IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES 'E': NEW DELHI.

BEFORE SHRI S. RIFAUR RAHMAN, ACCOUNTANT MEMBER
and
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER

ITA No. 3449/ DEL/2025
(Assessment Year : 2020-21)

Zeta Buildtech Pvt. Ltd. Plot No. 56A, Rama Road, Industrial Area, Delhi	Vs.	DCIT Central Circle 7 Delhi

(PAN: AAACZ3979L)

ASSESSEE BY : Sh. Suresh Kumar Gupta, CA
REVENUE BY : Ms. Ankush Kalra, Sr.DR

Date of Hearing : 09.12.2025
Date of Order : 12.02.2026

O R D E R

PER S. RIFAUR RAHMAN, ACCOUNTANT MEMBER :

1. This appeal is filed by the assessee against the order of Ld. Commissioner of Income Tax (Appeals)-24, New Delhi (hereinafter referred to 'ld. CIT(A)') dated 30.12.2024 for AY 2020-21.
2. At the time of filing of appeal, the Registry has pointed out a defect that appeal is time barred by 87 days.
3. We have heard both the counsels on the issue of condonation of delay. In our considered opinion, there was a reasonable cause for the delay in

filing the appeal. Therefore, we condone the delay in filing the appeal before the Tribunal.

4. Brief facts of the case are, assessee filed its return of income for Assessment Year 2020-21 on 08.01.2021 declaring total income of Rs. 98,48,230/- and claimed Refund of Rs. 80,80,460/-. Subsequently, the Return of Income was processed u/s 143(1)(a) of the Income Tax Act, 1961 (in short 'Act'). The case has been selected for complete scrutiny under CASS. Accordingly, notices u/s 143(2) and 142(1) were issued and served on the assessee, several opportunities were given to the assessee by issue of show cause notice u/s 142(1) and in response assessee has submitted partial informations. The assessee is engaged in carrying business as an agent in distribution of all types of liquor, spirits, alcohol, wines and beverages including nonalcoholic beverages. The Assessing Officer observed that during the impugned Assessment year assessee has received Commission and Interest income of Rs. 20,39,83,741/- and claimed business expenditure 19,41,35,511/- and declared net income of Rs. 98,48,230/-.

5. After considering the detailed submissions, in response to show cause notice, he observed that the assessee has claimed contract purchases paid to M/s S.P. Jindal Financial Services Limited for conducting time to time internal checks in the company and regular MIS. In support of the same assessee has furnished copy of ledger account along with copies of invoices raised by

them. When the assessee was asked to submit the details of work done, the copies of the MIS reports submitted etc., however, assessee submitted that M/s S.P. Jindal Financial Services Limited is doing the stock verification at regular intervals, and they were used to verify the physical stock at warehouse and as per books of accounts. The assessee has submitted few sample report and after verifying, Assessing Officer observed that no documentary evidence submitted by the assessee in support of other services offered by them. He also observed that another concern namely M/s Zenith Tradelinks ("ZT") who has also done stock verification and book keeping at the compensation they were given only Rs. 8 lakhs. Since the assessee has paid substantial amount to M/s S.P. Jindal Financial Services Limited they have shown to carried services towards MIS reports, the same cannot be treated as extended wholly, exclusively for the purpose of business.

6. After considering the detailed submissions of the assessee, he came to the conclusion that the expenditure claimed towards contract charges to the extent of Rs.31.8 lakhs is hereby disallowed and same is added to the income of the assessee.

7. Further he observed that assessee has claimed Rs. 3 lakhs as expenditure towards MIS reporting paid to Bigthink Media P Ltd and when the assessee was asked to give the details, assessee submitted that they were directed to report MIS report for two shops/HCRs. After considering the same

Assessing Officer observed that there is no basis for making said amount and they have deployed manpower at 2 shops but who has purchase gift items and made out of pocket expenses. The invoices raised above by the said concern for MIS reporting which is clearly in variance with the reply given by the assessee. Accordingly he disallowed the same.

8. Further, he observed that assessee has made payments of Rs. 18.5 lakhs to SP Jindal Marketing Limited towards marketing services. When the company was asked to submit the details, after considering the same the Assessing Officer observed that no basis was given by the assessee for the amount paid to SP Jindal. Statement submitted by them shows that they deployed manpower at two shops but they have purchased gift items. Accordingly, he proceeded to disallow the same and further, made other disallowances.

9. Aggrieved with the above order assessee preferred an appeal before Ld. CIT(A) 24, New Delhi. After considering the detailed submissions Ld. CIT(A) sustained the above three additions made by the Assessing Officer.

10. Aggrieved with the above order assessee is in appeal before us raising following grounds of appeal:-

> 1. The Ld CIT(A) on the facts AMD in the circumstances of the case, has erred in upholding disallowance of Rs.31,80,000/- paid for internal audit/MIS information to the entity namely S P Jindal Financial Services Limited without appreciating the fact that the payment had been made wholly AMD

exclusively for the purpose of business AMD to a non-related entity.

2. The Ld CIT(A) on the facts AMD in the circumstances of the case, has erred in upholding disallowance of Rs.3,00,000/- paid for MIS information to the entity namely Bigthink Media P.Ltd without appreciating the fact that the payment had been made wholly AMD exclusively for the purpose of business AMD to a non-related entity.

3. The Ld CIT(A) on the facts AMD in the circumstances of the case, has erred in upholding disallowance of Rs. 18,50,000/- paid to the entity namely S P Jindal Marketing Limited without appreciating the fact that the payment had been made wholly AMD exclusively for the purpose of business AMD to a non-related entity.

4. Without prejudice to above grounds, the Ld CIT(A) has erred in upholding the disallowances of expenses without rejecting the books of account as per provisions of section 145(3) of the Act AMD therefore, disallowances of expenses is not tenable in law.

5. The appellant craves leave to add, DLEETE, modify / amend the above grounds of appeal with the permission of the Hon'ble appellate authority.

11. At the time of hearing Ld. AR of the assessee submitted that both the lower authorities practically failed to take into account the stock verification reports having complete inventory duly signed by an independent Chartered Accountants firm engaged by the said service provider for the stock verification on assignment basis. There is complete reporting of the stock of liquor identifying which of the stock is saleable and also that which is not to be offered for sale. Such specialized supervisory assignment involves professional skill and competence. Such services since are paid to unrelated party, its excessiveness and the reasonableness of the same could not be gone into as it is to be seen from the point of view of the businessman and

cannot be dictated by the Revenue. To support the above proposition of law, reliance is placed in the decision of **CIT vs Glaxo Smithkline Asia P Ltd 295 ITR 35 (Del)** which is approved by the Hon'ble Apex Court in dismissal of SLP by the department. In the above judgment, the Hon'ble High Court accepted the logic of the Hon'ble ITAT that disallowance is required to be deleted on the ground that there was provision to disallow expenditure on the ground that it was excessive or unreasonable unless case of the assessee fell in the scope of sec 40A(2)(b) of IT Act. It was emphatically held that since it was not a case of the department that sec 40A(2) is attracted, disallowance of such expenditure for above reason could not be made.

12. In this background, further submitted that the Legislature was inclined to introduce the concept of reasonableness of the expenses/cost paid to related parties under domestic transfer pricing provisions u/s 92BA of IT Act introduced w.e.f 01.04.2013. From the above scope of powers u/s 92BA confined to the related entities covering the payments made to them shows that there was no legislative intent to go into the question of reasonableness of the expenses paid to the unrelated domestic parties. In view of above and the legislative intent found highlighted from above introduction of domestic transfer pricing and also having regard to the decision of the Apex Court, the expenses paid to unrelated parties cannot be subjected to any disallowance on the ground of same being unreasonable or excessive.

13. It is further submitted that once it is established that there was nexus between the expenditure and purpose of business, the revenue cannot justifiably claim to put itself in the armchair of the businessman or in the position of Board of Directors and assume the role to decide how much is reasonable expenditure having regard to the circumstances of the case. No business man can be compelled to maximize his profits. The expediency, legitimacy and the business needs will have to be examined from the assessee's point of view and not from the department's view. To support the above proposition of law, reliance is placed in the following decisions:

- S.A. Builders 288 ITR 1 (SC)
- CIT v. Walchand & Co. (P) Ltd.[1967] 65 ITR 381 (SC)
- CIT Vs. Dhanrajgirji Raja Narasingirji 91 ITR 544 (SC)
- J.K. Woollen Manufacturers v. CIT[1969] 72 ITR 612 (SC)
- Aluminium Corpn. of India Ltd. v. CIT [1972] 86 ITR 11 (SC)
- Dalmia Cement (254 ITR 377) (Del)
- Voltamp Transformers Pvt. Ltd. vs. CIT 129 ITR 105 (Guj)
- Shaw Wallace Distilleries Ltd. vs. ACIT: 85 TTJ 236 (Del.);
- DCIT vs ICICI Web Trade Ltd.: ITA No. 6559/M/2006 (Mum.).

14. With regard to disallowance of Rs. 3 lakhs for MIS information to M/s Big Think Media P Ltd, it is submitted that, since in the present case also, the payment is to the unrelated party and relying on the decision in support of

ground No 1. the disallowance based on the non-availability of the supporting report is not tenable where there is no dispute on the payments made. During proceedings before lower authorities, the confirmation of account, invoice along with audited financials (PB 163-179) were duly placed on records.

15. With regard to disallowance of Rs. 18,50,000/- to M/s SP Jindal Marketing Ltd. for marketing expenses and consultancy expenses it is submitted that the Ld CIT(A) has confirmed the disallowance on the ground that the payment is made to the above payee for providing marketing services. The appellant had claimed the payment under the above head to be at Rs 4,45,74,000/-being payments made to various service providers detailed in Table at pages 9 to 14 of the assessment order. Out of the above amount, the disallowance of Rs 18,50,000/- was confirmed on the ground that payment for providing marketing services to 2 outlets/HCR was excessive if compared to the payment for similar services paid to other party M/s Sardinero Agro Pvt Ltd to whom payment of Rs 5,00,000/- was made for dealing with 700 shops and 600 HCR. The above observation is factually incorrect as the payment to the said party was made for 9 outlets only (Table at page 13 of the AO's order item No 7). The appellant prays that in case of Shimpi Marketing Pvt Ltd the payment of Rs 1,80,00,000/- for 13 shops/ HCR (Table at page 13 of the AO's order item No 8) was found reasonable which comes to Rs 13,85,000/-

approx. per location. If that be the case, the payment to SP Jindal Marketing P Ltd @ Rs. 9,25,000/- per location could not be held to be excessive or unreasonable.

16. In view of above it is prayed that disallowances of expenses confirmed by the Ld CIT(A) are based on conjectures and surmises and besides above, the disallowances are not tenable when the books of account have not been found to be not unreliable warranting rejection of the same u/s 145(3) of the Act leading to the best judgement assessment. To support the above view, the reliance is placed on the following authorities:

- CIT Vs Pashupati Nath Agro Food Products Pvt. Ltd. (Allahabad High Court) ITA No.165 of 2010 dated 04.05.2017
- Sargam Cinema vs CIT 328 ITR 513(SC);
- PCIT vs R.G. Buildwell Engineers Ltd (2018) 259 Taxman 371 (Del) approved by Hon'ble Apex Court in (2018) 259 Taxman 370 (SC)

17. On the other hand Ld. DR submitted that assessee has not substantiated the above claim of expenditures before the Assessing Officer and Assessing Officer was not satisfied with the statements made by the assessee without bringing on record any MIS report submitted by the above said parties. Since the assessee has paid similar service charges to Zenith much less but for the same kinds of services assessee has incurred additional expenditures without

there being proper reasons for making such additional payments to SP Jindals Financials. Similar issues were noticed by the Assessing Officer in the other disallowances wherein assessee has claimed the same sales and marketing expenditure. He heavily relied on the findings of the lower authorities.

18. Considered the rival submissions and material placed on record, we observed that assessee has employed SP Jindals Financial Services Limited for internal audit/MIS reporting and we noticed that they were employed to services of stock verification and to submit the detailed MIS reports on monthly basis. Assessee has submitted details of stock inventory certificates which are placed at paper book from pages 154 to 162 of the paper book. Further we observed that the services rendered by the independent Chartered Accountant who were engaged in providing above said services for a stock verification on assignment basis. They also filed stock verification report. The above said entity is an unrelated and independent entity, the same are on the basis of contract between the parties involved, there is no measurement for dealing with such engagement. Since the assessee is involved on the basis of distribution of various kinds of alcohol and non alcohol beverages and it has several stores in order to control them they need an independent agencies. Accordingly they employed the services of unrelated and independent parties. Therefore, we cannot wear a cap of a businessman to

determine disallowance of expenses particularly it is incurred for the purpose of business.

19. Therefore, we are inclined to allow the same. With regard to disallowance of payment of Rs. 3 lakhs made to Bigthink Media Pvt Ltd, in our considered view the issue involved is similar to the issue of payment of Rs.18.5 lakhs made to SP Jindal. Therefore we observed that these payments were made towards providing market services to two outlets/HCRs and the same was disallowed on the basis of unreasonableness. Since these parties are unrelated and independent parties. We observed similar payments were made to the other parties who also provided similar services. Further we observed that assessee has paid to Shimpi Marketing Pvt Ltd of Rs.1.80 crores for providing services in 13 shops/HCRs and the same amount was found to be reasonable. Even on comparison in the case of Shimpi Marketing a cost per shop comes to Rs.13.85 lakhs per location whereas SP Jindal Marketing has claimed only Rs.9.25 lakhs per location. We cannot apply same logic to compare the reasonableness of the expenses. Since, we do not know the location, nature and complexity involved in each assignments, it is only the assessee who is in this line of business for several years.

20. Therefore, we are inclined to allow the grounds raised by the assessee on the basis of payment to independent and unrelated parties.

21. In the result, appeal filed by the assessee is **allowed.**

22. Order pronounced in the open court on this day of 12th February, 2026.

Sd/-	**Sd/-**
(RAJ KUMAR CHAUHAN) **JUDICIAL MEMBER**	**(S.RIFAUR RAHMAN)** **ACCOUNTANT MEMBER**

Dated: 12.02.2026
***Mittali Sr. PS**

Copy forwarded to:

1. Appellant
2. Assessee
3. CIT
4. CIT(Appeals).
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI