

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "H": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No. 1627/Del/2022
(Assessment Year: 2017-18)**

BBC World Service India Pvt. Ltd,	Vs. ACIT,
5 th and 6 th Floor, Hindustan Times	Circle-4(2),
House, Kasturba Gandhi Marg, New	Delhi
Delhi-110001	
(Appellant)	(Respondent)
PAN:AADCB2298P	

Assessee by :	Shri Deepak Chopra, Adv Shri Rohan Khare, Adv Ms. Priyam Bhatnagar, Adv Shri Anurag Singhal, Adv
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Revenue by:	Shri S. K. Jadhav, CIT DR
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Date of Hearing	19/12/2024
Date of pronouncement	07/02/2025

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.1627/Del/2022 for AY 2017-18, arises out of the order of the Assessing Officer [hereinafter referred to as 'Id. AO', in short] dated 26.05.2022.
2. At the outset, the Id DR sought an adjournment on the ground that Paper Book has been received only on 16.12.2024 but the Id AR stated that he will not referring to any paper book and would be addressing only ground No. 1 to state that the assessment order has been passed beyond the prescribed time.
3. We have heard the rival submissions and perused the material available on record. The assessee filed its return of income on

30.11.2017 declaring total income of Rs. 6,39,12,880/-. The assessee is primarily engaged in the business of producing program content for radio, television and websites under contractual agreement with its British Broadcasting Corporation UK ("BBC, UK") and other group companies. The primary source of revenue is the service fee received from BBC UK and programming fee from licensing of programs for FM radio stations, television channels and other digital platforms within and outside India.

4. The draft assessment order was passed u/s 143(3) read with Section 144C of the Act on 31.03.2021 in which transfer pricing adjustment of Rs. 2,19,68,636/- as suggested by the Id TPO was added to the total income. The assessee filed its objection before the Id DRP. The Id DRP issued direction u/s 144C(5) of the Act on 16.09.2021 upholding the draft assessment order. The said DRP order was intimated to the Id AO on 22.09.2021. There is absolutely no dispute with regard to this fact of date of intimation to the Id AO on 22.09.2021. Hence, the time available to the Id AO to pass the final assessment order in terms of Section 144C(13) would be one month from the end of the month in which order is received which would expire on 31.10.2021. Whereas, in the instant case , the final assessment order has been passed by the Id AO u/s 143(3) read with Section 144C(13) of the Act on 26.05.2022 which is much beyond the prescribed time limit provided u/s 144C(13) of the Act. This issue is no longer res integra in view of the decision of the coordinate bench of this Tribunal in the case of Honda R&D (India) Pvt. Ltd Vs. ACIT reported in 207 ITD 278 (Delhi Tribunal) wherein it was observed as under:-

<i>S. No.</i>	<i>Events</i>	<i>Nikon</i>	<i>Present</i>
<i>1.</i>	<i>Directors of DRP issued under section 144(c)5</i>	<i>17.03.2022</i>	<i>08.04.2022</i>
<i>2.</i>	<i>Assessment case transferred from Faceless</i>	<i>22.04.2022</i>	<i>Present</i>

	<i>AO to JAO under section 144B(8) of the Act</i>		<i>case transferred on 25.4.2022</i>
3.	<i>DRP order received by JAO</i>	<i>02.05.2022</i>	<i>18.05.2022</i>
4.	<i>Final assessment order passed</i>	<i>30.06.2022</i>	<i>30.06.2022</i>
5.	<i>Limitation from April 2022 will end on</i>	<i>31.05.2022</i>	<i>31.05.2022</i>

17. In the context of faceless assessment process time and place of dispatch and receipt of electronic document (in this case DRP order) is required to be ascertained by reference to section 13 of Information Technology Act, 2000 which is the basis prescribed under section 144B of Income Tax Act also (refer section 144 B (6)(v)). Hon'ble Supreme Court in case of GS Chatha Rice Mills [(2021)2SCC 209-J para 85), interpreted this very provision. Applying principles laid down by Hon'ble Supreme Court, only relevant fact necessary for deciding Ground No. 4 in present appeal relating to time barred assessment, is time of uploading by DRP of DRP order onto ITBA portal. Intimation letter to DRP order unambiguously shows 27th April 2022 as date of uploading of DRP order. This fact cannot be disputed. Except this critical and relevant information everything else (like when order is visible to AO, date of uploading some document by DCIT/ACIT circle 2 (1) (1) Delhi) has been submitted by Respondents. It is fair to conclude that date of uploading DRP order on ITBA portal is 27.04.2022. As per section 144C(13) of the Act, assessment had to be completed on or before 31.05.2022. In present case the assessment is completed only on 30.6.2022 i.e., it is time barred null and void. Therefore, impugned assessment order dated 30.06.2022 is set aside being barred by limitation. Other grounds having become academic in nature are left open.

18. In the result appeal of the assessee is allowed."

5. The Id DR was given liberty to furnish written submission qua this ground argued by the Id AR, if he so desires, but no such written submission was filed by the Id DR till the time of dictation of the order. Hence, no further liberty need to be given to the revenue in this regard.

6. In view of the above facts and respectfully following the judicial precedent relied upon hereinabove, we have no hesitation to hold that the final assessment order in the instant case has been framed beyond the maximum time limit prescribed u/s 144C(13) of the Act and hence,

become time barred. Accordingly, the final assessment order is hereby quashed as void ab initio and ground No. 1 is hereby allowed. Since the entire assessment is quashed as barred by limitation, the other grounds raised by the assessee need not be gone into and they are left open.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 07/02/2025.

-Sd/-
(ANUBHAV SHARMA)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 07/02/2025
A K Keot

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1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi

1.	Date of dictation of Tribunal Order.....	29.01.2025
2.	Date on which the typed draft Tribunal Order is placed before the Dictation Member..	30.01.2025
3.	Date on which the typed draft Tribunal Order is placed before the other Member...	
4	Date on which the approved draft Tribunal Order comes to the Sr. P.S./P.S.	
5.	Date on which the fair Tribunal Order is placed before the Dictating Member for pronouncement...	
6.	Date on which the signed order comes back to the Sr. P.S./P.S....	
7.	Date on which the final Tribunal Order is uploaded by the Sr. P.S./P.S. on official website...	
8.	Date on which the file goes to the Bench Clerk alongwith Tribunal Order....	
9.	Date of killing off the disposed of files on the judiSIS portal of ITAT by the Bench Clerks	
10.	Date on (Judicial) which the file goes to the Supervisor	