uआयकर अपीलीय अधिकरण, दिल्ली पीठें, नई दिल्ली
INCOME TAX APPELLATE TRIBUNAL, DELHI BENCHES, NEW DELHI

BENCH: D

BEFORE VIKAS AWASTHY, JUDICIAL MEMBER AND RENU JAUHRI, ACCOUNTANT MEMBER

ITITA 52 to 56/DEL/2025 **ITA 1847/DEL/2025** निर्धारण वर्ष/Assessment Year: **2017-18 to 2022-23**		
BBC GLOBAL NEWS LIMITED 1, TELEVISION CENTRE, 101 WOOD LANE LONDON, UNITED KINGDOM	**Vs.**	**DEPUTY COMMISSIONER OF INCOME TAX CIRCLE INTL TAX 1(1)(2)** ROOM NO. 313, CIVIC CENTRE, MINTO ROAD NEW DELHI-110002
अपीलार्थी **Appellant**		प्रत्यर्थी **Respondent**
Permanent Account Number of Assessee:		**AACCB5483H**
अपीलार्थी द्वारा/Appellant represented by:		**Shri Sachit Jolly, Sr. Advocate, S/Shri Abhudaya Shankar Bajpai, Sohum Dua, Advocates & Anurag Singhal, Chartered Accountant**
प्रत्यर्थी द्वारा/Respondent represented by:		**S/Shri Indruj Singh Rai, Special Counsel for Revenue & Gourav Kumar, Advocate**

सुनवाई की तारीख / Date of conclusion of hearing:	**12-May-2026**
घोषणा की तारीख / Date of pronouncement:	**10-August-2026**

आदेश / ORDER

PER VIKAS AWASTHY, JUDICIAL MEMBER:

These six appeals by the assessee, each for assessment year 2017-18 to 2022-23, respectively are taken up together as similar issues are involved in all these appeals and the facts germane to the issues in these appeals are identical.

2. Both sides unanimously stated that appeal for AY 2022-23 be taken up as lead case, hence, the facts are narrated from the said appeal.

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3. Shri Sachit Jolly, appearing on behalf of the assessee at the outset submits that the assessee is not pressing ground no. 1 of appeal, assailing validity of assessment order dated 29.01.2025 on the ground of limitation. In light of the statement made by ld. Counsel for the assessee at Bar, the legal ground raised by way of ground no. 1 of appeal is dismissed as not pressed.

4. The assesse in appeal has raised as many as ten grounds involving five issues The gist of issues raised by the assessee in appeal is as under:-

(i) (Ground no. 3 to 5) Enhancement of profits attributable to assesee's DAPE from 8.75% to 15%;

(ii) (Ground No.6) Arm's Length payment to Associated Enterprises (AE), BGNIPL which is also assessee's DAPE, therefore, no further attribution of profits to assessee's DAPE in India;

(iii) (Ground no. 7 & 8) Non grant of credit of tax paid by assessee's AE in India;

(iv) (Ground no. 9) Levy of interest u/s.234B of the Act; &

(v) (Ground no.10) Initiation of penalty proceedings u/s.270A of the Act.

5. The ld. Counsel for the assessee at the outset submits that admittedly BBC Global News India P. Ltd. (BGNIPL) is assessee's Dependent Agency Permanent Establishment (DAPE). The ld. Counsel stated that the limited issue for consideration in the present appeal is the rate of attribution of profits to assessee's PE in India. He contended that in the preceding assessment years stating from AY 2004-05, the attribution of profits to PE was uniform @8.75%. In the impugned assessment year, the Assessing Officer (AO) in an arbitrary manner increased attribution from 8.75% to 15% without giving any valid reason or analyzing empirical data. The ld. Counsel submits that the assessee had entered into Mutual Agreement Procedure (MAP) for assessment years 2004-05 to 2014-15. For the aforesaid assessment years, the profit to be attributed to PE of the assessee was mutually agreed @8.75% of the advertisement revenue. It was further agreed that on the tax payable by the assessee on the income after attribution of profits, the AO shall give credit of the taxes paid by the AE of the assessee in proportion, to the profits from advertisement revenue to total profits for the relevant assessment years. In the impugned assessment year, the AO while framing the draft assessment order increased the profit attribution rate to 15% without referring to any empirical data. The ld. Counsel submits that since in the impugned assessment year there is no change in functions of the AE or manner of business of the assessee, therefore, profit attribution of 8.75% on the profits from advertisement in India should not be changed.

5.1. With regard to non-grant of credit of tax paid by AE of the assessee amounting to Rs.25,08,200/-, the ld. Counsel submits that the AO has failed to cary out the directions of the Dispute Resolution Panel (DRP) in this regard. The DRP in para 6(vii) of the Directions has directed the AO to examine submissions of assessee with respect to grant of tax credit and pass a speaking order. The AO while passing the final assessment order has not given effect to the said directions of the DRP. The ld. Counsel prays for directions to the AO to allow credit of tax paid by assessee's PE in India i.e. BGNIPL.

6. Per contra, Shri Indruj Singh Rai, Special Counsel, representing the department vehemently defending the impugned order submits that MAP resolution was in respect of assessment years 2004-05 to 2014-15 in respect of revenue from advertisement. The impugned assessment year is not covered by MAP. MAP resolution is not binding on the assessment years not covered under MAP. The ld. Standing Counsel for the Department submits that a survey action was carried out in the case of assessee in February 2023. In June 2023, the assessee had offered additional income to tax to the tune of Rs.80,00,000/-. During survey statements of key officials of the assessee were recorded i.e. Shri Vishal Bhatnagar, Sales Director, South Asia Advertising and M/s.Rachna Agarwal. The statement of two persons are at pages 634 to 641 of the paper book. The ld. Special Counsel pointed that after examining the statements and in light of the fact that the assessee had itself offered additional income to tax post survey action shows that the activities carried out by the DAPE of assessee were beyond the scope of services mention in Transfer Pricing Study Report (TPSR) for the impugned assessment year. From the statements of Shri Vishal Bhatnagar new facts have emerged indicating that assessee's DAPE (BGNIPL) was carrying out activities which are beyond TPSR. In this backdrop, the AO increased, rate of attribution from 8.75 to 15%. The ld. Special Counsel, thus, prayed for upholding findings of the AO in attributing 15% to assessee's PE in India.

7. Both sides heard, orders of the lower authorities examined. The assessee is a tax resident of United Kingdom (UK) and is engaged in running and operating BBC World News Channel twenty-four hours broadcasting International News and Information TV Channel. The assessee is also engaged in running and operating the website i.e. www.bbc.com. It is also an undisputed fact that the assessee has a DAPE in India i.e. BGNIPL. The assessee had entered into MAP resolution for AYs 2004-05 to 2014-15. It was mutually resolved that the profit of attribution to the PE of the assessee would be 8.75% of the advertisement revenue for the assessment years under MAP. Thereafter, for two more AYs i.e. AY 2015-16 and 2016-17 same percentage of profit attribution to the assessee's PE in India were adopted. In the impugned assessment year, the AO increased the rate of attribution of profit to assessee's PE in India from 8.75% to 15%.

The primary reason for enhancing the rate of attribution is that during the course of survey action carried out in the case of assessee in February 2023, statement of Shri Vishal Bhatnagar, Sales Director, were recorded. From his statement it transpires that the AE of assessee is carrying out activities which are beyond the scope of activities mentioned by the assessee in TPSR for the impugned assessment year. Based on the statement of Shri Vishal Bhatnagar the AO held that following activities carried out by the PE of assessee are beyond the activities mentioned in TPSR:

> "I. Promote sales of advertising airtime and sponsorships in the territory.
> II. Solicit proposals from and disseminate information to advertisers for advertisement airtime and sponsorships.
>
> III. Provide clarifications on features and standards of advertisement airtime and sponsorships in territory.
>
> IV. Obtain orders from customers and act as a communication channel between advertisers and the first party.
>
> V.Provide assistance in completing all documentation as required by BBCGN.
>
> Vl.Collect money due to BBGGN and follow up on outstanding amounts.
>
> Vll.Gain a thorough understanding of the market conditions and influencing factors.
>
> VIII. Perform business development for maximizing advertising revenue.
>
> IX. Identifying key opportunities and requirements for each market and proposing campaigns to address them.
>
> X. Implementing marketing PR and sales promotion activities for the channel.
>
> XI. Ensuring regular supply of marketing materials to primary customers.
>
> XII. Carry out marketing and research activities on the reach of the BBC World News Channel, BBC websites, and BBC social media."

8. The assessee has not been able to controvert the activities/functions allegedly carried out by assessee's PE in India as pointed by the AO. Further, it is not controverted that these activities are over and above, the activities referred in the TPSR. The argument of ld. Counsel for the assessee to uphold 8.75% rate of attribution is the said rate was agreed in MAP resolution for AY 2004-05 to AY 2014-15, therefore, should be adopted in the impugned assessment year as well. It is a settled legal position that MAP resolution is not binding on assessment years not explicitly covered by MAP resolution. The benefit of MAP can only be extended to AYs not covered by MAP resolution, if there is no change in facts, scope of activities carried out by the assessee or its PE. In the instant case, post survey action, it transpires that the scope of activities carried out by assessee's PE is much wider than what is specifically stated in TPSR. Therefore, in this changed scenario the rate of attribution determined under MAP cannot be adopted. The rate of attribution of profit to assessee's PE in India is required to be enhanced to compensate for the additional activities carried out by the PE in India. It is equally true that the AO on mere estimation has enhanced the attribution of profit from 8.75% to 15.%. In our considered view the rate of attribution as determined by the AO is very much on higher side. To meet the ends of justice and to lay the matter to rest, we restrict attribution to 12% of advertisement revenue for the impugned assessment year. Thus, ground of appeal no. 3 to 5 of appeal are partly allowed, in the terms aforesaid.

9. In ground no.6 of appeal the assessee has assailed that assessee's DAPE in India has been remunerated at arm's length for providing advertisement sales and market support services, therefore, no further attribution of profits to assessee's DAPE is warranted. The Hon'ble Supreme Court of India in the case of DIT vs Morgan Stanley & Co. reported as 162 Taxman 165 in principle has held that where PE is remunerated on arm's length basis taking into account all risk taking functions, no further attribution would be required to PE. The Hon'ble Apex Court has carved an exception to the said principle, i.e. where the transfer prising analysis does not adequately reflect the functions performed and risks assumed by the PE. The case of the assessee falls under said exception. Therefore, we find no merit in ground no. 6 of the appeal, ergo dismissed.

10. In respect of no. 7 and 8 of appeal, with regard to credit of tax paid by Indian AE to the assessee's, the AO in para 13 of the final assessment order records that as per MAP resolutions it was agreed that the taxes paid by the India PE in relation to advertisement income shall be provided as credit to the assessee. The AO denies the benefit of said tax credit to the assessee in the impugned assessment year only for the reason that in the current year there is no MAP and in the absence of MAP agreement, the methodology adopted in the previous years cannot be carried forward to the assessment year where there is no MAP. We are in agreement with observations of the AO to the extent that MAP resolutions are not binding on the assessment years not covered under MAP. Nevertheless, there is no reason to deviate from MAP resolutions in assessment years not covered under MAP where there is no change in facts. Once in principle it has been agreed that the benefit of taxes paid by the PE in relation to the advertisement income shall be allowed to the assessee, the same benefit can be extended to the assessee in subsequent assessment year i.e. the assessment year not covered by MAP as no material is available on record to show that credit of tax paid by DAPE of the assessee cannot be allowed to the assessee. This issue is restored back to the AO for verification and quantification of credit of tax paid by Indian PE in relation to advertisement income. Ground of appeal no. 6 is allowed for statistical purpose.

11. In so far as, interest u/s.234B of the Act is concerned, interest u/s.234B of the Act is consequential and mandatory, hence, ground no. 9 of appeal is dismissed.

12. The assessee in ground no. 10 of appeal has assailed initiation of penalty proceeding u/s.270A of the Act. Challenge to initiation of penalty proceedings at this stage is premature, hence, ground no. 10 of appeal is dismissed.

13. Before parting with the order, we record that the appeal has been decided on the basis of submissions made by rival sides during the course of hearing of appeal liberty was granted to both side to file short written submissions. The written submissions made by both sides after conclusion of hearing have not been considered to adjudicate the issues in appeal as they are not in sync with the submissions made during the course of hearing of appeals.

14. In the result, appeal of the assessee is partly allowed.

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15. The ld. Counsel for the assessee submits that consequent to survey action on 14.02.2023 to 16.02.2023 in the case of assessee, assessments for AY 2017-18 to 2021-22 were reopened. The AO in reassessment proceedings enhanced attribution of profits to DAPE of the assessee in India from 8.75% to 15%, as was done in the assessment proceedings for AY 2022-23. Both sides unanimously stated that, since, facts germane to the issues in appeals and grounds of appeal in all appeals are identical, the submissions already made on merits for AY 2022-23 would equally hold good for assessment years 2017-18 to 2021-22.

16. The ld. Counsel for the assessee further pointed that in appeals for the assessment years 2017-18 to 2021-22, the assessee had assailed assessment orders on the ground of limitation by way of ground no. 1 and also validity of the assessment proceedings with reference to the jurisdiction of the AO for initiation of assessment proceedings i.e. Jurisdictional Assessing Officer (JAO) vs. Faceless Assessing Officer (FAO), by way of ground no. 4 of appeal. The assessee does not wishes to press both these legal grounds. The ld. Counsel also placed on record a letter dated 11.05.2026 from the assessee not to press ground no. 1 and ground no. 4 of appeal for each of the appeal for AY 2017-18 to 2021-22, respectively.

17. In light of the statement made by ld. Counsel for the assessee at Bar and also the letter dated 11.05.206 received from the assessee, the legal ground raised by the assessee in ground no. 1 of appeal, challenging validity of the assessment order on the ground of limitation and ground no.4 assailing jurisdiction initiating for reassessment proceedings i.e. FAO or JAO are dismissed as not pressed in the appeals under reference.

18. The gist of other grounds of appeal raised by the assessee in the appeals for AY 2017-18 to 2021-22 are as under:-

(i) (Ground no. 6 to 8) Enhancement of profits attributable to assesee's DAPE from 8.75% to 15%;

(ii) (Ground No.9) Arm's Length payment to Associated Enterprises (AE), BGNIPL which is also assessee's DAPE, therefore, no further attribution of profits to assessee's DAPE in India;

(iii) (Ground no. 10 & 11) Non grant of credit of tax paid by assessee's AE in India;

(iv) (Ground no. 12) Levy of interest u/s.234B of the Act; &

(v) (Ground no.13) Initiation of penalty proceedings u/s.270A of the Act.

19. Since, these very issues have been decided by us on identical set of facts in AY 2022-23, our findings on these issues while deciding appeal of the assessee for AY 2022-23 would mutatis mutandis apply to the present set of appeals. For parity of reasons, the appeals of the assessee are partly allowed in similar terms.

20. To sum up, appeals of the assessee are partly allowed.

Order pronounced in the open court on Monday the 10th day of August, 2026.

Sd/-	**Sd/-**
RENU JAUHRI	**VIKAS AWASTHY**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Delhi
Dated: **10-August-2026**

Copy to:

1	**BBC GLOBAL NEWS LIMITED, 1, TELEVISION CENTRE, 101 WOOD LANE LONDON, UNITED KINGDOM**
2	**DCIT CIRCLE INTL TAX 1(1)(2), ROOM NO. 313, CIVIC CENTRE, MINTO ROAD, NEW DELHI-110002**
3	THE PCIT / CIT,
4	THE D.R., ITAT, DELHI BENCH
5	GUARD FILE

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ASSISTANT REGISTRAR
I.T.A.T., DELHI