

**IN THE INCOME TAX APPELLATE TRIBUNAL
DEHRADUN “DB-FRIDAY” BENCH: DEHRADUN**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER &
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

[THROUGH VIRTUAL MODE]

**M.A.No.2/DDN/2022
[In ITA No.3266/Del/2017]
[Assessment Year : 2010-11]**

M/s. Schlumberger Solutions Pvt.Ltd., 14 th Floor, Building No.10, Tower CDLF, Cyber City, Phase-II, Gurgaon, Haryana PAN-AAICS0296H	vs	ACIT Circle-2, 13-A, Subhash Road, Dehradun
APPELLANT		RESPONDENT

**ITA No.3266/Del/2017]
[Assessment Year : 2010-11]**

ACIT Circle-2, 13-A, Subhash Road, Dehradun	vs	M/s. Schlumberger Solutions Pvt.Ltd., 14 th Floor, Building No.10, Tower CDLF, Cyber City, Phase-II, Gurgaon, Haryana PAN-AAICS0296H
APPELLANT		RESPONDENT
Appellant by	Shri Nikhil Tiwari, CA	
Respondent by	Shri A.S.Rana, Sr.DR	
Date of Hearing	16.01.2026	
Date of Pronouncement	30.03.2026	

ORDER

PER MANISH AGARWAL, AM :

The captioned Miscellaneous Application [“M.A”] is filed by the assessee against the order passed by the Co-ordinate Bench of ITAT in ITA No.3266/Del/2017 dated 29.11.2021 for the Assessment Years 2010-11 wherein the Co-ordinate Bench has held that the amount of service tax received, do not form part of the gross receipt for computing the income u/s 44BB of the Act and accordingly, the appeal of the Revenue is dismissed.

2. In the M.A. filed, the assessee claimed that the AO/TPO has disallowed the amount of unpaid service tax of liability amounting to INR 1,65,73,768/- which was deleted by Ld. DRP by observing that the said amount was since not transacted through the Profit & Loss Account and thus, no expenditure was claimed. Therefore, the same could not be disallowed u/s 43B of the Act.

3. Against the said observation of Ld. DRP, the Revenue has filed the appeal before the tribunal. However, as observed above, the Co-ordinate Bench while deciding the appeal of the revenue has misunderstood the issue and held that the service taxes do not form part of the gross receipt for computation of income u/s 44BB of the Act. The assessee therefore, prayed that order of the coordinate bench suffered error of fact and be recalled and decided in terms of the grounds of appeal taken by the revenue.

4. On the other hand, Ld. Sr. DR for the Revenue supported the MA filed by the assessee.

5. Heard the contentions of both the parties and perused the material available on record. From the facts and grounds of appeal taken by the Revenue, it is observed that Revenue has challenged the action of Ld. DRP in deleting the disallowance made u/s 43B towards unpaid service tax liability. However, the Co-ordinate Bench while deciding the appeal in para 2 of the order, has misunderstood the issue and observed as under:-

2. "The only issue involved in this case whether service tax is negligible in the course of Revenue for computing the profits under presumptive basis of provision of section 44BB of Income Tax Act, 1961 or not."

6. Since the issue decided by the Co-ordinate Bench is contrary to the Grounds of appeal taken by the Revenue and therefore, the order of Co-ordinate Bench is hereby, recalled.

7. In the result, the M.A. filed by the assessee is allowed.

ITA No. 3266/DEL/2017 [Assessment Year : 2010-11]

8. Now coming to the merits of appeal, it is observed that during the course of hearing, judgment of the Co-ordinate Bench in ITA No.5834/Del/2016 dated 31.05.2021 for AY 2012-13 was placed on

record wherein this issue has been decided by the Co-ordinate Bench in favour of assessee vide para 9 of the order which reads as under:-

9. *“With respect to the third ground the learned dispute resolution panel has categorically held that assessee has not claimed deduction of the service tax expenditure and therefore there is no question of making any disallowance on that account. The learned department representative could not show was any reason to differ from the direction of the learned dispute resolution panel. In view of this we dismiss ground number 3 of the appeal of the learned assessing officer.”*

9. Since the issue under appeal is identical, therefore, by respectfully following the order of the Co-ordinate Bench, all the Grounds of appeal taken by the Revenue are dismissed.

10. In the result, appeal of the revenue is dismissed.

11. In the final result, M.A. filed by the assessee in **M.A. No.2/DDN/2022 [Assessment Year : 2010-11]** is allowed and appeal of the Revenue in **ITA No. 3266/DEL/2017 [Assessment Year : 2010-11]** is dismissed.

Order pronounced in the open Court on 30.03.2026.

Sd/-

**(SATBEER SINGH GODARA)
JUDICIAL MEMBER**

Sd/-

**(MANISH AGARWAL)
ACCOUNTANT MEMBER**

Date:-30.03.2026

Amit Kumar, Sr.P.S

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT
6. Guard File

ASSISTANT REGISTRAR
ITAT, Dehradun/NEW DELHI