

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'C' BENCH,
NEW DELHI**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

ITA No. 4317/DEL/2017 [A.Y. 2012-13]

The D.C.I.T
Circle 10(1)
New Delhi

Vs.

M/s Global Fairs & Media Pvt Ltd
9-10, Express Building
Bahadur Shah Zafar Marg
New Delhi

PAN - AAECG 3877 C

(Applicant)

(Respondent)

Assessee By : Shri KVSR Krishnan, Adv

Department By : Shri Anuj Garg, Sr. DR

Date of Hearing : 28.03.2023

Date of Pronouncement : 29.03.2023

ORDER

PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-

This appeal by the Revenue is preferred against the order of the
Id. CIT(A) - 39, New Delhi dated 10.03.2017 pertaining to Assessment
Year 2012-13.

2. The solitary grievance of the Revenue is that the Id. CIT(A) erred in allowing depreciation on the goodwill when the transaction of sale of slump sale to subsidiary company is not regarded as transfer within the meaning of Section 47(iv) of the Income-tax Act, 1961 [the Act, for short] and the discounted cash flow method to value the goodwill was found by the Assessing Officer to be erroneous.

3. Briefly stated, the facts of the case are that the assessee company is engaged in organization and promotion of Indian and abroad events, expositions, fairs, exhibitions, seminars, conference, publications of magazines and such other events.

4. During the course of scrutiny assessment proceedings and on perusal of financial statements, the Assessing Officer came to know that the assessee company entered into a Business Transfer Agreement [BTA] on 23.12.2011 with The Indian Express Limited [TIEL] to acquire their business of organizing fairs, exhibitions and trade events carried in the name and style of "World Hospitality Exhibition" and of publishing of fortnightly magazine focusing on food and hospitality sector for a lumpsum consideration of Euro three million equivalent to rupee value of Rs.

19,85,00,900/- . This purchase consideration was settled by the assessee by issuing fully paid up equity shares of equal amount.

5. As a result, the company has accounted for tangible assets of Rs. 4,13,869/ trade mark for consideration of value of Rs. 6,78,08,041/- and Goodwill Rs. 13,03,00,990/-.

6. The assessee was asked to furnish details for payment of goodwill with supporting evidences and calculations.

7. In compliance, the assessee company filed details of free cash flows to the business.

8. The Assessing Officer noticed that the assessee company has valued goodwill on Discounted Cash Flow Method [DCF] but there is no mistake in adopting the DCF method but the figures adopted for free cash flow are imaginary when compared to the actual figures of cash flow upto F.Y. 2014-15.

9. Basis this, the Assessing Officer formed a belief that free cash flow projection adopted by the assessee is 4-5 times more than the actual figures submitted by the assessee and came to the conclusion that the assessee company has adopted baseless figures of free cash flows projection just to overvalue the goodwill purchased from TIEL.

10. Referring to the judgment of the Hon'ble Supreme Court in the case of McDowel & Co. Ltd 154 ITR 148, the Assessing Officer, while disallowing the claim of depreciation on goodwill, held that the assessee has used colourable devices to claim depreciation on goodwill. Accordingly, addition of Rs. 1,62,87,624/- was made.

11. The assessee strongly agitated the matter before the ld. CIT(A) and reiterated its claim of depreciation.

12. After considering the facts and submissions, and after drawing support from the BTA, the ld. CIT(A) was convinced that the assessee has acquired business for a consideration of Rs. 19,85,22,900/-.

13. The ld. CIT(A) further found that the assessee has furnished all the details at the assessment stage itself. The ld. CIT(A) was not convinced with the observations of the Assessing Officer that the assessee has over valued the projections for valuation of good will and drawing support from the decision of the Hon'ble Supreme Court in the case of Smifs Securities Ltd 348 ITR 302 and the decision of the Hon'ble Jurisdictional High Court in the case of Triune Energy Services Pvt Ltd 237 ITR 230, came to the conclusion that depreciation is an inherent claim under the Act and claim of deprecation by the assessee on goodwill is based on relevant provision of law and in due deference to the decision of the Hon'ble Supreme Court as well as the Hon'ble Jurisdictional High Court and, accordingly, deleted the disallowance of depreciation on goodwill of Rs. 1,62,87,624/-.

14. Before us, the ld. DR strongly supported the findings of the Assessing Officer and read the operative part of the assessment order.

15. Per contra, the ld. counsel for the assessee reiterated what has been stated before the lower authorities.

16. We have carefully perused the orders of the authorities below. We find that the main objection of the Assessing Officer is that the assessee has overvalued the valuation of goodwill. In our considered view, the Assessing Officer has completely ignored the commercial prudence of an assessee relating to valuation of an asset. Determination of fair market value has to be as per prescribed methodology and even the Assessing Officer has accepted the discounted cash flow method as appropriate method for valuation of goodwill.

17. In such a method, valuation is done on the basis of information and material available on the date of valuation and projection of future Revenue. Merely because performance did not match projections, valuation cannot be challenged, as such approach is not only irrational but lacks material foundation since the valuation is intrinsically based on projections which can be affected by various factors.

18. One must not forget that valuation is not an exact science and, therefore, cannot be done with arithmetic precision and such technical and complex problem should be left to the consideration and wisdom of experts in the field of accountancy.

19. Due Diligence Report of the assessee company was provided by Price Waterhouse Cooper, a well known global accounting firm, which shows that the market value of goodwill was acceptable by an independent third party.

20. Interestingly, in its ground of appeal, the Revenue has challenged that transaction of sale of slump sale to subsidiary company is not regarded as transfer within the meaning of Section 47(iv) of the Act. But, we find that in the hands of TIEL, while framing the assessment order dated 26.03.2015 u/s 143(3) of the Act for A.Y 2012-13, the Assessing Officer has accepted income from long term capital gain for slump sale of business, thereby accepting the transfer u/s 47(iv) of the Act.

21. Reliance on the decision of the Hon'ble Supreme Court and of the Hon'ble Jurisdictional High Court [supra] is well founded. Therefore, considering the facts of the case in totality, in light of the judicial decisions, we do not find any error or infirmity in the findings of the Id. CIT(A). Ground raised by the Revenue is dismissed.

22. In the result, the appeal of the Revenue in ITA No. 4317/DEL/2017 is dismissed.

The order is pronounced in the open court on 29.03.2023.

Sd/-

Sd/-

[ANUBHAV SHARMA]
JUDICIAL MEMBER

[N.K. BILLAIYA]
ACCOUNTANT MEMBER

] Dated: 29th March, 2023.

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
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Date on which the fair order is placed before the Dictating Member for pronouncement	
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