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

\+ ITA 399/2026 & CM APPL. 32146/2026

PR. COMMISSIONER OF INCOME TAX-7, DELHI

.....Appellant

Through: Mr. Puneet Rai, SSC with Mr.Ashvini Kr. & Mr. Rishabh Nangia, JSCs

versus

TUPPERWARE INDIA PVT. LTD. .....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

<u>O R D E R</u>

% **13.05.2026**

<u>CM APPL. 32147/2026 (condonation of delay in filing)</u>

1. This is an application filed by the appellant seeking condonation of 7 days' delay in filing the appeal.

2. For the reasons stated in the application, the same is allowed and the delay of 7 days in filing the appeal stands condoned.

<u>CM APPL. 32148/2026 (condonation of delay in re-filing)</u>

3. This is an application filed by the appellant seeking condonation of 35 days' delay in re-filing the appeal.

4. For the reasons stated in the application, the same is allowed and the delay of 35 days in re-filing the appeal stands condoned.

<u>ITA 399/2026</u>

5. By way of the present appeal preferred under Section 260A of the

Income Tax Act, 1961, the appellant has proposed following substantial questions of law:

> *"A. Whether on the facts and circumstances of the case and in law, the Ld. ITAT was justified in referring to various High Court decisions and treating the BLT method for AMP adjustment as unsustainable despite the matter being sub-judice and pending before the Hon'ble Supreme Court?*
>
> *B. Whether on the facts and circumstances of the case and in law, the Ld. ITAT erred in not considering the TPO's findings relating to the conduct of parties and ownership of intangibles (IPR's) in respect of AMP expenses, which established the existence of an international transaction in the case of the Assessee?*
>
> *C. Whether in the facts and circumstances of the case, the Ld. ITAT erred in not considering the facts brought on record by the TPO in his order, where the routine activities of the tax payer were resulting in brand building and enhancement as an exclusive benefit to the AE therefore proving that substance of the transaction was more important than the form?*
>
> *D. Whether the Ld. ITAT erred in law in holding that the distribution compensation of Rs 15.22 crores was allowable u/s 37 of the Income Tax Act, 1961*?"

6. Mr. Puneet Rai, learned Senior Standing Counsel for the appellant fairly informs that so far as questions 'A', 'B' & 'C' are concerned, they are different facets of the same question, which stand decided by this Court vide its judgment dated 05.12.2025, rendered in the case of respondent-assessee itself (Re: ITA 728/2025 titled ***Pr. Commissioner of Income Tax-7, Delhi***

v/s Tupperware India Pvt. Ltd.).

7. So far as question 'D' is concerned, according to us, it is purely a finding of fact and appreciation of evidence. That apart, whether the distribution compensation was justified or not is a business exigency *qua* which the assessee itself is the best judge; the Assessing Officer cannot sit in the chair of the businessman and decide as to whether the distribution compensation was rightly granted or not. Unless there is a finding with cogent material that the amount shown to have spent on distribution compensation was not paid or the payment was fraudulent, addition in this regard cannot be sustained.

8. The appeal is, therefore, dismissed. Pending application is also disposed of.

DINESH MEHTA, J

OM PRAKASH SHUKLA, J

MAY 13, 2026
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