

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "A" DELHI**

**BEFORE SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER
&
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

I.T.A No.8992/DEL/2019
Assessment Year 2016-17

Bright Point India Pvt. Ltd., MIRA Corporate Suites, B-1 & C-1, Plot No.1 & 2, Ishwar Nagar, New Delhi.	v.	Assistant Commissioner of Income Tax, Central Circle-20, Delhi.
TAN/PAN: AAACB6414G		
(Appellant)		(Respondent)

Assessee by:	Shri Partho Das Gupta, CA		
Department by:	Shri Kanav Bali, Sr.DR		
Date of hearing:	03	01	2023
Date of pronouncement:	29	03	2023

ORDER

PER PRADIP KUMAR KEDIA, A.M.:

The captioned appeal has been filed at the instance of the assessee against the order of the Commissioner of Income Tax (Appeals)-XXXI, New Delhi ['CIT(A)' in short], dated 24.09.2019 arising from the assessment order dated 20.12.2018 passed by the Assessing Officer (AO) under Section 143(3) of the Income Tax Act, 1961 (the Act) concerning AY 2016-17.

2. As per the grounds of appeal, the assessee seeks to challenge the disallowance of communication expenses amounting to Rs.14,66,707/-.

3. Briefly stated, the assessee is engaged in the trading of

mobile handsets and accessories for various brands and in fulfillment services for mobile operators. The return of income for Assessment Year 2016-17 in question was filed declaring total income at Rs.44,53,59,480/-. The case was selected for complete scrutiny. In the course of scrutiny assessment, the Assessing Officer *inter alia* noted that assessee has made provisions for communication of Rs.14,66,707/-. In response to inquiry, the assessee submitted that the aforesaid amount is in the nature of expenses and not provision. However, requisite details were not provided. The Assessing Officer disallowed the expenses and added the same to the total income.

4. Aggrieved, the assessee preferred appeal before the CIT(A). The CIT(A) however also observed that the assessee has failed to substantiate the claim. The CIT(A) *inter alia* observed that tax invoices of Ingram Micro India Pvt. Ltd. (IMIPL) to whom the payment is claimed to have been made does not refer to any communication expenses and there is no basis for the claim made. The payment amount also does not match with the expense bills. The CIT(A) thus denied relief sought.

5. Further aggrieved, the assessee preferred appeal before the Tribunal.

6. We have heard the rival submissions. It is the case of the assessee that it is a subsidiary company of Brightpoint Holdings B.V. Netherlands. The payee IMIPL is also the member of the same group. In India, both assessee and IMIPL shares the common space and infrastructure facility including some other

services. IMIPL recovers the cost of various such facilities/services from assessee on a monthly basis, as mutually agreed. The communication expenses in question are towards sharing of cost of internet and telephone charges which is duly incurred and paid too by the assessee. The expenses thus claimed are deductible expenses under Section 37 of the Act.

7. We see no merit in the plea of the assessee towards substantiation of expenses claimed. The amount of payment is not shown to be fully matched. The assessee claims to have shared the expenses of telephone etc. but however the proper breakup is not available. No TDS has been deducted on the payments either. Simultaneously, it is not shown that it is actual reimbursement of actual expenses. It is difficult to appreciate a very generic reply to provide any definite finding in this regard. In the absence of any cogent evidence to this effect, it is not possible for us to interfere with the action of the lower authorities. We thus decline to interfere with the order of the CIT(A).

8. In the result, the appeal of the assessee is dismissed.

Order pronounced in the open Court on 29/03/2023.

Sd/-
[ANUBHAV SHARMA]
JUDICIAL MEMBER
DATED: /03/2023
Prabhat

Sd/-
[PRADIP KUMAR KEDIA]
ACCOUNTANT MEMBER