

**ITAT directed AO to delete the additions made on account of capitalization of royalty expenses as they were revenue in nature**

The Hon'ble Income Tax Appellate Tribunal, Delhi ("ITAT") in the matter of ***Honda Motorcycle and Scooter India Pvt. Ltd. v. ACIT, Circle: 4 (1) New Delhi [ITA. No. 477/Del/2021 dated November 09, 2021]***, directed the Assessing Officer ("AO") to delete addition on account of capitalisation of royalty expenses by holding it to be revenue in nature as the assessee did not acquire any new asset or any new enduring benefit from it.

Honda Motorcycle and Scooter India Pvt. Ltd. ("**the Appellant**") filed the current appeal being aggrieved of the assessment order dated March 03, 2021 passed by the National E-Assessment Centre under Section 143(3) of the Income Tax Act, 1961 ("**the IT Act**") in which the additions were made to the total income of the Appellant. The Appellant is a subsidiary of Honda Motor Co. Ltd. Japan engaged in the business of manufacture and sale of motorcycles and Scooters. The Appellant had entered into certain international transactions with its associated enterprise and therefore reference was made to the transfer pricing officer to determine the arm's-length price in respect of international transactions undertaken by the Appellant.

The Appellant has raised the issue in respect of capitalisation of the royalty expenses paid to him the amount of Japan wherein the Appellant has paid royalty expenditure of Rs 8,488,135,369/- in lieu of granting license under the royalty and technical know-how agreement and Rs 2,331,540,470/- in lieu of granting technical guidance under the technical know-how agreement. The Appellant has claimed that it did not acquire any new asset or any new enduring benefit from the payment made under the agreement.

The Hon'ble ITAT, Delhi held that the Appellant was already engaged in the manufacturing of motorcycle and Scooter and payment of royalty expenses was not with respect to setting up of manufacturing facility.

Further, the ITAT found that this issue is squarely covered in favour of the Appellant by the decision of the coordinate bench in Appellant's own case for the assessment year 2015 -16 in ITA number (9073 del 2019) dated May 21, 2021 and directed the AO to delete the addition of Rs. 1,591,781,250/- on account of capitalization of royalty expenses holding it to be revenue in nature.

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