

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई
IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH, CHENNAI

श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष
BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ITA No.:3299/Chny/2024
निर्धारण वर्ष / **Assessment Year: 2008-09**

ACIT, Corporate Circle -1(1), Chennai.	vs.	Dormakaba India Private Limited, Plot No.48/3, Mahindra World City, 8 th Avenue, Anjur Village, Paratur Anjur Village, Chengalpattu Taluk, Kancheepuram District – 603 002.
(अपीलार्थी/Appellant)		[PAN:AAACD-3980-D] (प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/Appellant by : Shri. Vikram Vijayaraghavan, Advocate
प्रत्यर्थी की ओर से/Respondent by : Shri. Saddik Ahmed, J.C.I.T.

सुनवाई की तारीख/Date of Hearing : 18.12.2025
घोषणा की तारीख/Date of Pronouncement : 19.01.2026

आदेश / O R D E R

PER S. R. RAGHUNATHA, AM:

This appeal is filed by the revenue against the order of learned Commissioner of Income Tax (Appeals), Chennai (in short "Id.CIT(A)") dated 30.09.2024, arising out of the assessment order passed by the Deputy Commissioner of Income Tax, Corporate Circle – 1(1), Chennai (in short "AO") u/s.143(3) r.w.s. 254 of the Income Tax Act, 1961 (hereinafter the 'the Act') for the assessment year (A.Y.) 2008-09 dated 01.03.2022.

2. In this appeal the solitary issue which has been raised by the Revenue is in relation to deletion of the transfer pricing adjustment of AMP expenses by the Id.CIT(A).

3. The facts of the case emanating from the records are that initially when the assessment was completed the international transactions has been referred to transfer pricing officer for determination of Arms Length Price (ALP). The then Transfer Pricing Officer (TPO) seem to have made 2 adjustments one in relation to the margin of the Assessee and an another adjustment in relation to disallowance of portion of AMP expenses. Apart from this the Assessing officer while passing the draft assessment order has made disallowance u/s.14A of the Act. Aggrieved against the draft assessment order the Assessee has filed objections before the Dispute Resolution Panel and subsequently before this Tribunal. This Tribunal vide order dated 22.10.2013 has remanded the matter back to the file of the Assessing Officer/TPO for redetermination of the transfer pricing issues. In the giving effect proceedings, the TPO vide order dated 28.01.2016 seem to have once again repeated the same adjustments. The Assessee challenged the giving effect proceedings as barred by limitation in terms of Section 153(2A) of the Act by filing a writ petition before the Hon'ble Madras High Court. The Hon'ble Madras High Court vide order dated 09.08.2021 in WP.No.18574 of 2016 directed the AO to decide the limitation issue. Later the Assessee has raised the same limitation issue before the Id.CIT(A) and the latter has decided the issue against the Assessee. However, in so far as the TP issues are concerned, the Id.CIT(A) has given partial relief with respect to margin adjustment issue and deleted the adjustment in relation to AMP expenses.

4. Aggrieved against the deletion of AMP adjustment, the Revenue has filed this appeal.

5. The TPO has made AMP adjustment by comparing AMP expenses of the Assessee to total sales ratio of the Assessee vis a vis that of the comparable companies. The TPO was of the view that since the AMP to sales ratio of the Assessee is at 0.80% whereas in the case of the comparable companies it was 2.60%, the difference between these 2 figures has been brought to tax as excessive AMP

expenditure incurred by the Assessee to promote the brand of its AE in India. The Id.CIT(A) has deleted this addition by relying on the Delhi ITAT decision in the case of Samsung Electronics India Private Limited order dated 04.10.2019 by holding that once entity level TNMM has been carried out, then AMP expenses cannot be segregated for independent TP study. Further, Id.CIT(A) also held that AMP expense does not constitute an international transaction as per section 92B of the Act.

6. The Ld.DR relied on the TP order and contended that by incurring higher expenses on AMP than that of the comparable companies, the Assessee is indirectly promoting the brand of its AE and therefore the AE should compensate the Assessee for the brand promotion services rendered.

7. Per contra the Ld.AR for the Assessee vehemently rebutted the contentions of the Ld.DR and contended that AMP expenses are incurred in a routine manner to improve the sales of the Assessee and it is not in the nature of service rendered by the Assessee to its AE to promote the brand of its AE.

8. We have heard the rival contentions and perused the material on record and gone through the orders of the authorities below along with the judicial precedents relied on. Apropos we are of view that the Assessee by incurring AMP expenses it is not actively trying to promote the brand of its AE but it is actually trying to market and sell the products manufactured by it. Therefore, the primary beneficiary of the AMP expenses is the Assessee and as such the TPO's finding that to the extent of excess AMP expense has benefitted its AE is fundamentally flawed. Of course, there could be some incidental benefit which may accrue to the AE as its brand may get some visibility in India but that incidental benefit cannot be considered as an active service being rendered by Assessee to its AE warranting a payment by AE and/or disallowing the excess AMP expense. Accordingly, we hold that there is no requirement to disallow the excess AMP expense. Therefore, Bright Line Test of AMP expenses per se cannot be considered as an independent international transaction. Further, we also note that once the all the expenses are tested under TNMM there is no requirement to independently cull out one particular expense for benchmarking as it will result in benchmarking the same transaction twice, which is against the provisions of TP

legislation. Further, the Ld.AR relied on multiple decisions, however we are gainfully reproducing the Delhi High Court decision in the case of CIT, LTU Vs Whirlpool of India Ltd in ITA.No.610 of 2014 dated 22.12.2015:

“46. As already mentioned, merely because there is an incidental benefit to Whirlpool USA, it cannot be said that the AMP expenses incurred by WOIL was for promoting the brand of Whirlpool USA. As mentioned in Sassoon J David (supra) “the fact that somebody other than the Assessee is also benefitted by the expenditure should not come in the way of an expenditure being allowed by way of a deduction under Section 10 (2) (xv) of the Act (Indian Income Tax Act, 1922) if it satisfies otherwise the tests laid down by the law”.

Conclusion

47. For the aforementioned reasons, the Court is of the view that as far as the present appeals are concerned, the Revenue has been unable to demonstrate by some tangible material that there is an international transaction involving AMP expenses between WOIL and Whirlpool USA. In the absence of that first step, the question of determining the ALP of such a transaction does not arise. In any event, in the absence of a machinery provision it would be hazardous for any TPO to proceed to determine the ALP of such a transaction since BLT has been negated by this Court as a valid method of determining the existence of an international transaction and thereafter its ALP.”

9. Respectfully following the above decision and our reasoning and discussion as above, we uphold the order of the Id.CIT(A) and hence we dismiss the grounds of appeal of the revenue.

10. In the result the appeal of the Revenue is dismissed.

Order pronounced in the open court on 19th January, 2026 at Chennai.

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य/**Judicial Member**

Sd/-

(एस. आर. रघुनाथा)

(S. R. RAGHUNATHA)

लेखासदस्य/**Accountant Member**

चेन्नई/Chennai,

दिनांक/Dated, the 19th January, 2026

SP

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT- Chennai/Coimbatore/Madurai/Salem
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF