

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'A': NEW DELHI**

**BEFORE SHRIS.RIFAUR RAHMAN, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.2034/DEL/2023
(Assessment Year: 2016-17)**

Aalap Digital Music Pvt. Ltd.,
E-2/16, White House,
Ansari Road, Daryaganj,
Delhi – 110 002.

vs. ACIT, Circle 1 (1),
New Delhi.

(PAN :AAKAC1384L)

(ASSESSEE)

(RESPONDENT)

ASSESSEE BY : Shri Nirbhay Mehta, CA
REVENUE BY: Shri R.K. Dol, Sr. DR

Date of Hearing : 14.10.2024
Date of Order : 10.01.2025

ORDER

PER S.RIFAUR RAHMAN,AM:

1. This appeal has been filed by the assessee against the order of Ld. Commissioner of Income Tax(Appeals)/National Faceless Appeal Centre, Delhi ["Ld. CIT(A)", for short] dated 23.05.2023 for Assessment Year 2016-17.
2. Brief facts of the case are, assessee filed its return of income on 13.10.2016 declaring loss of Rs.6,93,00,174/-. The case was selected for scrutiny under CASS and notices under section 143(2) and 142(1) of the

Income-tax Act, 1961 (for short 'the Act') were issued and served on the assessee. In response, ld. AR of the assessee attended and submitted certified/audited statements for AY 2016-17.

3. During assessment proceedings, the Assessing Officer observed that the assessee has acquired license of Audio & Audio visual rights of the non-Bollywood regional music content for exclusive commercial exploitation on mobiles & digital platform and for physical distribution & public performance. A show cause notice was issued to the assessee to explain the Royalty expenses claimed by it. In response to show-cause notice, assessee vide letter dated 20.12.2018 submitted as under :-

Question: "that for the first 16 album titles the expenditure for royalty is for 6 years which also includes for FY 2014-15, the assessee has claimed the expenditure of previous years in this year but has not considered the revenue income from this album pertaining to FY 2014-15, the assessee has claimed the expenditure of previous years in this year but has not considered the revenue income from this album title pertaining to FY 2014-15. Why the expense incurred for purchasing the royalty for A Y 2015-16 should not be disallowed".

Response of the Assessee Company: With regard to the above, at the outset it is submitted that Aalap Digital Music Pvt. Ltd. (Aalap) had entered into content licensing agreement with Hungama Digital Media Entertainment Pvt. Limited (HDMEPL) for procurement of the listed 20 titles belonging to the Zee Music in FY 2015-16. HDMEPL in turn had a content licensing agreement with Zee Music, which was entered on 03.07.2015, consequent to which the above referred debit note was raised by HDMEPL to Aalap in FY 2015-16. .

There is no separate agreement for licensing of content by HDMEPL to Aalap entered in FY 2014-15.

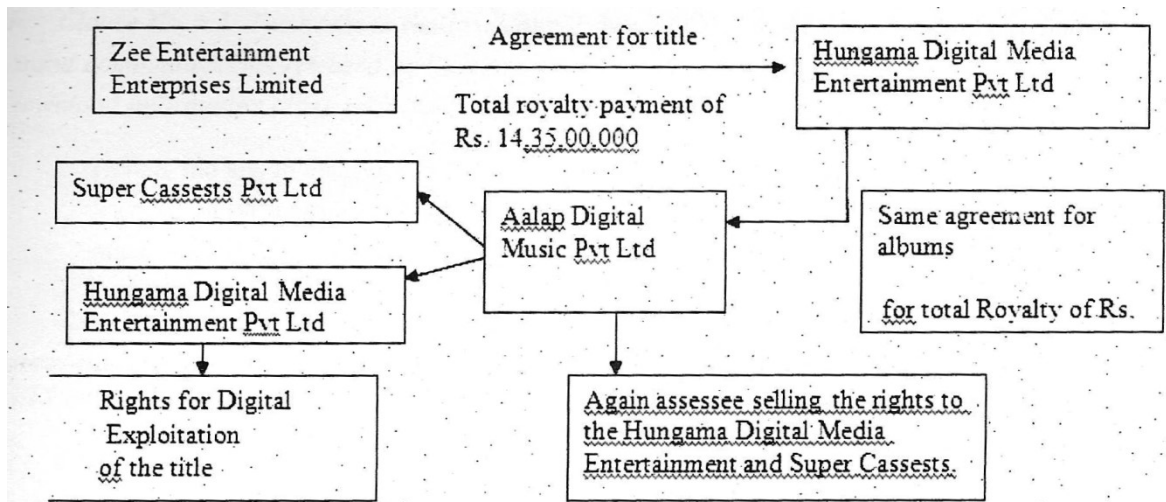
The agreement with Zee Music and HDMEPL was under discussion and was finally executed in FY 2015-16 which was after the music release of most of the titles. The title revenue was however received by HDMEPL prior to the date of the agreement. Thus the titles were assigned from prior date in case of these titles.

