$~21 & 22

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

\+ ITA 211/2022

PR. COMMISSIONER OF INCOME TAX-1 .....Appellant

Through: Mr. Sanjay Kumar, SSC along with Ms. Monica Benjamin and Ms. Easha Kadian, JSCs.

versus

CASIO INDIA COMPANY PVT. LTD. .....Respondent

Through: Mr. Nageswar Rao, Mr. Parth and Mr. Pratik Rath, Advs.

22

\+ ITA 67/2022

PR. COMMISSIONER OF INCOME TAX-1, DELHI .....Appellant

Through: Mr. Gaurav Gupta, SSC along with Mr. Shivendra Singh and Mr. Yojit Pareek, JSCs.

versus

CASIO INDIA COMPANY PVT. LTD. .....Respondent

Through: Mr. Nageswar Rao, Mr. Parth and Mr. Pratik Rath, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE DHARMESH SHARMA

O R D E R

% **11.12.2024**

1. These appeals have been preferred challenging the decision of the **Income Tax Appellate Tribunal**[1] dated 24 February 2020 [ITA 211/2022] and 18 May 2020 [ITA 67/2022] and which had placed reliance upon the respondent-assessee’s own case in **Assessment**

[1] Tribunal

Year[2] 2010-11 while arriving at the finding that **Advertisement, Marketing and Promotion**[3] expenses did not constitute an international transaction and could thus not be separately benchmarked and as a result of which the adjustment of AMP was directed to be deleted.

2. For the purposes of convenience, we propose to take note of the facts as they emanate from ITA 211/2022 which pertains to AY 2011-12. The **Transfer Pricing Officer**[4] had proposed adjustments to the tune of INR 5,92,56,798/- on the issue of AMP expenses using the 'Bright Line Test'. The **Assessing Officer**[5] had thereafter come to frame an assessment order in accordance with the directions framed by the **Dispute Resolution Panel**[6] directing an upward adjustment of INR 7,65,16,936/-.

3. The respondent-assessee, being aggrieved by the order of the AO, had approached the Tribunal which had come to pass orders in its favour and directed the deletion of adjustment of AMP.

4. Identical issues were being considered in ITA 67/2022 pertaining to AY 2015-16. These appeals came to be admitted on 15 May 2024 on the following questions of law:-

> "(a) Whether the Income Tax Appellate Tribunal [**"ITAT"**] was justified on facts and in law in deleting addition on account of expenses incurred by the assessee for advertisement, marketing and promotion [**"AMP"**] for brand-building for brand owned by the associated enterprise?
>
> (b) Whether the ITAT was justified on facts and in law in holding that the Revenue needs to establish on the basis of tangible material or evidence that there exists an international transaction regarding brand building by way of AMP expenses despite the fact that it was

---

2 A.Y.
3 AMP
4 TPO
5 AO
6 DRP

held by the Delhi High Court m the ease of Sony Ericsson Mobile Communications India (P.) Ltd. v. CIT [374 ITR 118] that transaction of excess AMP is an international transaction?"

5. We have been informed by learned counsels for parties that the issues forming subject matter of consideration in these appeals have already been considered and disposed of by this Court in the case of the respondent-assessee itself in **Deputy Commissioner of Income Tax-5(2) v. Casio India Company**[7] and where we had held as follows:-

> "The Revenue has preferred the present appeal to assail the order dated 24.01.2019 passed by the Income Tax Appellate Tribunal (ITAT) in ITA No. 8060/Del/2018 preferred by the respondent for the assessment year 2014-15.
>
> A perusal of the impugned order shows that the same proceeds on the basis of the decision of this Court in ***CIT Vs. Sony Ericson Mobile Communication India Pvt. Ltd.***, [2015] 55 taxmann.com 240. In that decision, this Court rejected the adoption of the bright line test method for making the protective adjustment by the Assessing Officer. In the present case as well, the Assessing Officer had adopted the bright line test method and the Tribunal by following the decision of this Court in ***Sony Ericson Mobile Communication India Pvt. Ltd.*** (supra) has rejected the said method. In view of the fact that this Court has already rendered its decision on the same issue, we dismiss this appeal."

6. Bearing in mind the aforesaid, we find that no substantial questions of law survive for consideration in these appeals. The same shall stand dismissed.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

DECEMBER 11, 2024/RW

[7] ITA 828/2019 decided on 13 September 2019