



2023:DHC:8991-DB



\$~26, 30, 31, 32, 34, 36 & 39

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

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Date of Decision: 08.12.2023

+ **ITA 718/2023**
+ **ITA 722/2023**
+ **ITA 723/2023**
+ **ITA 724/2023**
+ **ITA 726/2023**
+ **ITA 728/2023**
+ **ITA 731/2023**

THE COMMISSIONER OF INCOME TAX - INTERNATIONAL
TAXATION -3

..... Appellant

Through: Mr Ruchir Bhatia, Sr Standing
Counsel.

versus

TRAVELPORT GLOBAL DISTRIBUTION SYSTEM B.V.
(EARLIER KNOWN AS GALILEO
NEDERLANDS BV)

..... 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 APPL. 63516/2023 in ITA 718/2023

CM APPL. 63597/2023 in ITA 722/2023

CM APPL. 63606/2023 in ITA 723/2023

CM APPL. 63622/2023 in ITA 724/2023

CM APPL. 63653/2023 in ITA 728/2023

CM APPL. 63712/2023 in ITA 731/2023

1. Allowed, subject to just exceptions.

Signature Not Verified

Digitally Signed By: ATUL
JAIN

Signing Date: 14.12.2023
15:33:37



CM APPL. 63517/2023 in ITA 718/2023 *[Application filed on behalf of the appellant seeking condonation of delay of 460 days in re-filing the appeal]*

CM APPL. 63598/2023 in ITA 722/2023 *[Application filed on behalf of the appellant seeking condonation of delay of 460 days in re-filing the appeal]*

CM APPL. 63607/2023 in ITA 723/2023 *[Application filed on behalf of the appellant seeking condonation of delay of 460 days in re-filing the appeal]*

CM APPL. 63623/2023 in ITA 724/2023 *[Application filed on behalf of the appellant seeking condonation of delay of 460 days in re-filing the appeal]*

CM APPL. 63624/2023 in ITA 726/2023 *[Application filed on behalf of the appellant seeking condonation of delay of 460 days in re-filing the appeal]*

CM APPL. 63654/2023 in ITA 728/2023 *[Application filed on behalf of the appellant seeking condonation of delay of 460 days in re-filing the appeal]*

CM APPL. 63713/2023 in ITA 731/2023 *[Application filed on behalf of the appellant seeking condonation of delay of 460 days in re-filing the appeal]*

2. These are applications filed by the appellant/revenue seeking condonation of delay in re-filing the appeal.
3. According to the appellant/revenue, there is a delay of 460 days in re-filing the appeal.
4. Since we intend to decide the appeals on merits, we are inclined to condone the delay.
- 4.1 It is ordered accordingly.
5. The applications are disposed of.

ITA 718/2023

ITA 722/2023

ITA 723/2023

ITA 724/2023



ITA 726/2023

ITA 728/2023

ITA 731/2023

6. These appeals concern Assessment Year (AY) 2007-08 [ITA 726/2023], AY 2008-09 [ITA 718/2023], AY 2009-10 [ITA 728/2023], AY 2010-11 [ITA 724/2023], AY 2011-12 [ITA 722/2023], 2012-13 [ITA 731/2023] and AY 2014-15 [ITA 723/2023].

7. Via the instant appeals, the appellant/revenue seeks to assail the common order dated 13.10.2021 passed by the Income Tax Appellate Tribunal [in short, “Tribunal”].

8. Mr Ruchir Bhatia, learned senior standing counsel, who appears on behalf of the appellant/revenue, fairly concedes that insofar as the merits of the case are concerned the decision of the Supreme Court rendered in the case of the group entity of respondent/assessee holds the field.

8.1 Mr Bhatia, in this behalf, has drawn our attention to the following order passed by the Supreme Court in the case of ***Commissioner of Income-tax (International Taxation) v. Travelport L.P. USA***, [2023] 153 taxmann.com 176 (SC). Since the order of the Supreme Court refers to a judgment of this court, the order is extracted hereafter:

“1. Delay of 146 days is condoned.

2. Learned Additional Solicitor General appearing for the petitioner has submitted that the issues which arise in this petition have been considered and held against the Revenue in [Civil Appeal Nos. 6511-6518/2010] DIT v. Travelport Inc. [2023] 149 taxmann.com 470/454 ITR 289 (SC) by affirming the judgment of the High Court. His submission is placed on record.

3. In the circumstances, the special leave petition is dismissed. Pending application(s) shall stand disposed of.”



9. The moot point on merits which obtained in the appeals preferred by the appellant/revenue before the Tribunal was whether the view taken by CIT(A) that 15 percent of the profits earned from Indian operations could be attributed to the respondent/assessee was sustainable. The coordinate bench in AY 2006-07 while dealing with ITA 301/2022 has sustained the said conclusion and gone on to hold that no substantial question of law arose for its consideration. It is this decision which was affirmed by the Supreme Court with the dismissal of the SLP as noted hereinabove.

10. Given this position, we are of the opinion that no substantial question of law arises for our consideration.

12. The appeals are accordingly closed.

13. Registry will dispatch a copy of the order passed today to the respondent/assessee *via* all modes, including e-mail.

RAJIV SHAKDHER, J

GIRISH KATHPALIA, J

DECEMBER 8, 2023/pmc