

### Expenses w.r.t promotion for brand 'Snapdeal' are revenue in nature

The Hon'ble Delhi Income Tax Appellate Tribunal in ***Additional Commissioner of Income Tax, New Delhi v. M/S Jasper Infotech Private Limited [ITA No 2605/Del/2017 (Assessment Year: 2012-2013) dated November 10, 2021]*** held that expenses involved for promotion of a brand 'Snapdeal' is purely revenue in nature in absence of any contrary evidence.

#### Facts:

M/s. Jasper Infotech Pvt. Ltd. ("**the Respondent**") is an organization occupied with the business of advertising services under the brand name of 'Snapdeal' in India. The brand filed its return claiming a loss. This return was gotten for investigation.

Throughout the course of assessment procedures, the Commissioner of Income tax ("**Assessing Officer**") noticed that the Respondent has asserted expenditure by virtue of commercial advertisements, publicity and business advancement. The Respondent guaranteed it as revenue expenditure. The Assessing Officer was of the view that the expenses are not revenue expenditure, but rather are brought about for procurement of intangible resources being capital expenditures as those are expenses made in the early stages of the business and such expenditures were made for the benefit of the Respondent.

The Assessing Officer held that the Respondent has fabricated a showcasing net-work in India and it demonstrates engagement with making, promoting intangibles without which the Respondent organization would not have been a market rival in that segment. He held that by bringing about this expenses the Respondent significantly benefited in making 'Snapdeal' brand and, subsequently, this use has given befitting advantage to the Respondent.

Accordingly, Assessing Officer treated half of the above expenses as capital expenditure and disallowed an aggregate. The assessment order under Section 143(3) of the Income Tax Act, 1961 ("**Income Tax Act**") was passed deciding absolute loss of the Respondent.

Being aggrieved the Respondent preferred an appeal before CIT(Appeals) who deleted the above additions made by the Assessing Officer.

#### Issue:

Whether expenses incurred during advertisement, business promotion, publicity of the brand 'Snapdeal' will be termed as revenue expenditure or capital expenditure?

#### Held:

The Hon'ble Delhi Income Tax Appellate Tribunal in ***ITA No 2605/Del/2017 (Assessment Year: 2012-2013) dated November 10, 2021*** held as under:

- Noted that the Respondent is operating in online marketing business as aggregator which is a highly competent consumer market the Respondent had to stay ahead of its competition and thus engage itself in brand promotional activities and has necessarily to incur these expenses.
- Stated that the Assessing Officer having accepted the fact that the Respondent could spend amounts for these activities to the extent of 50% as revenue expenditure the Assessing Officer could not have held that 50% of such expenses are capital in nature, in absence of any contrary evidence.
- Further, the Assessing Officer didn't furnish any record or proof to show that the Respondent has created any intangible asset and even after the details of expenses are placed before the Assessing Officer, he held that ad-hoc percentage of certain expenditure are capital expenditure without pointing out that which nature of expenditure has resulted into creating an intangible asset.
- Held that the expenses involved are purely revenue in nature and can't be considered as capital expenditure.

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