

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI "I-1" BENCH: NEW DELHI**

(THROUGH VIDEO CONFERENCING)

**BEFORE SHRI R.K.PANDA, ACCOUNTANT MEMBER &
SHRI KUL BHARAT, JUDICIAL MEMBER**

**ITA No.7886/Del/2017
Assessment Year : 2009-10**

DCIT, Circle-1(1)(2), New Delhi	vs	BBC Media Action (India) Ltd., E-21, Hauz Khas Market, New Delhi-110016. PAN-AADCB2196G
APPELLANT		RESPONDENT
Appellant by		Sh.Vijay Choudhary, Sr.DR
Respondent by		Sh.Atul Jain, Adv.
Date of Hearing		15.07.2021
Date of Pronouncement		15.07.2021

ORDER

PER KUL BHARAT, JM :

This appeal filed by the Revenue for the assessment year 2009-10 is directed against the order of Ld. CIT(A)-38, Delhi dated 27.09.2017. The Revenue has raised following ground of appeal:-

1. " whether on the facts and circumstances of the case, Ld. CIT(A) was justified in law to exclude the other operating expenses from the operating cost without considering the IT Rule 10B(1)(e) which clearly states that the net profit margin realized by the enterprise from an international transaction entered into with an associated enterprise is computed in relation to costs incurred or sales effected or assets employed or to be employed by the enterprise or having regard to any other relevant base?

2. Whether on the facts and circumstances of the case, Ld. CIT(A) was justified in law to exclude the reimbursement payment from the operating cost not appreciating the fact that these reimbursement payment would attract withholding tax u/ s 195 of the IT Act, 1961?

3. *Whether on the facts and circumstances of the case, Ld. CIT(A) was justified in law in giving direction to the TPO for inclusion of comparable M/s IDBI Intech Ltd., M/s Cyber Media India Online Ltd. and India Infoline Media & Research Services Ltd. on account of functional similarity without considering the detailed analysis and speaking order of the TPO, that the Ld. TPO has rejected M/s IDBI Intech Ltd. on functional dissimilarity while Cyber Media India Online Ltd. fails the RPT filter and India Infoline Media & Research Services Ltd. fails the service filter applied by the TPO in his order?"*

2. However, Ld. Sr. DR for the Revenue pointed out that the present appeal is to be withdrawn as the tax effect involved in the case is below Rs.50 Lacs.

3. The CBDT vide Circular No.17/2019 dated 08.08.2019 has revised the monetary limit for filing the appeals before the Tribunal to Rs.50 Lacs. Further, CBDT vide letter dated 20.08.2019 has also clarified that Circular No.17/2019 would be applicable to all pending appeals. In such circumstances, the present appeal filed by the Revenue in case of low tax effect is not maintainable.

4. Before parting, we clarify here that the Revenue shall be at liberty to approach the Tribunal for re-institution of appeal, if the requisite material is brought to show that the appeal is protected by the exceptions prescribed in para 10 of the Circular dated 11.07.2018.

5. In conclusion, by applying the CBDT Circular dated 08.08.2019 and letter dated 20.08.2019 (supra), the captioned appeal of the Revenue is dismissed as withdrawn/not pressed.

6. In the result, the appeal of Revenue is dismissed.

Above decision was pronounced on conclusion of Virtual Hearing in the presence of both the parties on 15th July, 2021.

Sd/-

(R.K.PANDA)
ACCOUNTANT MEMBER

Sd/-

(KUL BHARAT)
JUDICIAL MEMBER

Amit Kumar

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI