

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI "C" BENCH : MUMBAI

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER
AND
SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA No. 5779/Mum/2025
Assessment Year : 2017-18

DCIT, Circle-1(1)(1), Room No. 533, 5 th Floor, Aayakar Bhavan, Mumbai-400020.	vs.	Championx Dai-Ichi India Private Limited, 3 rd Floor, Liberty Building, Sir Vithaldas Thackersey Marg, New Marine Lines, Mumbai-400020. PAN : AAACB0474E
(Appellant)		(Respondent)

For Assessee :	Shri Rushabh Mehta
For Revenue :	Shri Virabhadra Mahajan, Sr.DR

Date of Hearing :	09-02-2026
Date of Pronouncement :	16-02-2026

ORDER

PER VIKRAM SINGH YADAV, A.M :

This is an appeal filed by the Revenue against the order of the Learned Commissioner of Income Tax (Appeals)-National Faceless Appeal Centre (NFAC), Delhi [‘Ld.CIT(A)’], dated 31-07-2025, pertaining to Assessment Year (AY) 2017-18, wherein the Revenue has taken the following grounds of appeal:

“1. On the facts and circumstances of the case and in law, the Ld.CIT(A) erred in deleting the disallowance of commission expenses of Rs.1,99,77,026/- made u/s 37(1), without appreciating that the assessee failed to furnish agreements/credible evidence of actual services rendered.

2. On the facts and circumstances of the case and in law the Ld.CIT(A) failed to consider that most expenses were booked on 31.03.2018 disproportionate to turnover and profits, indicating non-genuineness.

3. On the facts and circumstances of the case and in law the Ld.CIT(A) placed reliance on judicial precedents is misplaced, as the facts of the present case are clearly distinguishable.

4. On the facts and circumstances of the case and in law the order of the Ld.CIT(A) is erroneous in law and on facts, and deserves to be set aside and that of the AO restored.”

2. Briefly, the facts of the case are that the assessment in this case was completed u/s. 143(3) of the Income Tax Act, 1961 ('the Act'), vide order dt. 26-12-2019, wherein the AO has disallowed a sum of Rs. 1,99,77,026/- u/s. 37(1) of the Act on account of commission expenses claimed by the assessee. The assessee thereafter carried the matter in appeal before the Ld.CIT(A), who has since deleted the said disallowance and against the said order and findings of the Ld.CIT(A), the Revenue is in appeal before us.

3. During the course of hearing, the Ld. DR taken us through the order of the Assessing officer and it was submitted that during the course of assessment proceedings, a show cause was issued to the assessee, wherein the assessee was asked to show cause as to why the commission expenditure which has been booked on the last year i.e., 31-03-2019 should not be treated as 'sham transaction' and disallowed for tax purposes. It was submitted that in response to the said show cause, the assessee has merely submitted that major part of the commission expenses have been booked in the month of March, 2017 for the reason that it has received actual invoice copies in the month of March, 2017 only and TDS has also been deducted on the same and copies of invoices were also submitted. It was submitted by the ld DR that the submissions so filed by the assessee were not found acceptable to the AO for the reason

that nature of services rendered and contract with the said party was not submitted. Further, the AO has held that the submission of invoices at year end is not logical if services are rendered regularly and moreover, customers are all large size oil companies, so it is important to justify nature of services rendered. Further, the AO referred to the reduced turnover and reduced profit and has held that the commission payment so made by the assessee is not logical and commensurate with the reported turnover and accordingly he disallowed the commission expenditure, invoking the provisions of section 37(1) of the Act.

4. It was further submitted by the Ld.DR that the Ld.CIT(A) has referred to the assessee's submissions dt. 19-12-2019 and has stated that the assessee has filed all the necessary documentation. In this regard, it was submitted by the ld DR that as part of the assessee's submissions dt. 19-12-2019, the assessee has only submitted only sample invoices for the month of May, 2016 and thereafter, the Ld.CIT(A) has held that the disallowance is not supported by any adverse material or third-party verification disproving the assessee's claim and the fact that the AO has not brought on record any evidences to demonstrate that the services were not rendered or that the payment were fictitious. It was submitted that it is the case of the Revenue that the assessee has not furnished requisite documentary evidences in support of services rendered and nexus thereof with the assessee's business and, therefore, in absence of the same, there is no question of examination or third-party verification or recording any adverse finding by the AO. It was accordingly submitted that the order of the Ld.CIT(A) be set-aside and that of the AO be sustained.

5. In his submissions, the Ld.AR submitted that the assessee has filed detailed submissions before the AO vide letter dt. 18-02-2019 and

thereafter in response to show cause dt. 25-12-2019, all the requisite documentary evidences have been submitted before the AO. Further, similar matter was raised during the assessment proceedings for AY. 2018-19 and after considering the submissions filed by the assessee, the AO has accepted the returned income, without drawing any adverse findings. It was also submitted that the commission has been paid in terms of representation agreement between the assessee-company and AYBI Energy Pvt. Ltd., which is acting as marketing consultant towards sale of assessee's products. The percentage of commission to turnover is in fact declining over years from financial year 2012-13 onwards. The percentage of commission to turnover in the previous year i.e., financial year 2015-16 was 2.76% which has reduced to 1.87% during the year under consideration and submitted that the Ld.CIT(A) has rightly taken into consideration the documentation so submitted by the assessee and in this regard, our reference was drawn to the findings of the Ld.CIT(A), wherein he has held that the agreement, invoices, TDS compliance and payment memos submitted by the assessee collectively support the genuineness of the expenditure. He accordingly supported the order and the findings of the Ld.CIT(A).

6. We have heard the rival contentions and perused the material available on record. As per the Assessing officer, the assessee has not submitted any documentary evidences to demonstrate the nature of the services availed by the assessee for which it has incurred commission expenditure of Rs 1,99,77,026/-. The assessee has contested the said findings before the Ld.CIT(A) and has drawn reference to its submissions filed before the AO wherein it has filed certain documentation in support of the services so rendered and availed by the assessee. The Ld.CIT(A) has held that the AO has not brought on record any evidence to demonstrate

that the services were not rendered or that the payments were fictitious and thereafter, has gone ahead and held that the agreement, invoices, TDS compliance and payment memos submitted by the assessee collectively support genuineness of the expenditure.

7. We therefore find that though the relevant documentation has been placed on record by the assessee and also take note of by the Ld.CIT(A), however, there is no finding recorded by the CIT(A) that the said documentation has been examined by him and how the same demonstrate that the services have been rendered by the said entity and nexus thereof with assessee's business and corresponding liability towards the commission payment. The same becomes relevant especially in context of AO's apprehension that all these invoices have been raised at year-end by the said entity and accounted for by the assessee at year-end. Further, where the AO has not recorded any specific finding stating that no such documentation has been submitted, it becomes all the more important that the Ld.CIT(A) should have called for the remand report from the AO and sought his comments instead of holding that the AO has not recorded any adverse finding during the assessment proceedings. In our overall analysis, it is a case of submission of documentation simpliciter in support of claim of the expenditure without examination thereof by either of the authorities and recording specific finding in terms of rendering of services and nexus thereof with the assessee's business. In absence of specific findings recorded by either of the parties, we are constrained to set-aside the impugned order so passed by the Ld.CIT(A) and remand the matter to the file of the Assessing officer to examine the same afresh as per law after providing reasonable opportunity to the assessee.

8. In light of the same, various contentions raised before us are left open and the assessee is at liberty to raise the same before the AO where so advised.

9. In the result, the appeal filed by the Revenue is allowed for statistical purposes.

Order pronounced in the open court on 16-02-2026.

Sd/-
[SANDEEP SINGH KARHAIL]
JUDICIAL MEMBER

Sd/-
[VIKRAM SINGH YADAV]
ACCOUNTANT MEMBER

Mumbai,
Dated: 16-02-2026

TNMM

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar
I.T.A.T, Mumbai