

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'E' BENCH,
NEW DELHI**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI KUL BHARAT, JUDICIAL MEMBER**

ITA No. 6787/DEL/2019 [A.Y 2014-15)
ITA No. 6788/DEL/2019 [A.Y 2015-16)
ITA No. 6789/DEL/2019 [A.Y 2016-17)

The A.C.I.T
Special Range - 6
New Delhi

Vs. M/s Moet Hennessy India Pvt Ltd
Financial Centre, Senapati Bapat Marg
Elphinstone Road, Mumbai

PAN: AACCM 4079 L

(Applicant)

(Respondent)

Assessee By : None
Department By : Ms. Rakhi Vimal, CIT-DR
Shri Jitendra Chand, Sr. DR

Date of Hearing : 05.09.2022
Date of Pronouncement : 05.09.2022

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-

The above captioned three separate appeals by the Revenue are preferred against three separate orders of the Id. CIT(A) - 37, New Delhi dated 13.05.2019 and 28.05.2019 pertaining to Assessment Years 2014-15, 2015-16 and 2016-17.

2. Since common grievance is involved in all the three captioned appeals, they were heard together and are disposed of by this common order for the sake convenience and brevity. The quantum of deletion of addition may differ in each Assessment Year under consideration.

3. At the very outset, we would like to refer to the following application moved by the ld. DR:

"BEFORE THE INCOME TAX APPELLATE TRIBUNAL
HON'BLE E - BENCH, NEW DELHI

MAY IT PLEASE YOUR HONOURS

Reg: Appeal No. : ITA no. 6787 & 6789/Del/2019
In the case of : Moet Hennessy India Pvt. Ltd.
Asstt. Year : 2014-15,2016-17

The above appeals are fixed for hearing on: 05.09.2022.

It is submitted that certain information is being called from Assessing Officer in the above -mentioned case.

It is therefore requested to grant adjournment in the above mentioned appeals and fix the appeals as per the date convenient to your Honours. I will be greatly obliged for this act of kindness.

Sd/-

(Rakhi Vimal)
Commissioner of
Income Tax(DR)-5
E-Bench, ITAT
New Delhi

4. The common ground in all the captioned appeals is that the ld. CIT(A) erred in deleting the addition on account of advertisement and sale promotion expenses treating the same as Revenue in nature and not considering the fact that such expenditure give benefit to the assessee of enduring nature, hence the same are capital in nature.

5. This is the only ground in all the three appeals. The ld CIT-DR sought adjournment in ITA No.6787 and 6789/DEL/2019 whereas the ld. Sr. DR Shri Jeetendra Chand was ready to argue ITA No. 6788/DEL/2019.

6. We fail to understand why the CIT-DR wanted adjournment when the ld. CIT(A) has followed the decision of this Tribunal given in Assessment Years 2012-13 and 2013-14 in ITA No. 5003/DEL/2014 and 5004/DEL/2014 respectively.

7. Considering the facts, we decline to entertain the adjournment application. Case records carefully perused.

8. As mentioned elsewhere, similar disallowances were made in Assessment Years 2012-13 and 2013-14 and the quarrel travelled upto the Tribunal and the Tribunal in ITA Nos. 5003/DEL/2014 and 5004/DEL/2014 for Assessment Years 2012-13 and 2013-14 has decided the dispute in favour of the assessee and against the Revenue. The relevant findings of the co-ordinate bench read as under:

"19. So, in this case, assessee has undisputedly incurred advertisement and sales promotion expenses periodically, and not at once just to refresh the product and quality to be sold in the memory of its customers. So, it cannot be held to be in the nature of enduring benefit for a trader.

20. So, we are of the considered view that following the ratio laid down by Hon'ble Supreme Court and Hon'ble High Courts, discussed in the preceding paras, advertisement and sales promotion expenses have been incurred by the assessee just to enhance its sales and profit and cannot be treated as capital in nature. Consequently, advertisement and sales promotion expenses debited by the assessee to the tune of Rs. 12,33,64,847/- & Rs. 14,69,15,576/- for AYs 2012-13 & 2013-14 are ordered to be treated as revenue in nature and addition made/ confirmed by the Id. AO/CIT (A) on this score is ordered to be deleted. Hence, ground no. 2 of ITA No.5003/Del/2014 (AY 2012-13) and No.5004/ Del/ 2014 (AY 2013-14) is determined in favour of the assessee.

9. As no distinguishing decision has been brought to our notice and finding that the Id. CIT(A) has followed the decision of this Tribunal [supra], we do not find any reason to interfere with the findings of the Id. CIT(A).

10. In the result, all the three appeals of the Revenue in ITA Nos. 6787/DEL/2019, 6788/DEL/2019 and 6789/DEL/2019 are dismissed.

The order is pronounced in the open court on 05.09.2022.

Sd/-

Sd/-

**[KUL BHARAT]
JUDICIAL MEMBER**

**[N.K. BILLAIYA]
ACCOUNTANT MEMBER**

Dated: 05th September, 2022.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
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