Since the licensing agreement between Zee Music and HDMEPL and consequent sub licensing agreement between Aalap and HDMEPL was executed in FY 2015-16, all receipts on this account of these albums were recognised on 22.09.2016. Although this content was sub licensed to Aalap, HDMEPL generated revenue through exploitation of this content on various distribution platforms.

The assessee has further replied that after the close of the FY 2015-16, HDMEPL was not provided the statement of income realised due to non-compilation of data. Therefore, the assessee company was provided the income in Balance Sheet on provisional basis. On 22.09.2016 HDMEPL provided the statement of income amounting to Rs.3,56,94,531/-. On the basis of statement, the assessee company declared the balance income in AY 2017-18 in sales income. Copy of statement dated 22.09.2016 received from party already filed vide our letter dated /4./2.20/8 and copy of sales service account for the FY 2015-16 and 2016-17 is being enclosed at page no. 6 to 9. A Confirmation letter in respect of the revenue generated against these titles from HDMEPL is attached.”

4. After considering the above submissions, Assessing Officer observed that assessee has two shareholders i.e. Super Cassettes and HDMEPL having 50% shareholding. One of the Directors of Super Cassettes and HDMEPL is the common Director in the assessee company i.e. Shri Bhushan Kumar. Similarly, Shri Neeraj Roy, common Director in assessee and HDMEPL. The Agreement entered between the assessee

and HDMEPL are afterthoughts and the money has just changed hands between one company and other company. The Assessing Officer gave a chart representing the above observation :-



5. He further observed that it is hard to accept the content revenue of movies released in FY 2014-15 has been assigned to the assessee and that also after the passage of 18 months. Further, after analyzing the various clauses of agreement between Zee Music and HDMEPL, he came to the conclusion that it clearly depicts that there are means of tracking the exploitation and converting the figures into the revenue figures and the time period frequency is also such that it would not take them months to capture the exploitation made as the same has to be done within 15 days before the end of each quarter as explained. Further the agreement says

that it is valid for 6 years from the effective date, as no effective date has been specifically mentioned in the agreement. It should be considered as 3rd of July, 2015 and if that is the case, the album titles released in FY 2014-15 under whose logo, were they being exploited. The assessee has not been able to substantiate the submissions made with other documentary evidence.

6. Further he observed that the assessee has not followed any matching concept of booking revenue to that of expenditure, nor has the assessee has followed any of the accounting standards be it Revenue Recognition i.e. Accounting Standard – 9 or be it Providing for expenses i.e. Accounting Standard – 29, nor the Chartered Accountant bothered to give notes to the above effect in the financial statements or in his Audit Report. He also rejected the submissions of the assessee that the entire amount of income provided in AY 2016-17 which is being earned from HDMEPL has been booked as an expense in the books of HDMEPL in AY 2017-18. With the above observation, he restricted the total royalty of payment of Rs.11,79,49,313/- out of which he calculated Rs.7,77,85,538/- prepaid expenses as the same is not relating to current assessment year. The relevant chart is reproduced on pages 6 & 7 of the order. With the above disallowances, he determined the total income for assessment year under consideration at Rs.84,85,364/-.

7. Aggrieved with the above order, assessee preferred an appeal before the NFAC, Delhi and before Id. CIT (A), assessee has submitted as under :-

“3.1 The appellant company namely Aalap Digital Music Pvt. Ltd. has been incorporated as a joint venture company vide certificate of incorporation dated 1.12.2011 by ROC, Delhi and Haryana. The share capital is held 50% each by M/s Super Cassette Industries Pvt. Ltd, and Hungama Digital Media Entertainment Pvt. Ltd. JV agreement executed between the shareholders is forming part of the Article of Association.

3.2 M/s Super Cassette Industries Pvt. Ltd. (SCIPL) is engaged in the business of acquiring music rights and thereafter commercially exploiting the same for deriving income from physical sale of CDs and digital exploitation on medium such as mobile network, Radio, Television etc., while Hungama Digital Media Entertainment Pvt. Ltd. (HDMEPL) is engaged in the business of providing aggregation services and earning revenue through providing other allied services to mobile network operators.

3.3 The appellant company has been incorporated as a special purpose vehicle (SPV) by both the parties specifically for acquiring specific type of music rights. After acquisition of such music rights the physical rights i.e. production and sale of CDs and issuing license for public performance are being commercially exploited by SCIPL, whereas the digital rights are being exploited by HDMEPL. The digital rights are in the nature of pre-embedding of music in mobile phones, ringtones, caller tunes, ring back tones etc.

3.4 During the year under consideration assessee company entered into content license agreement with HDMEPL on 20/12/2015 for exploitation 20 titles of film for Rs. 11,73,62,500/- plus service tax for 6 years for start from various dates. Copy of agreement as well as debit note of party is being enclosed at Page 25 to 34. These exploitation rights were first acquired by HDMEPL from Zee Music on 03/07/2015 for 29 films, at Rs. 14,35,00,000/- and Hungama Digital Media Pvt Ltd sub - licensed the rights to Aalap Digital Music Pvt Ltd for 20 films out of 29 films at cost price. The details of rights purchased by HDMEPL from Zee Music Company and sold to Aalap digital is as under:-

<i>License fee for Sr. No. 1 to 18,20 & 23</i>	<i>Rs.11,73,62,500/-</i>
<i>Transfer to Aalap Digital</i>	
<i>License fee for Sr. no. 19,21,22& 24 to 29</i>	<i>Rs. 2,61,37,500/-</i>
<i>with HDMEPL</i>	
<i>Total</i>	<i>Rs.14,35,00.000/-</i>

Copy of agreement between Zee Music Company and Hungama Digital Media Entertainment Pvt. Ltd is being enclosed at page 35 to 57.

3.5 After the close of the financial year, HDMEPL did not provide the statement of income emanating out of above agreement due to non compilation of data. Therefore assessee company recognized income of Rs.3.5 Cr. in Balance Sheet for the year ended 31.03.2016 on provisional basis. On 22/09/2016 after signing the Balance sheet HDMEPL provided the statement of income amounting to Rs.3,56,94,531/- on actual basis and thus balance amount of Rs.6,94,531/- was included as income in FY 2016-17.

3.6 Past financial performance of Aalap Digital Music Pvt. Ltd. is as under:-

Fin. Year.	Sale / Income (Rs.)	Profit (Rs.)
2012-13	1,37,85,863/-	(4,78,65,172/-)
2013-14	2,07,95,855/-	44,05,147/-
2014-15	1,78,27,074/-	1,77,24,096/-

4. During the course of assessment proceedings the A.O raised the following query

On verification of the PAL account, audit report and books of account of the assessee presented for perusal it was noticed that the assessee has claimed an expense of Rs.11,79,49,313/- as royalty paid to the Hungama digital media entertainment pvt ltd for acquiring license rights for 20 movies for exploiting the rights for next 6years. The assessee has submitted the agreement between Hungama digital media entertainment Music Pvt ltd and the assessee dated 20.12.2015.

The album title mentioned in the agreement is for 20 movies. The start date of the agreement is pertaining to F. Y. 2014-15 for first 16 album titles. The expenditure for royalty is for 6 years which also includes F. Y. 2014-15, the assessee has claimed the expenditure of previous years in this year but has not considered the revenue income from this album title pertaining to FY 2014-15. Why the expense incurred for purchasing the royalty for AY 2015-16 is not disallowed.

