

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'C' BENCH,  
NEW DELHI**

**BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER, AND  
SHRI NAVEEN CHANDRA, ACCOUNTANT MEMBER**

ITA No. 1363/DEL/2025 [A.Y 2018-19]

TSI Yatra Private Limited  
C/o JPMG Associates LLP  
Chartered Accountants  
101, CSC, DDA Market  
Pushpanjali, Delhi

Vs.

The Dy. C. I.T.  
Circle 25-(1)  
New Delhi

PAN - AABCT 7696 P

(Appellant)

(Respondent)

Assessee By : Shri C.S. Anand, Adv  
Ms. Vaishnavi Yadav, Adv  
Ms. Asstha Sharma, Adv

Department By : Shri Om Prakash, Sr. DR

**Date of Hearing : 04.12.2025**

**Date of Pronouncement : 16.01.2026**

PER NAVEEN CHANDRA, AM :-

This appeal by the assessee is directed against the order of the NFAC, Delhi dated 03.01.2025 pertaining to A.Y 2018-19.

2. The assessee has raised 6 grounds of appeal. Vide Ground Nos. 1 to 4 the assessee has challenged the assumption of jurisdiction by the

Assessing Officer on the ground that notice u/s 143(2) of the Income-tax Act, 1961 [the Act, for short] was faulty on account of procedural lapse and no draft assessment order was framed.

3. The ld. CIT(A) has dismissed the issue of notice u/s 143(2) of the Act which was issued for compulsory scrutiny whereby the opportunity to file ITR was given to the assessee.

4. Vide grounds 5 and 6, the assessee is aggrieved by the action of the ld. CIT(A) in confirming the addition/disallowance amounting to Rs. 93 lakhs made by the Assessing Officer on account of expenses incurred in connection with issuance of shares of Yatra Online INC to the assessee's employees under Employee Stock Option debited by the assessee to the Profit and Loss Account being share and incentive plan claimed as business expenses u/s 37 of the Act.

5. Brief facts of the issue are that during the course of assessment proceedings, the Assessing Officer noticed that the assessee company has debited an amount of Rs. 93 lakhs in the Profit and Loss Account towards cost of share awards granted under ESOP to the employees. The Assessing Officer denied the claim of ESOP expenses u/s 37 of the Act, claim and added the same the same to the income of the assessee. The

action of the AO was confirmed by the CIT(A). Now the aggrieved assessee is in appeal before us.

6. Before us, ld. counsel for the assessee reiterated what has been stated before the lower authorities. It is the say of the ld. counsel for the assessee that now this issue is no more *res integra* as the same has been decided by the Hon'ble Jurisdictional High Court of Delhi in the case of *Lemon Tree Hotels Ltd* ITA No. 107/2015 order dated 18.08.2015. The ld. counsel for the assessee further relied on the decision by the Hon'ble High Court of Karnataka in the case of *Biocon Ltd* 430 ITR 0151 wherein similar view was taken.

7. Per contra, the ld. DR placed strong reliance on the assessment order as well as the order of the ld. CIT(A).

8. We have heard the rival submissions and have perused the relevant material on record. We find that the hon'ble Delhi High Court has held the issue of ESOP against the Revenue as follows:

**"2. The question sought to be projected by the Revenue is whether the ITAT erred in deleting the addition of Rs. 1,28,19,169/- made by the Assessing Officer ('AO') by way of disallowance of the expenses debited as cost of Employees Stock Option ('ESOP') in profit and loss account?**

**3. The Court has been shown a copy of the decision dated 19th June 2012 passed by the Division Bench of Madras High Court**

in [CIT-III Chennai v. PVP Ventures Ltd.](#) (TC(A) No. 1023 of 2005) where a similar question was answered in favour of the Assessee by holding that the cost of ESOP could be debited to the profit and loss account of the Assessee. This Court has also in its decision dated 4th August 2015 in ITA No.2 of 2002 ([CIT v. Oswal Agro Mills Ltd.](#)) held that the expenditure incurred in connection with issue of debentures or obtaining loan should be considered as revenue expenditure.

4. In the circumstances, the impugned order of the ITAT answering the question in favour of the Assessee is affirmed.”

9. We note that the decision of the Id. CIT(A) to uphold the order of the Assessing Officer stems from the fact that the Revenue has filed an appeal before the Hon'ble Supreme Court against the decision in the case of *Lemon Tree Hotels* [supra] by Hon'ble Delhi High Court which has been admitted and therefore, the issue of ESOP has become subjudice. We are of the considered opinion that just because the SLP is pending before the Hon'ble Supreme Court would not negate the decision of the Hon'ble Delhi High Court. In so far as the decision in the case of *Lemon Tree* [supra] has not been stayed by the hon'ble Supreme Court, the decision of the Hon'ble Delhi High Court applies with full force. In that view of the matter, the expenses of ESOP is considered as allowable u/s 37(1) of the Act. Therefore respectfully following the decision of the

Hon'ble Jurisdictional High Court [supra], we allow the ground Nos. 5 and 6 on this count.

10. With respect to ground 1 to 4, we find that the issue of ESOP was raised by the Assessing Officer in the notice u/s 142(1) of the Act. Therefore, there is no justification for raising the issue that addition has been made on new unconnected issues. Accordingly, Ground Nos. 1 to 4 stand dismissed.

11. In the result, appeal of assessee in ITA No. 1363/DEL/2025 is partly allowed.

Order pronounced in open court on 16.01.2026.

Sd/-

**[ANUBHAV SHARMA]**  
JUDICIAL MEMBER

Sd/-

**[NAVEEN CHANDRA]**  
ACCOUNTANT MEMBER

Dated: 16<sup>th</sup> JANUARY, 2026.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

SI No.	PARTICULARS	DATES
1.	<i>Date of dictation of Tribunal Order</i>	
2.	<i>Date on which the typed draft order is placed before the Dictating Member</i>	
3.	<i>Date on which the typed draft order is placed before the other Member [in case of DB]</i>	
4.	<i>Date on which the approved draft order comes to the Sr. P.S./P.S.</i>	
5.	<i>Date on which the fair Order is placed before the Dictating Member for sign</i>	
6.	<i>Date on which the fair order is placed before the other Member for sign [in case of DB]</i>	
7.	<i>Date on which the Order comes back to the Sr. P.S./P.S for uploading on ITAT website</i>	
8.	<i>Date of uploading, inf not, reason for not uploading</i>	
9.	<i>Date on which the file goes to the Bench Clerk</i>	
10.	<i>Date on which the file goes for Xerox</i>	
11.	<i>Date on which the file goes for endorsement</i>	
12.	<i>The date on which the file goes to the Superintendent for checking</i>	
13.	<i>Date on which the file goes to the Assistant Registrar for signature on the order</i>	
14.	<i>Date on which the file goes to the dispatch section for dispatch the Tribunal order</i>	
15.	<i>Date of Dispatch of the Order</i>	
16.	<i>Date on which the file goes to the Record Room after dispatch the order</i>	