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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Decision delivered on: 16.11.2023+ **ITA 624/2023****PR. COMMISSIONER OF INCOME TAX -7 Appellant****Through: Puneet Rai, Sr. Standing Counsel with
Mr Ashvini Kumar and Mr Rishabh
Nangia, Advs.****versus****TRINITY INSURANCE BROKERS PVT. LTD. Respondent****Through: None.****CORAM:****HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE GIRISH KATHPALIA****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J. (ORAL):****CM No.59054/2023 [Application filed on behalf of the appellant seeking
condonation of delay of 448 days in re-filing the appeal]**

1. This is an application moved on behalf of the appellant/revenue seeking condonation of delay in re-filing the appeal.

1.1 According to the appellant/revenue, there is a delay of 448 days in re-filing the appeal.

2. The fact that the delay is in re-filing, and we intend to deal with matter on merits, we are inclined to condone the delay.

3. Accordingly, the prayer made in the application is allowed.

4. The application is disposed of, in the aforesaid terms.

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5. This appeal concerns Assessment Year (AY) 2011-12.
6. *Via* the instant appeal, the appellant/revenue seeks to assail the order dated 19.08.2021 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].
7. The only issue raised in the instant appeal concerns the deletion of the addition made by the Assessing Officer (AO) pertaining to supervisory and risk management expenses. The AO on this account had added Rs. 4,33,06,842/-.
8. The Commissioner of Income Tax Appeals [in short, “CIT(A)"] deleted the addition; a view which has been sustained by the Tribunal.
9. Mr Puneet Rai, learned senior standing counsel, who appears on behalf of appellant/revenue, says that the deletion of the addition concerning the amount said to have been spent by the respondent/assessee towards supervisory and risk management, was flawed.
- 9.1 According to Mr Rai, the aforementioned expenses were not incurred by the respondent/assessee for its business purposes.
10. The record shows that the respondent/assessee is in the insurance brokerage business concerning both life and non-life products offered by various insurance companies.
11. The respondent/assessee is said to have incurred, according to the stand taken before the AO, the aforementioned amount *vis-à-vis* prospective clients.
12. Concededly the said amount was paid by the respondent/assessee to its sister concerns, namely M.M. Carpets & Industries Ltd. and Trinity Global Enterprises Ltd.



12.1 The amount paid to M.M. Carpets & Industries Ltd. was Rs. 32,84,250/-. Likewise Trinity Global Enterprises Ltd. was paid Rs.3,99,29,200/-.

12.2 The respondent/assessee claimed Rs.4,33,06,842/- as expenses against brokerage income amounting to Rs.5,58,09,177/-.

13. It is not in dispute that the appellant/revenue has treated the amounts received by the respondent/assessee's sister concerns as revenue receipts. Furthermore, it is also not in dispute that rate of tax levied on the amounts received by the respondent/assessee's sister concerns is the same as that which the respondent/assessee is subjected to.

14. It appears (something which is not in dispute) that in the preceding AY i.e., AY 2010-11, the AO did not flag the deduction claimed by the respondent/assessee against the expenses incurred towards supervisory and risk management charges.

15. Mr Rai, though, informs us that in AY 2013-14, the AO had raised an objection, and, accordingly, made a suitable addition which was, ultimately, deleted by the CIT(A).

15.1. Mr Rai states that the appeal preferred by the appellant/revenue with the Tribunal was closed on account of low tax effect.

16. Having regard to the facts obtaining in the case, to our minds, the argument advanced by Mr Rai that the amounts expended by the respondent/assessee towards supervisory and risk management charges were not linked to its business, is untenable.

16.1. The submission of Mr Rai is founded on the rationale that while the said expenses were incurred for prospective clients it did not result in the respondent/assessee earning a matching income.



17. According to us, this argument is flawed. The fact that the expenses were incurred for prospective clients should be good enough for the respondent/assessee to claim deduction qua the same, as every expense does not necessarily translate into corresponding income.

18. In any event, since, as noticed above, the appellant/revenue has treated the amount expended by the respondent/assessee as revenue receipt in the hands of its sister concerns, in our opinion, the same transaction cannot be treated differently in the hands of payer i.e., respondent/assessee.

19. Besides, as noted above, in AY 2010-11, the AO had allowed deduction vis-à-vis amounts expended towards supervisory and risk management charges.

20. Likewise, the CIT(A), in AY 2013-14, as noticed above, had deleted the addition made by the AO.

21. Thus, having regard to the overall circumstances, we are not inclined to interfere with the impugned order, since, according to us, no substantial question of law arises for our consideration.

22. The appeal is, accordingly, closed.

23. The Registry will dispatch the copy of the judgement rendered today to the respondent/assessee via all modes including email.

RAJIV SHAKDHER
(JUDGE)

GIRISH KATHPALIA
(JUDGE)

NOVEMBER 16, 2023/RV

Click here to check corrigendum, if any