5. The assessee furnished following reply :

"With regard to the above, at the outset it is submitted that Aalap Digital Music Pvt.Ltd. (Aalap) had entered into a content licensing agreement with Hungama Digital Media Entertainment Private Limited (HDMEPL) for procurement of the listed 20 titles belonging to Zee Music in FY 2015-16. HDMEPL in turn had a content licensing agreement with Zee Music, which was entered on July 3rd, 2015; consequent to which the above referred debit note was raised by HDMEPL to Aalap in FY 2015-16. There is no separate agreement for licensing of content by HDMEPL to Aalap entered into in FY 2014-15. Copy of content Licensing agreement between Aalap and HDMEPL already filed vide our letter dated

01/11/2018.

The agreement with Zee Music and HDMEPL was under discussion and was finally executed in FY 2015-16 which was after the music releases of most of the titles. The titles revenue was however received by HDMEPL prior to the date of agreement. Thus the titles were assigned from prior date in case of these titles. The details of receipts on account of the various album titles for the financial year 2014-15 and 2015-16 alongwith letter dated 20/12/2018 is attached herewith at page no. 120-133.

Since the licensing agreement between Zee Music and HDMEPL and consequent sub licensing agreement between Aalap and HDMEPL was executed in FY 2015-16, all receipts on account of these albums were recognised on 22/09/2016. Although this content was sub-licensed to Aalap, HDMEPL generated revenue through exploitation of this content on various distribution platforms. A confirmation letter in respect of the revenue generated against these titles from HDMEPL alongwith letter dated 20/12/2018 is attached herewith at page no 120-133."

6. *Finally the AO disallowed the royalty expenses amounting to Rs.7,77,85,538/- by holding that the said expenditure pertains to prior period since the corresponding revenue booked pertains partially to previous year and partially to the year under assessment . Similarly, the expenses booked pertaining to royalty, of which 80% pertains to the FY 2014-15 as 16 albums titles were released in FY 2014-15.*

7. *On perusal of the agreement and relevant details, it is the submission of the appellant that the agreement with Zee Music and HDMEPL was under discussion and was finally executed in FY 2015-16 which was after the music releases of most of the titles: The titles revenue was however received by HDMEPL prior to the date of agreement Thus the titles were assigned from prior date in case of these titles. Since, the licensing agreement between Zee Music and HDMEPL and consequent sub licensing agreement between Aalap and HDMEPL was executed in FY 2015-16, all receipts on account of these albums were recognized on 22/09/2016 and receipts on account of the various album titles for the financial year 2014-15 and 2015-16 credited in the books of accounts in the FY in which agreement is finally executed i.e. FY 2015-16. Therefore on the facts and circumstances of the present case the expenditure on account of license fees paid by Aalap to HDMEPL crystallised in FY 2015-16 upon execution of the sub-license agreement.*

8. *As per settled law the expenditure is allowable in the year in which the liability to make payment gets crystallised. In this regard reliance is placed on following case laws.*

A) In the case of CIT Vs. Exxon Mobil Lubricants P. Ltd 8 Taxmann 249 (Del)

It was held that, We are of the view that liability of the assessee under the agreement had arisen and accrued in August, 2002, when the Agreement was executed and, therefore, the liability of the assessee to pay for period January 2002 to March 2002 arose and crystallized in August 2002. It is pertinent to mention that CTT(A) had observed that the assessee had shown prior period expense of Rs. 1,34,34,500 against which the prior period income was shown as Rs. 83,21,000 and the net amount of Rs. 51,13,000 had been shown as expenditure in the P & L Account. CFT(A) held that if the assessee has shown prior period income and the Assessing Officer has not excluded it while working out the current year's taxable income then there was no reason on the part of Assessing Officer to disallow only one part of the prior period adjustments, i.e., the prior period expenditure.

Consequently, the addition made by the Assessing Officer cannot be sustained. In any event, in view of the settled legal position, no substantial question of law arises in the present proceedings. Hence, the present appeal, being bereft of merit, is dismissed but with no order as to costs.

