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

% *Date of Decision: 05.12.2025*

\+ **ITA 728/2025**
\+ **ITA 732/2025**

PR. COMMISSIONER OF INCOME TAX-7, DELHI .....Appellant
Through: Mr. Puneet Rai, SSC, Mr. Ashvini Kumar, Mr. Rishabh Nangia and Mr. Gibran Naushad, SCs.

versus

TUPPERWARE INDIA PVT. LTD. .....Respondent
Through: Mr Mihir Vashistha, Advocate.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MS. JUSTICE MINI PUSHKARNA

V. KAMESWAR RAO, J. (*ORAL*)

CM APPL. 77000/2025(re-filing) and CM APPL. 76999/2025 (filing) in ITA 728/2025;
CM APPL. 77019/2025(re-filing) and CM APPL. 77018/2025 (filing) in ITA 732/2025;

1. For the reasons stated in the applications, the delay of 31 days in re-filing and the delay of 63 days in filing both these appeals is condoned.

2. The applications stand disposed of.

CM APPL. 76998/2025 (Exemption) in ITA 728/2025;
CM APPL. 77017/2025 (Exemption) in ITA 732/2025;

3. Exemptions are allowed, subject to all just exceptions.

4. The applications stand disposed of.

ITA 728/2025 & ITA 732/2025

5. The challenge in these appeals under Section 260A of the Income Tax Act, 1961 (the Act) is to the common order dated 12.03.2025 passed by the Income Tax Appellate Tribunal (ITAT) deciding two appeals being ITA No.9727/Del/2019 relating to Assessment Year (AY) 2015-16 and ITA No.670/Del/2021 relating to AY 2016-17.

6. Mr Puneet Rai, learned SSC appearing for the appellant /Revenue fairly states that the issue which arise for consideration in these appeals stand decided against the appellant /Revenue and in favour of the respondent / Assessee in respect of AY 2013-14 and also AY 2014-15. He has placed before us, the order passed by this Court in ***Pr Commissioner of Income Tax, Delhi-7 v. Tupperware India Private Limited, ITA No.304/2023*** order dated 14.03.2024 wherein, this Court in paragraph 4 onwards has stated as under:-

> *"4. The order dated 25 May 2023 reflects that the primary question which was presented for our consideration was found to have been answered against the appellant by virtue of the judgment rendered by this Court in Sony Ericsson Mobile Communications India Pvt. Ltd. v. Commissioner of Income Tax - III, [2015 SCC OnLine Del 8083].*
> *5. When the appeal was taken up today, the solitary question which Mr. Rai chose to address was question B1, which reads as under:*
> > *"B1. Whether on the facts and in the circumstances of the case, Hon'ble ITAT erred in not considering the TPO's findings that the comparables proposed by the assessee are not acceptable as they do not have similar FAR as that of the assessee?"*

6. We note that while dealing with the issue of comparables as accepted and included by the Transfer Pricing Officer ["TPO"] as well as the Dispute Resolution Panel ["DRP"], the Income Tax Appellate Tribunal ["ITAT"] has found as follows:

> *"16. We have heard the rival submissions of the Ld. Representative of the parties and perused the material available on records. The Ld. TPO as well as the Hon'ble DRP has upheld CUP as the most appropriate method for benchmarking transactions with respect to payment of royalty. Since the application of CUP is not disputed either by Ld. AR or DR, we hold CUP to be the most appropriate method for benchmarking the payment of royalty. The issue thus remaining for our consideration is with respect to inclusion / exclusion of comparables.*
>
> *xxx xxx xxx*
>
> *16.2 We find force in the contention of the assessee that royalty agreements operating in different geographical regions can be applied as a filter as the Ld. TPO himself has accepted royalty agreements operating in foreign jurisdictions. While the primary objection of the Hon'ble DRP in respect of comparability analysis is that the comparable selected by the assessee are from a different geographical region (i.e. USA), we observe that the three comparables considered by the Ld. TPO in the remand report are from the same geographical location (i.e. USA) and hence in our view the objection relating to difference in geographical region does not hold good.*
>
> *16.3 So far as the objection of the Hon'ble DRP on the product dissimilarity is concerned, it is observed from the perusal of the description of the agreements as provided in the Royaltstat database, all the three comparables selected by the Ld. TPO and the comparables selected by the assessee belong to same industry i.e. "kitchenware and home furnishing items" and hence these are valid comparables."*

7. The assessee also sought inclusion of further comparables as would be evident from paragraph No.16.5 of the ITAT's order. Dealing with the aforesaid, the ITAT has held as under:

> *"17. Perusal of the above chart shows that five comparables selected by the assessee are from same geography i.e. USA and the same industry i.e. "Kitchenware and home furnishing items" as the comparables considered by the Ld. TPO. The Ld. TPO rejected two of his own comparables i.e. Mikasa Inc. and Oneida Ltd. by holding that these two comparables are providing know-how whereas the assessee is not obtaining know-how which in our considered view is incorrect as evident from the license agreement as well as other documentary evidence submitted by the assessee.*
>
> *The assessee has paid royalty for use of trademark and marketing information /marketing know-how. All the eight comparables listed in the chart in para 16.5 above are from the same geography and same industry and hence are valid comparables to that of the assessee. Accordingly, the Ld. AO/TPO is directed to include the aforesaid eight comparables in the final set of comparable agreements for the purpose of benchmarking the payment of royalty by the assessee. Ground No. 6 and 9 are thus allowed."*

The inclusion of eight comparables was not questioned before us.

8. Consequently, we find that the appeal raises no substantial question of law and we see no reason to interfere with the ITAT's impugned order. The appeal shall thus stand dismissed."

7. Similarly, he has also placed before us the copy of order dated 09.09.2025 passed in ***Pr Commissioner of Income Tax, Delhi-7 v. Tupperware India Private Limited, ITA 391/2025*** wherein this Court in paragraphs 5 to 8 has stated as under:-

"5. This appeal by revenue under Section 260A of the Income Tax Act, 1961(the Act) lays a challenge to an order dated 25.07.2024 passed by the Income Tax Appellate Tribunal (ITAT) in ITA No. 8135/Del/2018 filed by the respondent assessee in respect of AY 2014-2015 wherein ITAT has followed its own decision in ITA No. 7580/Del/2017 in respect of respondent assessee for the Assessment Year 2013-14 decided on 01.08.2022.

6. Mr. Puneet Rai, Senior Standing Counsel fairly draws our attention to an order dated 14.03.2024 passed in ITA No. 304/2023 by which the appeal has been dismissed by this Court. Further, Mr. Rai could not point out any perversity in the findings of the ITAT in respect of comparables.

7. In view of the fact that the appeal for the AY 2013-14 has been rejected, this appeal shall also follow the same fate.

8. Accordingly, the appeal is dismissed."

8. For parity of reasons, in view of above, as no substantial question of law arises for consideration in these appeals, which relate to AY 2015-16 and AY 2016-17 respectively, the same are dismissed against the appellant/ Revenue and in favour of the respondent/Assessee.

V. KAMESWAR RAO, J

MINI PUSHKARNA, J

DECEMBER 05, 2025
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