



\$~3, 4, 25, 26, 40 & 41

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

+ **ITA 333/2022 & CM No.40711/2022**

THE COMMISSIONER OF INCOME
TAX -INTERNATIONAL TAXATION-3

..... Appellant

Through: Mr Ruchir Bhatia, Sr. Standing
Counsel and Mr Shlok Chandra, Jr.
Standing Counsel with Ms Mansie
Jain, Adv.

versus

TURNER BROADCASTING ASIA PACIFIC INC..... Respondent

Through: Mr Deepak Chopra and Mr Rohan
Khare, Advs.

+ **ITA 388/2022**

THE COMMISSIONER OF INCOME TAX -INTERNATIONAL
TAXATION-3

..... Appellant

Through: Mr Ruchir Bhatia, Sr. Standing
Counsel and Mr Shlok Chandra, Jr.
Standing Counsel with Ms Mansie
Jain, Adv.

versus

TURNER BROADCASTING ASIA PACIFIC INC. Respondent

Through: Mr Deepak Chopra and Mr Rohan
Khare, Advs.

+ **ITA 282/2022 & CM No.36476/2022**

THE COMMISSIONER OF INCOME TAX -INTERNATIONAL
TAXATION-3

..... Appellant

Through: Mr Ruchir Bhatia, Sr. Standing
Counsel and Mr Shlok Chandra, Jr.
Standing Counsel with Ms Mansie
Jain, Adv.

ITA 333/2022 & connected matters

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versus

TURNER BROADCASTING ASIA PACIFIC INC..... Respondent
Through: Mr Deepak Chopra and Mr Rohan
Khare, Advs.

+ **ITA 327/2022 & CM No.40206/2022**

THE COMMISSIONER OF INCOME TAX -INTERNATIONAL
TAXATION-3 Appellant
Through: Mr Ruchir Bhatia, Sr. Standing
Counsel and Mr Shlok Chandra, Jr.
Standing Counsel with Ms Mansie
Jain, Adv.

versus

TURNER BROADCASTING ASIA PACIFIC INC. Respondent
Through: Mr Deepak Chopra and Mr Rohan
Khare, Advs.

+ **ITA 528/2022 & CM No.53927/2022**

THE COMMISSIONER OF INCOME TAX - INTERNATIONAL
TAXATION -3 Appellant
Through: Mr Ruchir Bhatia, Sr. Standing
Counsel and Mr Shlok Chandra, Jr.
Standing Counsel with Ms Mansie
Jain, Adv.

versus

TURNER BROADCASTING SYSTEM
ASIA PACIFIC INC. Respondent
Through: Mr Deepak Chopra and Mr Rohan
Khare, Advs.



+ **ITA 529/2022**

THE COMMISSIONER OF INCOME TAX - INTERNATIONAL
TAXATION -3

..... Appellant

Through: Mr Ruchir Bhatia, Sr. Standing
Counsel and Mr Shlok Chandra, Jr.
Standing Counsel with Ms Mansie
Jain, Adv.

versus

TURNER BROADCASTING SYSTEM
ASIA PACIFIC INC.

..... Respondent

Through: Mr Deepak Chopra and Mr Rohan
Khare, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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14.12.2022

[Physical Hearing/Hybrid Hearing (as per request)]

CM No.40711/2022 in ITA 333/2022

CM No.36476/2022 in ITA 282/2022

CM No.40206/2022 in ITA 327/2022

CM No.53927/2022 in ITA 528/2022

1. Allowed, subject to just exceptions.

ITA 333/2022

ITA 388/2022

ITA 282/2022

ITA 327/2022

ITA 528/2022

ITA 529/2022

2. Issue notice.

ITA 333/2022 & connected matters

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2.1 Mr Deepak Chopra accepts notice on behalf of the respondent/assessee.

3. We may note, that it is Mr Chopra's contention, that apart from anything else, the issue which arises for consideration in the instant case, i.e., as to whether the revenue received on account of advertising and distribution rights should be treated as royalty, is *inter alia*, covered by the judgment rendered by the Supreme Court in *Engineering Analysis Centre of Excellence Pvt. Ltd. v. CIT* (2021) 432 ITR 471 (SC).

4. Mr Chopra has also emphasized the fact, that after the Mutual Agreement Procedure (MAP) was entered into between the Governments of India and United States via their respective the competent authorities in April–June 2007, 10% of advertising and subscription revenue received during relevant previous years was taken to be net profit chargeable to tax.

5. Mr Chopra informs us, that thereafter, the respondent/assessee has consistently offered 10% of the advertising and subscription revenue for levy of tax.

6. We are also informed, that the appellant/revenue has accepted the regime put in place by MAP in Assessment Years (AYs) 2007-2008 and 2008-2009.

6.1 Mr Chopra says, that the assessment orders, insofar as these assessment years were concerned, were passed under Section 143(3) of the Income Tax Act, 1961 [in short "Act"].

7. Insofar as the above-captioned matters are concerned, we are told by learned counsel for the parties, that they relate to AYs 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014 and 2015-2016.



8. Mr Shlok Chandra, who appears on behalf of the appellant/revenue, informs us that the appellant/revenue has also lodged an appeal concerning AY 2014-2015, which is yet to be listed.
9. We may note that the appellant/revenue has not filed its written submissions in the above-captioned matters.
- 9.1 Mr Chandra will file the written submissions, not exceeding three pages, within the next two weeks.
- 9.2 Mr Chandra will also ensure that the appeal for AY 2014-2015 is listed by the next date of hearing.
10. List the above-captioned matters on 28.02.2023, at the end of the Board in the category of “After Notice Miscellaneous Matters”.

RAJIV SHAKDHER, J

TARA VITASTA GANJU, J

DECEMBER 14, 2022

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[Click here to check corrigendum, if any](#)