

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

**BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER  
AND  
SHRI AVDHESH KUMAR MISHRA, ACCOUNTANT MEMBER**

**आ.अ.सं./I.T.A Nos.2577 & 2578/Del/2024**

**निर्धारणवर्ष/Assessment Years: 2005-06 & 2006-07**

LG Electronics India Private Limited, A-26/4, Mohan Cooperative Industrial Area Estate, Mathura Road, New Delhi. PAN: AAACL1745Q	<b>बनाम Vs.</b>	Deputy Commissioner of Income Tax, Circle-13(1), C. R. Building, I. P. Estate, New Delhi.
<b>अपीलार्थी Appellant</b>		<b>प्रत्यर्थी/Respondent</b>

<b>Assessee by</b>	Shri Neeraj Jain, Advocate Ms. Mansha Bhalla, CA
<b>Revenue by</b>	Ms. Richa Gaharwar, CIT - DR

सुनवाईकीतारीख/ Date of hearing:	08.04.2025
उद्घोषणाकीतारीख/Pronouncement on	08.04.2025

**आदेश / O R D E R**

**PER AVDHESH KUMAR MISHRA, AM**

These appeals filed by the assessee are against orders dated 27.03.2024 of the Commissioner of Income Tax (Appeals)-43, New Delhi [hereinafter, the 'CIT(A)'] sustaining the penalty of Rs.2,15,72,905/- and Rs.4,03,35,910/- levied under section 271(1)(c) of the Income Tax Act, 1961 (hereinafter, the 'Act') for the Assessment Year (hereinafter, the 'AY') 2005-06 and 2006-07 respectively.

2. Before us, the assessee has challenged both appeals on various grounds. In nutshell, these appeals have been challenged that these appeals have been dismissed in limine due to non-prosecution. Thus, the impugned orders are bad in law as the Ld. CIT(A) did not provide adequate opportunity of being heard in gross violation of principles of natural justice. The impugned orders had been passed without considering the assessee's submissions. The assessee has also challenged the appeals on the issues of non-recording proper satisfaction for initiating penalty proceedings.

3. The case of AY 2005-06 (ITA No. 2577/Del/2024) is taken as a lead case. The relevant facts of the case (ITA No. 2577/Del/2024), in brief, are that the assessee, engaged in trading, manufacturing, marketing and sale of electronics, home appliances, IT products, supply and installation of WLL systems, terminals and GSM Mobile handsets and maintenance, repair and servicing of CDMA networks, CDMA/GSM terminals and mobile handsets, filed its Income Tax Return on 29.10.2005 declaring income of Rs.1,52,98,08,547/-. Subsequently, the assessee filed a revised return declaring income of Rs.1,02,78,01,120/- after claiming the receipt of Rs.57,71,79,709/- from sales tax department as capital receipts. Since the assessee has undertaken certain international transactions with its AEs, the Assessing Officer referred the matter to the TPO under section 92CA(1) of the Act. The TPO vide order dated 31.10.2008 suggested upward adjustment of Rs.5,12,44,116/- being the arm's length price of the international transactions of contribution

towards World Cup Tournament and an amount of Rs.18,66,31,111/- being the arm's length price of the reimbursement of advertising, marketing and sales promotion expenses. The Assessing Officer completed the assessment on 30.12.2008 determining the income of the assessee at Rs.3,34,18,55,880/- after allowing deduction of Rs.1,21,50,770/- under section 80JJAA of the Act as against Rs.2,52,29,510/- claimed by the assessee in the original return of income. The Assessing Officer in the assessment made various additions under different heads. The assessee filed appeal before the CIT(A) who vide order dated 31.03.2017 not only confirmed the various additions made by the Assessing Officer but also enhanced the income of the assessee by Rs.2,10,22,81,553/- by disallowing expenditure incurred on account of procurement of raw materials from third party vendors under section 40(a)(ia) of the Act. Aggrieved with such order of the Ld. CIT(A), the assessee filed appeal before the Tribunal, who allowed part relief for statistical purposes by remitting some of the issues to the Assessing officer. The Assessing officer levied penalties in both years on the additions/disallowances sustained by the Tribunal/CIT(A).

4. The Ld. Counsel drew our attention to the facts that the Ld. CIT(A) had deleted the penalty in subsequent year i.e. AY 2007-08 on same facts of the case. The Ld. Counsel further submitted that the assessee had not concealed any income nor had furnished inaccurate particulars of income, sine qua non for imposing penalty. Hence, he prayed for dismissal of these appeals. However, on specific query, the Ld. Counsel

admitted that the Ld. CIT(A) had dismissed these appeals in limine due to non-prosecution; therefore, the same might be considered for remitting the matter back for fresh adjudication. To which, the Ld. Sr. DR of Revenue seemed in agreement.

5. We have heard both parties and have perused the material available on the records. We find merit in the arguments of the Ld. Counsel. Without offering any comment on merit of the case and keeping in view the facts in entirety in the interest of justice, we deem it fit to set aside both impugned orders and remit the matter back to the file of the CIT(A) for deciding both appeals on merit afresh after affording reasonable opportunity of being heard to the appellant assessee. Ordered accordingly. The appellant assessee, no doubt, shall cooperate in remitted appellate proceedings in both cases.

6. In the result, both appeals of the assessee are allowed for statistical purposes.

Order pronounced in the open court on 08.04.2025

**Sd/-**  
**(C. N. PRASAD)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(AVDHESH KUMAR MISHRA)**  
**ACCOUNTANT MEMBER**

Dated: 08.04.2025

*\*Kavita Arora/Binita, Sr. P.S.*

Copy forwarded to:

1. Appellant
2. Respondent
3. PCIT/CIT
4. CIT(Appeals)

5. CIT-DR: ITAT

ASSISTANT REGISTRAR  
ITAT, NEW DELHI