

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

**BEFORE,  
SHRI SAKTIJIT DEY, JUDICIAL MEMBER  
AND  
SHRI ANADEE NATH MISSHRA, ACCOUNTANT MEMBER**

**ITA No.317/Del/2021  
(ASSESSMENT YEAR 2013-14)**

Dy. CIT Circle-52(1), New Delhi-110 002	Vs.	M/s New Delhi Tyre House 31-32, Jangpura Extn. Market, New Delhi-110 014  PAN-AAAFN 2881J
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Mr. Jeetender Chand, Senior Departmental Representative ("Sr. DR" for short)
Respondent by	Mr. KVSR Krishna, CA

**ORDER**

**PER ANADEE NATH MISSHRA, AM:**

(A) This appeal by Revenue is filed against the order of Learned Commissioner of Income Tax (Appeals)-18, New Delhi ["Ld. CIT(A)", for short], dated 28/08/2020 for Assessment Year 2013-14. The only ground of appeal, as per revised Form-36 filed by Revenue along with letter dated 10/08/2022, is as under:

*“Whether the Ld. CIT(A) has erred deleting the addition of Rs.3,95,86,272/- on account of receipt under MAP agreement and has not appreciated the fact that the basis of assessment was that the agreement are silent in what manner the assessee is legally obliged to utilize these funds ?”*

(A.1) In this case, assessment order was passed by the Assessing Officer u/s 143(3) of Income Tax Act wherein the taxable income was assessed at Rs.5,96,09,045/- (rounded off to Rs.5,96,09,050/-) as against returned income of Rs.1,99,06,200/-. The addition made in the assessment order included an amount of Rs.3,95,86,272/- on account of profit from Marketing Assistance Programmed (MAP). Aggrieved, the assessee filed appeal in the office of the learned CIT(A). Vide impugned appellate order dated 28/08/2020, the Ld. CIT(A) deleted the aforesaid addition of Rs.3,95,86,272/-. In doing so, the Ld. CIT(A) followed the earlier orders in assessee's own case, on identical issue, passed by the Ld. CIT(A) for Assessment Years 2011-12 and 2012-13. The present appeal has been filed by the Revenue against the aforesaid impugned appellate order dated 28/08/2020 of the Ld. CIT(A).

(A.2) This appeal has been filed by Revenue, on 26/03/2021 which is more than 60 days after the impugned appellate order dated 28/08/2020 of the Ld. CIT(A) was communicated (on 15/09/2020) to the learned Principal Commissioner of Income Tax. However, at the time of hearing before us, representatives of both sides, the learned Counsel for the assessee as well as the learned Sr. DR for Revenue were in agreement that the appeal is to be treated as filed in time and the delay is to be condoned because the period from 15/09/2022 [the date on which impugned appellate order of the Ld. CIT(A) was communicated to the learned Principal Commissioner of Income Tax] and 26/03/2021 fell during the pandemic period of Covid-19, and was to be excluded in computation of limitation period. Accordingly, both sides submitted before us that this appeal deserved to be admitted and decided on merits.

(A.2.1) In view of the foregoing, and as both sides are in agreement with this, we admit this appeal and proceed to decide the appeal on merits.

(B) A paper book containing the following orders of Co-ordinate Bench of ITAT, Delhi passed in assessee's own case, was filed from the assessee's side during the appellate proceedings in Income Tax Appellate Tribunal.

(i) Order dated 04/10/2018 of Co-ordinate Bench of ITAT, Delhi for Assessment Year 2011-12, in assessee's own case, in ITA Nos.3986/Del/2015 and ITA No.2421/Del/2015.

(ii) Order dated 16/04/2021 of Co-ordinate Bench of ITAT, Delhi for Assessment Year 2012-13, in assessee's own case, in ITA No.2359/Del/2017 and 3218/Del/2017.

(B.1) At the time of hearing before us, the representatives of both sides, the learned Sr. DR for Revenue as well as the learned Counsel for the assessee

were in agreement that the issue in dispute in the present appeal before us, regarding profit from the Marketing Assistance Programme (MAP) is squarely covered in favour of the assessee and against Revenue by the aforesaid orders dated 04/10/2018 and 16/04/2021 of Co-ordinate Benches of ITAT, Delhi, passed, on identical issue, and on identical facts and circumstances, for Assessment Years 2011-12 and 2012-13 respectively.

(B.2) At the time of hearing before us, neither side has brought any distinguishing facts and circumstances, or decided precedents, or any legal submissions to our consideration to persuade us to take a view different from the view taken by Co-ordinate Bench of ITAT, Delhi in aforesaid orders dated 04/10/2018 and 16/04/2021 for AY 23011-12 and AY 2012-13 respectively. Neither side has brought any materials for our consideration to persuade us to interfere with the impugned order of Ld. CIT(A).

(B.2.1) In view of the foregoing; and respectfully following the aforesaid orders of the Co-ordinate Bench of ITAT, Delhi, in the specific facts and circumstances of the present appeal before us, we decided the issue in dispute in the present appeal before us, in favour of the assessee and against Revenue. Accordingly, we decline to interfere with impugned appellate order dated 28/08/2020 of the learned CIT(A), and dismiss the appeal filed by the Revenue.

(C) In the result, this appeal of the Revenue is dismissed.

This order was already pronounced orally on 21<sup>st</sup> November, 2022 in the Open Court, in the presence of representatives of both sides, after conclusion of hearing. Now, this written order is signed today on 22/11/2022

Sd/-  
**(SAKTIJIT DEY)**  
**JUDICIAL MEMBER**

Sd/-  
**(ANADEE NATH MISSHRA)**  
**ACCOUNTANT MEMBER**

Dated: 22/11/2022  
*Pk*

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT NEW, DELHI