



§-25 & 33

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

+ ITA 613/2014

**SONY ERICSSON MOBILE COMMUNICATION INDIA
PVT.LTD.**

..... Appellant
Through Mr. Deepak Chopra, Mr. Harpreet
Ajmani and Ms. Akansha Choudhary,
Adv.

versus

COMMISSIONER OF INCOME TAX -III

..... Respondent
Through Mr. Kamal Sawhney, sr. standing
counsel with Mr. Shekhar Garg and
Mr. Mukul Mathur, Adv.

+ ITA 82/2015

COMMISSIONER OF INCOME TAX-III

..... Appellant
Through Mr. Abhishek Sharma, Adv.

versus

SONY MOBILE COMMUNICATIONS INDIA PVT. LTD

..... Respondent
Through Mr. Deepak Chopra, Mr. Harpreet
Ajmani and Ms. Akansha Choudhary,
Adv.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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22.04.2015

1. These are cross appeals by the assessee and the revenue against the



order of the ITAT dated 31.3.2014 in ITA No.836/Del/2014. The assessee urges two questions of law i.e. the deletion of Rs.12,27,51,778/- being 10% of total expenses claimed under the advertisements and sales promotion expenses made from the income of assessee. It also urges that the ITAT's ruling on expenditure towards AMP incurred by the assessee – in respect of which the ITAT had remitted the matter for reconsideration by the AO in the light of its Special Bench ruling in *LG Electronics India Pvt. Ltd. V. ACIT* (ITA No. 5140/DEL/2011 reported in (2013) 152 TTJ (Del)(SB)273) is erroneous.

4. The Division Bench ruling of this Court in *Sony Ericsson Mobile Communications India Pvt. Ltd. V. Commissioner of Income Tax* (ITA No. 16/2014 decided on 16th March, 2015) now covers the appeal instead of the ruling in *L G Electronics* (supra). As far as the addition is concerned, the appeal is remitted to the ITAT. In this case in light of *Sony Ericsson Mobile* (supra) as far as allowability of Rs.12,27,51,778/- is concerned, this Court notices that the AO himself had taken note of the fact that an identical issue was pending before this Court for a previous year 2001-02 and 2003-04. This Court relying upon the decision in *CIT V. Salora International Ltd.* (2009) 308 ITR 199 (Delhi) and also *CIT Vs. Monto Motors Ltd.* (ITA No.978/2011 decided on 12.12.2011) affirms the ITAT's order.

5. ITA 613/2014 is accordingly disposed of in the above terms. Parties are directed to be present before the ITAT on 20.05.2015.

6. ITA 82/2015- the revenue's appeal- is directed against the decision of the ITAT which had followed *LG Electronics*. In terms of that special bench ruling, selling expenses were held to be excluded. The special bench ruling on that aspect has been confirmed by the Division Bench judgment in



Sony Ericsson Mobile Communications India Pvt. Ltd. (supra). In these circumstances, question of law does not arise. ITA 82/2015 is consequently dismissed.


S. RAVINDRA BHAT, J


R.K. GAUBA, J

APRIL 22, 2015

slh