

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER
&
SHRI PRASHANT MAHARISHI, ACCOUNTANT MEMBER**

**ITA No.2599/Mum/2017
(Assessment Year :2011-12)**

M/s. Deutsche Asset Management India Pvt. Ltd. 14 th Floor, The Capital G Block, C-70 BKC, Mumbai-400051	Vs.	Asst. CIT CIR-2(1)(1) Mumbai- 400 021
PAN/GIR No.AABCD5226D		
(Appellant)	..	(Respondent)

**ITA No.2870/Mum/2018
(Assessment Year :2014-15)**

M/s. Deutsche Asset Management India Pvt. Ltd. 14 th Floor, The Capital G Block, C-70 BKC, Mumbai-400051	Vs.	DCIT-CIRCLE 2(1)(1) Room No.561, 5 th Floor Aayakar Bhavan M.K.Road, Mumbai – 400 020
PAN/GIR No.AABCD5226D		
(Appellant)	..	(Respondent)

CORRIGENDUM

The assessee's authorised representative vide letter dated 23/05/2022 had brought to our attention to the typographical errors in the Tribunal order dated 28/02/2023 in ITA No.2599/Mum/2017 & 2870/Mum/2017.

2. We have gone through the said letter and find substance in the same and admit that there are typographical errors for which this corrigendum is hereby issued.

ITA No.2599/Mum/2017 (A.Y.2011-12)

3. In the captioned order dated 28/02/2023 in para 17, page 21 and 22 Tribunal had erroneously mentioned the Financial Year 2016-17 instead of Assessment Year 2016-17. This error has been rightly pointed out by the assessee. Hence, this corrigendum is issued and the order in para 17, page 21 & 22 is to be read as **“Assessment Year 2016-17”** instead of Financial Year 2016-17.

4. With respect to ground no. 5, in the Tribunal order, at para 19, page 23, "reimbursement of DWS expenses" has been inadvertently mentioned by the Tribunal as "reimbursement of TWS expenses." We find that there is a mistake apparent in the order of the Tribunal in para 19. Hence, we hereby modify the paragraph 19 as under:-

19. In so far as, JP Morgan payment of fund accounting to JP Morgan Chase Bank the Ld. CIT (A) accepted the same. However, with regard to brokerage he has confirmed the action of the Assessing Officer, that the explanation of the Assessee is vague. Similarly, with regard to reimbursements of DWS expenses / brokerage of Rs. 1,51,00,806/-, the Ld. CIT (A) held that, Assessee has not submitted any details of such expenses and supporting evidences that no profit element was involved in such reimbursements.

5. The assessee submits that in para 21 page 23 of the Tribunal Order, an amount of Rs.1,51,00,806 in respect of scheme related expenses was disallowed by the ld. AO whereas the Tribunal has stated the amount to be Rs 11,12,00,806. Further "TDW expenses" has been stated instead of "DWS expenses".

6. We find facts mentioned by the assessee are correct and accordingly, we hold that para 21 of the order is to be read as under:-

“21 in so far as, disallowance of Rs.1,51,00,806/- on account of DWS expenses/brokerage which has been stated to the reimbursements of DMF in accordance with SEBI (Mutual Fund) regulations, 1996, we hold that in case if it is reimbursements of expenses to DMF in accordance with the SEBI regulations, the same should be excluded The Assessee is directed to file these details before the Assessing Officer and if it is the nature of reimbursements, the same cannot be disallowed. Accordingly, the aforesaid grounds are allowed.”

ITA No.2870/Mum/2018 (A.Y.2014-15)

7. The assessee submits that in para 23 at pages 24 & 25 in the Tribunal order, the brokerage of Rs.1,22,11,083 represented the brokerage incurred and paid during the assessment year 2015-16 and which remaining unamortised as on 4 March 2016, being the date of transfer and

discontinuance of the business, and not on 31 March 2016. Further, the assessee claimed deduction for the unamortized brokerage expenses of Rs.1,22,11.083 by filing a revised return of income for the assessment year 2014-15 and not for the Assessment Year 2015-16.

8. We have gone through the submission of the assessee and find substance in the same and admit that there are typographical errors for which this corrigendum is hereby issued and we hereby modify the paragraph 23 as under:-

23. In the AY 2014-15 only ground raised is with regard to liability of Rs. 1,22,11,083/- on account of brokerage expenses. Before us, it has been stated that Assessee has paid the entire brokerage expenses on the schemes during the year, which was although amortized in the books over the period of 10 years of the scheme in the financials and the method of accounting followed from year to year. Since, the business was discontinued in the financial year 2015-16 the remaining brokerage expenses unamortized in the balance sheet as on 4th March, 2016. The Assessee then has claimed it in the AY 2014-15 by filling the revised return of income. Once this fact is not in dispute that brokerage is to be allowed, but instead allowable for the period of 10 years, that is, till the period of scheme and was accordingly amortized and claimed amortized portion every year. Once the assessee has closed the business then no longer the balance brokerage can be claimed by the assessee, therefore, in the year of closure

if the balance has been claimed, then same has to be allowed because the assessee had already incurred the expenditure in year one. Thus, we hold that the Assessing Officer is incorrect in holding that the same is not allowable in the revised return. If there is unamortized brokerage expenses the same has to be allowed, irrespective of the fact that, it was to be claimed over the period of the scheme. Accordingly, same is directed to be allowed

4. All other contents of the Tribunal order dated 28/02/2023 shall remain unchanged. This corrigendum shall be read as part and parcel of the earlier Tribunal order dated 28/02/2023.

**Sd/-
(PRASHANT MAHARISHI)
ACCOUNTANT MEMBER**

**Sd/-
(AMIT SHUKLA)
JUDICIAL MEMBER**

Mumbai; Dated 21/08/2023
KARUNA, sr.ps

Copy of the Order forwarded to :

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

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai