

**IN THE INCOME TAX APPELLATE TRIBUNAL (VIRTUAL COURT)
"A" BENCH, MUMBAI**

**BEFORE SHRI S. RIFAUR RAHMAN, HON'BLE ACCOUNTANT MEMBER AND
SHRI PAVAN KUMAR GADALE, HON'BLE JUDICIAL MEMBER**

ITA NO. 8018/MUM/2019 (A.Y: 2008-09)

M/s. Anheuser Busch InBev India Ltd., {Formerly known as SABMiller India Limited} Unit No. 301-302, Third Floor Dynasty Business Park B-Wing, Andheri Kurla Road Andheri (E), Mumbai - 400059 PAN: AAICS2238R	v.	ACIT – Circle – 9(1)(2) Room No. 210, 2 nd Floor Aayakar Bhavan, M.K. Road Mumbai - 400020
(Appellant)		(Respondent)

Assessee by	:	Shri Rajan Vora
Department by	:	Ms. Shailja Rai
Date of Hearing	:	01.11.2021
Date of Pronouncement	:	28.01.2022

ORDER

PER S. RIFAUR RAHMAN (AM)

1. This appeal is filed by the assessee against order of the Learned Commissioner of Income Tax (Appeals) – 18, Mumbai [hereinafter in short "Ld.CIT(A)"] dated 30.09.2019 for the A.Y.2008-09.

2. There is delay of 13 days in filing the appeal and an application has been filed for condonation of delay. As per Affidavit filed by Ld. AR of the assessee, it is stated that the Ld.CIT(A) had passed order dated 30.09.2019, and the same had been received by the assessee on 16.10.2019. The time limit for filing appeal before the ITAT expired on 14.12.2019 whereas the appeal was filed on 27.12.2019. In this regard the Ld.AR submitted that during the month of November 2019, the entire accounts and tax personnel were busy with filing of income tax return, tax audit report, transfer pricing report, CBCR, etc for FY 2018-19 (due by 31 November 2019) and the closure of assessment proceedings for AY 2016-17/AY 2017-18 (time barring on 31 December 2019). Ld. AR further submitted that there is no malafide intention for delaying the filing of appeal and the delay has occurred due to bonafide mistake and requested for condonation of delay in filing the appeal. The Ld. DR has raised any objection in condoning the delay. Hence, the delay of 13 days in filing appeal is condoned.

3. Ld. AR of the assessee submitted that assessee has raised specific grounds of appeal No.4, 6 and 8 before Ld.CIT(A) challenging the validity of reopening of assessment as bad in law raising several issues on this specific issue of reopening.

4. He brought to our notice findings of the Ld.CIT(A) at Para No 6 of the appellate order and submitted that Ld.CIT(A) has not adjudicated on these grounds. Further he brought to our notice Page No. 85 of the Paper Book which is the rectification application filed by the assessee u/s. 154 of the Act before Ld.CIT(A) on adjudication of these grounds. Further he submitted that there is no action taken by the Ld.CIT(A) to dispose of the application u/s. 154 of the Act. Further he submitted that the issue may be remitted back to the file of the Ld.CIT(A) to adjudicate these issues and requested for time bound instructions so that issue can be addressed immediately.

5. On the other hand, Ld. DR agreed with the above facts and submissions made by the Ld. AR.

6. Considered the rival submissions and material placed on record, we observe from the record that assessee has raised several issues challenging the reopening of assessment before the Ld.CIT(A). However, Ld.CIT(A) has not adjudicated on the jurisdictional issue raised by the assessee. We deem it fit and proper to remit this issue back to the file of the Ld.CIT(A) to adjudicate on the issue of jurisdiction u/s. 147 of the Act and also direct Ld.CIT(A) to complete the appellate proceedings within

120 days from the date of this order. Accordingly, appeal filed by the assessee is allowed for statistical purpose.

7. In the result, appeal filed by the assessee is allowed for statistical purpose.

Order pronounced on 28.01.2022 as per Rule 34(4) of ITAT Rules by placing the pronouncement list in the notice board.

Sd/-
(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Mumbai / Dated 28.01.2022
Giridhar, Sr.PS

Sd/-
(S. RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

//True Copy//

BY ORDER

(Asstt. Registrar)
ITAT, Mum