

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "E": DELHI

BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
AND
SHRI O.P. KANT, ACCOUNTANT MEMBER

ITA.No.7556/Del./2017
Assessment Year 2014-2015

The DCIT, Circle-16(2), Room No.308, C.R. Building, I.P. Estate, New Delhi.	vs.,	M/s. Miele India Pvt. Ltd., 1 st Floor, Copia Corporate Suits, Commercial Plot-9, Jasola, New Delhi – 025.
(Appellant)		(Respondent)

For Revenue :	Shri K. Hauthang, Sr. D.R.
For Assessee :	Shri Piyush Kaushik, Advocate.

Date of Hearing :	25.09.2019
Date of Pronouncement :	01.10.2019

ORDER

PER BHAVNESH SAINI, J.M.

This appeal by Revenue has been directed against the Order of the Ld. CIT(A)-22, Delhi, Dated 11.09.2017 for the A.Y. 2014-2015, challenging the deletion of addition of Rs.2,06,37,597/- on account of advertisement expenditure incurred on brand building under section 37 of the I.T. Act, 1961.

2. The Ld. CIT(A) noted that the only issue involved in this case is disallowance of expenditure for advertisement on sale promotion of Rs.2,06,37,597/- treating the same as expenditure for the future benefits and enduring in nature. The Assessing Officer has observed that by incurring the said expenditure, the assessee is building a brand image of the parent company and capital in nature. The A.O. denied the claim of assessee treating the same as revenue expenditure and disallowed under section 37(1) of the I.T. Act, 1961. The Ld. CIT(A), after considering the submissions of both the parties noted that facts are same with regard to disallowance of advertisement expenses in assessee's own case from A.Y. 2010-11 onwards. For A.Y- 2013-2014, the Ld. CIT(A) has decided this issue in favour of the assessee. The Ld. CIT(A) found the facts and circumstances of the case are similar, therefore, following his Order for the A.Y. 2013-2014, deleted the entire addition and allowed the appeal of assessee.

3. Learned Counsel for the Assessee, at the outset submitted that the issue is covered by the Order of ITAT,

Delhi Bench in the case of same assessee for the A.Y. 2010-2011 in ITA.No.724/Del./2016 in which vide Order Dated 11.04.2019, the Departmental Appeal for identical grounds have been dismissed. The findings of the Tribunal in paras 15 and 16 are reproduced as under :

“15. We have heard the rival submissions and have given thoughtful consideration to the orders of the authorities below qua the issue. It would be pertinent to mention here that during the course of assessment proceedings, the case was referred to the TPO and the TPO framed order u/s 92CA(3) of the Act on 09.01.2014 and no adverse inference was drawn in respect of I.T. notification by the assessee during the year under consideration. This shows that the TPO was satisfied with the AMP expenses incurred by the assessee and did not make any adverse comment in so far as the issue of brand building is concerned.

16. *In our considered opinion, public memory is very short and, therefore, the companies have to incur advertisement expenditure year after year to keep products fresh in the minds of the public. In our considered opinion, such expenditure cannot partake the character of giving any enduring benefit. In our considered opinion, the Assessing Officer has grossly erred in treating such expenditure as intangible asset and on facts of the case, the findings of the Id. CIT(A) needs no interference. Ground No. 2 stands dismissed.”*

4. The Ld. D.R. also stated that issue is covered in favour of the assessee by the Order of the Tribunal above.

5. Considering the facts of the case in the light of the Order of the Tribunal Dated 11.04.2019 (supra), we are of the view that the issue is covered in favour of the assessee by this Order. Following the same, we dismiss the appeal of the Revenue.

6. In the result, appeal of Revenue dismissed.

Order pronounced in the open Court.

Sd/-
(O.P. KANT)
ACCOUNTANT MEMBER

Sd/-
(BHAVNESH SAINI)
JUDICIAL MEMBER

Delhi, Dated 01st October, 2019

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT "E" Bench
6.	Guard File

// BY Order //

Asst. Registrar : ITAT Delhi Benches :
Delhi.