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

\+ ITA 295/2026

PR COMMISSIONER OF INCOME TAX DELHI 1

.....Appellant

Through: Mr. Vipul Agarwal, SSC with Ms. Sakshi Shainwal & Mrs. Harshita Kotru, JSCs.

versus

MS BHARAT SANCHAR NIGAM LTD

.....Respondent

Through: Mr. Manuj Sabharwal, Mr. Drona Negi, Advocates.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

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

% 09.04.2026

<u>CM APPL. 22818/2026</u> (***delay in filing)***

1. Instant application filed under Section 151 of the Civil Procedure Code, 1908 seeks condonation of delay of 516 days in filing the appeal.

2. For the reasons stated in the application, the delay of 516 days in filing the appeal is condoned.

3. Application stands allowed.

<u>CM APPL. 22819/2026</u> ***(delay in re-filing)***

4. Instant application has been filed under Section 151 of the Civil Procedure Code, 1908 seeking condonation of delay of 475 days in re-filing the appeal.

5. For the reasons stated in the application, the delay of 475 days in re-filing the appeal is condoned.

6. Application stands allowed.

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7. The instant appeal preferred against the order of the Income Tax Appellate Tribunal, Bench D, New Delhi *(hereinafter referred to as 'Tribunal')* dated 20.02.2023 passed in ITA no. 1989/Del/2017 which relates to assessment year 2008-09.

8. Mr. Vipul Agarwal, learned Senior Standing Counsel, fairly submits that similar appeals were filed by the appellant against the order of the Income Tax Appellate Tribunal *qua* assessment year 2007-08 and 2009-10 and both of them have been rejected by this Court.

9. The questions of law that are involved in the present appeal are as under:

(i) Whether the Ld. ITAT has erred on the facts and circumstances of the case and question of law in holding that the nature of relationship between the assessee and the distributors is that of principal and principal and therefore, provisions of Section 194H of the IT Act, 1961 does not apply in the case of the assessee company, on the discounts given to its distributors/franchisee on the value of SIM cards and Vouchers?

(ii) *Whether the Ld. ITAT has erred on the facts and circumstances of the case and question of law in deleting the addition made on account of disallowance of International Usage Charges (IUC) ignoring the fact that the assessee satisfies all the key criteria to deduct TDS u/s 195(1) as per Chapter XVIIB of the Act?*

10. Mr. Vipul Agarwal, learned Senior Standing Counsel, fairly submits that so far as first question (re: Section 194H) is concerned, the same has been decided by Coordinate Bench of this Court vide its order dated 15.04.2024 passed in ITA 604/2018, while the second question has been decided against the department vide order dated 23.09.2024 in ITA 604/2018.

11. Having heard learned counsel for the appellant and after going through the above referred orders dated 15.04.2024 and 23.09.2024, we are of the view that both the issues stand decided against the appellant.

12. The appeal, therefore, fails.

DINESH MEHTA, J.

VINOD KUMAR, J.

APRIL 9, 2026/*nk*