

**आयकर अपीलीय अधिकरण “ एल” न्यायपीठ मुंबई में।**

**IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH “L”, MUMBAI**

**BEFORE SHRI RAJENDRA, ACCOUNTANT MEMBER AND  
SHRI C.N. PRASAD, JUDICIAL MEMBER**

**ITA NO. 3260/MUM/2006 : (A.Y : 2001-02)**

**ITA NO. 3261/MUM/2006 : (A.Y : 2002-03)**

**ITA NO. 8839/MUM/2010 : (A.Y : 2006-07)**

M/s UPS Worldwide Forwarding Inc.  
C/O SR Batliboi & Co  
18<sup>th</sup> Floor, Express Towers  
Nariman Point  
Mumbai – 400 021  
**PAN : AAACU5661Q**

Vs. ADIT (I.T) -2(2)  
Scindia House  
Ballard Pier  
Mumbai – 400 001

(अपीलार्थी / Appellant)

(प्रत्यर्थी / Respondent)

अपीलार्थी की ओर से / Appellant by : **Shri Jasbir Chauhan**  
प्रत्यर्थी की ओर से Respondent by : **Shri Harsh Kapadia**

सुनवाई की तारीख / Date of Hearing : **29/03/2017**  
घोषणा की तारीख Date of Pronouncement : **29/03/2017**

**आदेश / O R D E R**

**PER C.N.PRASAD (J.M.) :**

These three appeals are filed by the Assessee against various orders of the Ld. CIT (Appeals) for the assessment years 2001-02, 2002-03 and 2006-07.

2. At the outset, the Ld. Counsel referring to the letters dated 07.03.2017 filed by Assessee requesting for withdrawal of appeals, seeks permission of the Tribunal to withdraw these three appeals for the reason that the issue in all these three appeals are settled in MAP proceedings for the assessment years 2001-02 to 2013-14. The Ld. Counsel submits that the order of the Ld. Principal Commissioner of Income Tax (International Taxation) dated 17.02.2017 directing to grant relief to the Assessee as per the provisions and conditions laid down in Rule 44H(4) is placed on record.

3. The Ld. DR has no serious objection in Assessee withdrawing the appeals.

4. We have heard both the sides, perused the petition filed by the Assessee for withdrawal in all these cases as under :

“UPS Worldwide Forwarding Inc., USA  
PAN: AAACU5661Q  
Assessment Year ('AY'): 2001-02  
Company's Appeal No.ITA No.3260/M/06

**Request for withdrawal of appeal under Rule 44H(4) of the  
Income-tax Rules, 1962**

We refer to the captioned appeal in the case of our client - UPS Worldwide Forwarding Inc. ('UPSWWF' or the 'Company').

The main issue involved in the subject appeal is alleged constitution of Permanent Establishment ('PE') of the Company in India under Article 5 of the India-USA Double Taxation Avoidance Agreement ('DTAA'). For this main issue, the Company had filed a Mutual Agreement Procedure ('MAP') application with the Competent Authority in India through the Competent Authority of USA in accordance with the provisions of Article 27 of the DTAA.

We would like to inform that a resolution has been achieved in UPSWWF's case for AYs 2001-02 to 2013-14 under MAP between the Competent Authority of

India and USA - copy of the Letter No. F.No.480/08/2007-FTD-1 (Pt.) dated 17 February 2017 read with Corrigendum dated 2 March 2017 from Foreign Tax & Tax Research Division - I, APA - I ('FT&TR') communicating the MAP resolution is enclosed as Annexure.

UPSWWF has accepted the resolution achieved under MAP and since the issues involved in the captioned appeal is now adjudicated under MAP, the Company is withdrawing the captioned appeal.

Post withdrawal of Company's appeal on the main issue, we request the Tax Department that it may also withdraw its appeal in ITA No. 2995/M/05, which is on the issue of attribution to the said alleged PE."

The contents of this letter is common for all the three years before us.

5. In view of the above submissions, we dismiss the appeals of the Assessee as withdrawn.

Order pronounced in the open court on the 29<sup>th</sup> day of March 2017.

Sd/-

**RAJENDRA  
लेखा सदस्य /  
ACCOUNTANT MEMBER**

मुंबई / Mumbai; दिनांक / Dated 29/03/2017

LR, SPS

Sd/-

**C.N.PRASAD  
न्यायिक सदस्य /  
JUDICIAL MEMBER**

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त(अपील) / The CIT(A), Mumbai.
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

सत्यापित प्रति //True Copy//

आदेशानुसार/ BY ORDER,

सहायक पंजीकार  
(Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई/ ITAT, Mum