL IN I.T.A. NO. 1870/PEL-2017

This is with reference to the subject appeals filed by the appellant before Bench ‘I’ of this Hon’ble Tribunal.

In this regard, it may please be noted that the subject appeal has been filed by the appellant against the order passed by the Additional Commissioner of Income Tax, Special Range-6, CR Building New Delhi (‘Ld. AO’) under Section 144C(13)/143(3) read with section 147 of the Income Tax Act, 1961 (‘the Act’) for the subject year (‘impugned order’).

In this regard, it is submitted that in addition to filing the subject appeal before this Hon'ble Tribunal against the above-said impugned order, Nokia had filed an application under Article 24 of the India - Finland Double Taxation Avoidance Agreement ('DTAA') for initiation of Mutual Agreement Procedure ('MAP') before the Indian and the Finnish Competent Authorities ('CA') with respect to the following issues in appeal before this Hon'ble Tribunal:

- a. Disallowance n/s 40(a)(i) - payment to Nokia Corp towards purchase of software;*
- b. Disallowance u/s 40(a)(i) - payment to Nokia Corp towards purchase of finished goods;*
- c. Transfer pricing adjustments towards (i) AMP (ii) Purchase of Software from Nokia Corp*

It is respectfully submitted that a resolution has been arrived between the Indian and Finnish CAs on all the above taxation issues raised before this Hon'ble Tribunal in the present appeal. The said resolution under Article 24 of the India - Finland DTA A has also been accepted by Nokia vide letter dated February 20, 2018. As per Rule 44H of the Income Tax rules, 1962 ('the IT Rules'), orders giving effect to the MAP resolution shall be passed by the Ld. AO once all appeals are withdrawn by the appellant on the issues so resolved under MAP. Accordingly, in line with the condition precedent, as prescribed under Rule 44H of the IT Rules, the appellant hereby withdraws the appeal in IT.A. No. 1870/Del/2017 in its entirety.

In view of the above, we request your Honour to kindly consider this application as withdrawal of the abovementioned appeals and where any orders are required to be passed, we request the Hon'ble Bench to kindly pass the same.

In case your Honour requires any clarification/information on the above, we shall be pleased to provide the same.”

Thanking you,

Yours sincerely,

Sd/-

Directors of Nokia India Pvt. Ltd.

3. Similar applications have been filed by the assesseees for the other appeals under consideration.

4. During the course of hearing, the Id. Counsel for the assesseees reiterated the contents of the aforesaid application and requested to allow the withdrawal of the appeals under consideration.

5. In his rival submissions, the Id. DR did not object if the appeals of the assesseees are dismissed as withdrawn.

6. We have considered the submissions of both the parties and perused the material available on the record. In the present case, from the aforesaid applications submitted by the assesseees, it is noticed that the assesseees in addition to filing the appeals before the Income Tax Appellate Tribunal had filed applications under Article 24 of the India-Finland Double Taxation Avoidance Agreement (∴DTAA∅) for initiation of Mutual Agreement Procedure (∴MAP∅) before the Indian and the Finnish Competent Authorities (∴CAs∅) on all the issues raised before the ITAT in the present appeals. Thereafter, the resolution had been arrived between the Indian and Finnish CAs on all the issues raised before the ITAT in

the present appeals. The said resolution had been accepted by the assesseees vide letter dated 23.02.2018. In view of the above, these appeals filed by the assesseees are dismissed as withdrawn.

7. In the result, the appeals of the assesseees are dismissed.

(Order Pronounced in the Open Court on 27/02/2018)

Sd/-

(Sudhanshu Srivastava)
JUDICIAL MEMBER

Sd/-

(N. K. Saini)
ACCOUNTANT MEMBER

Dated: 27/02/2018

Subodh

Copy forwarded to:

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

ASSISTANT REGISTRAR