

IN THE INCOME TAX APPELLATE TRIBUNAL “K” BENCH, MUMBAI

**BEFORE SHRI PRASHANT MAHARISHI, AM AND
MS. KAVITHA RAJAGOPAL, JM**

ITA No. 2016/Mum/2022
(Assessment Year: 2012-13)

Asst. CIT-6(1)(1) Room No. 504, 5 th Floor, Aayakar Bhavan, Mumbai-400 020	Vs.	M/s. Exxon Mobile Company India Private Ltd. Kalpatru Point, Plot No. 107, Road No. 8, Sion (E), Mumbai-400 022
PAN/GIR No. AAACE 3157 H		
(Revenue)	:	(Assessee)

and

C.O. No. 125/Mum/2022
(Arising out of ITA No. 2016/Mum/2022)
(Assessment Year: 2012-13)

M/s. Exxon Mobile Company India Private Ltd. Kalpatru Point, Plot No. 107, Road No. 8, Sion (E), Mumbai-400 022	Vs.	Asst. CIT-6(1)(1) Room No. 504, 5 th Floor, Aayakar Bhavan, Mumbai-400 020
PAN/GIR No. AAACE 3157 H		
(Assessee)	:	(Revenue)

Revenue by	:	Ms. Samruddhi Dhananjay Hande
Assessee by	:	Shri Paras Savla / Adish Shenoy

Date of Hearing	:	30.11.2022
Date of Pronouncement	:	08.12.2022

ORDER

Per Kavitha Rajagopal, J. M.:

This appeal has been filed by the Revenue and the cross objection by the assessee, against the order of the learned Commissioner of Income Tax (Appeals) ('ld.CIT(A) for short) – 56, Mumbai, passed u/s.250 of the Income Tax Act, 1961 ('the Act'), pertaining to the Assessment Year ('A.Y.' for short) 2012-13.

2. The Revenue has challenged the following grounds of appeal:

1.	<i>Whether on the facts and in the circumstances of the case in law, the Id. CIT(A) was justified in directing to exclude M/s. Excel Infoways Limited, as comparable, when it is found that activities are functionally similar to the assessee company.</i>	Rs.27,83,243/-
2.	<i>Whether on the facts and in the circumstances of the case in law, the Id. CIT(A) was justified in directing to exclude M/s. universal Print systems Ltd. as comparable, when it is found that activities are functionally similar to the assessee company</i>	
3.	<i>Whether on the facts and in the circumstances of the case in law, the Id. CIT(A) erred in directing to grant working capital adjustment to the assessee</i>	Rs.1,17,00,866/-
	<i>Total tax effect</i>	Rs.14,84,076/-

3. Brief facts are that the assessee filed its return of income for A.Y. 2012-13 dated 29.11.2012, declaring total income of Rs.76,03,89,600/-. The assessee's case was selected for scrutiny and draft assessment order dated 07.03.2016 was passed by the Assessing Officer (A.O. for short) u/s. 143(3) r.w.s 144C(1) of the Act. Pursuant to this, the final assessment order dated 28.04.2016 was passed by the A.O. by making the addition/disallowance on transfer pricing adjustment on international transaction on provision of back office services, amounting to Rs.90,07,259/- and disallowance u/s. 40(a)(ia) out of global support service charges amounting to Rs.3,57,44,189/-.

4. Aggrieved by this, the assessee was in appeal before the Id. CIT(A), challenging the assessment order passed by the A.O.

5. The Id. CIT(A) excluded M/s. Excel Infoways and M/s. Universal Print Systems Ltd. as comparables on the ground that their activities are not functionally similar to that of the assessee company. Further to this, the Id. CIT(A) directed to grant working capital adjustment to the assessee, amounting to Rs.1,17,00,866/-.

6. Aggrieved by the said order, the Revenue was in appeal before us.

7. During the appellate proceedings, it was observed that the present appeal was covered by the low tax effect as per the CBDT Circular No. No.21/2015 dated 10th December, 2015.
8. The Id. Departmental Representative (Id. DR for short) had nothing to controvert the same.
9. Having heard the rival submissions and perused the materials on record. We are of the considered opinion that the said appeal will fall within the low tax effect as per the CBDT Circular No.21/2015 dated 10th December, 2015. Hence, this appeal filed by the assessee is dismissed on the ground of low tax effect prescribed by the department.
10. The cross objection raised by the assessee is also hereby dismissed.
11. In the result, the appeal filed by the Revenue and the cross objection by the assessee are dismissed.

Order pronounced in the open court on 08.12.2022

Sd/-

(Prashant Maharishi)
Accountant Member

Sd/-

(Kavitha Rajagopal)
Judicial Member

Mumbai; Dated : 08.12.2022

Roshani, Sr. PS

Copy of the Order forwarded to :

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

BY ORDER,

(Dy./Asstt. Registrar)
ITAT, Mumbai