On the allow ability of above mentioned expenses the other case law is as under: -

- B) Escorts Ltd Vs. DCIT 90 Taxmann 272 (Delhi IT AT)*
- C) Times Internet Ltd Vs. Add. CIT 88 Taxmans 387 (Delhi ITAT)*

Copy of the above citation is being enclosed at page no.134-154.

In view of the above, it is prayed that the present disallowance of Rs.7,77,85,538/- be deleted."

8. After considering the above submissions, Id. CIT (A) dismissed the grounds raised by the assessee with the following observations :-

" In the present case, the appellant has considered the relevant receipts in the books of accounts on 22/09/2016 i.e. FY 2016-17 whereas the liability of the royalty expenses was crystalized vide agreement dated 20/12/2015. Thus it can be seen that the facts of present case are not identical to the case law relied upon by the appellant. Hence the contention of the appellant is not acceptable,

The appellant has relied upon another decision of Hon'ble ITAT Delhi in the case of Escorts Ltd Vs. DCIT 90 Taxman 272. I find that in this case, the disallowance made by the AO on account of prior period of expenses were partly confirmed by the Ld CIT(A) however Hon'ble ITAT deleted the disallowance on the ground the said expenses were not prior period expenses but the same was current years expenditure. Thus it can be seen that the facts of present case are not identical to the case law

relied upon by the appellant. Hence the contention of the appellant is not acceptable.

Further the appellant, by relying the decision of Hon'ble ITAT Delhi in the case of Times Internet Ltd Vs. ACIT, Range-16, New Delhi wherein it was held as under:-

“26. We find substance in the above contentions of the Learned AR that now it is an established proposition of law that merely because an expenditure relates to a transaction of an earlier years, it does not become a liability payable in the earlier years unless it can be said that the liability was determined and crystallised in the said year. The authorities below have not disputed the genuineness of the above expenditure and their only finding is that the said expenditure pertains to previous assessment year i.e. 2004-05. We are of the view that when tax rate for the assessment years 2004-05 and 2005-06 is the same, the approach of the authorities below on the issue is not appreciable and it is also contrary to the established position of the law that year of crystallization of the liability is more important for the purpose of assessment of income in that year. We thus while setting aside the orders of the authorities below direct the Assessing Officer to allow the claimed expenditure during the year. The grounds involving the issue are accordingly allowed.”

In this regard I find that the Hon'ble Jurisdictional Delhi High Court in the in the case of CIT vs. Exxon Mobil Lubricants Pvt Ltd 8 Taxmann 249 (Del), has held that the expenditure is crystalized AY 2003~04 year and relevant income is also offered for taxation in the AY 2003-04, hence prior. period expenditure was allowed in the AY 2003-04. 'However in the present case, the prior period expenditure is claimed in AY 2015-16 and the relevant income is shown in AY 2017-18. Therefore contention of the appellant is not acceptable.

In view of the above discussion, the addition made by the AO is confirmed. Thus the ground of appeal raised by the appellant is dismissed.”

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

“1. That on the facts and circumstances of the case and in law, the order passed by National Faceless Appeal Centre, New Delhi is bad in law.

2.1 That on the facts and circumstances of the case and in law the CIT(A) was not justified in upholding the addition of Rs. 7,77,85,538/- made by the AO on account of disallowing the royalty expense incurred by

the appellant during the year by treating the same as prior period expenses disregarding the fact that the income amounting to Rs. 3,50,000/- corresponding to the royalty expense was duly accounted for during the assessment year 2016-17.

2.2 That the CIT(A) was not justified in observing that the relevant income pertaining to the royalty expenditure was shown in AY 2017-18 disregarding the fact that the relevant income of Rs.3,50,000/- was shown in AY 2016-17 when the royalty expenditure was claimed.”

10. At the time of hearing, Id. AR for the assessee submitted asunder :-

- *“In the assessment order 2 specific defects have been pointed out for making addition towards prior period expenses, it is the preliminary contention of the appellant that looking to the facts of the case the liability to incur royalty expense gets crystalized in FY 2015-16 relevant to AY 2016-17 pursuant to execution of agreement for acquisition of rights by assessee company from HDMEPL vide agreement dated 20.12.2015. Since prior to 20.12.2015, there was no agreement and the liability for royalty expenses was not crystalized till that date. Further it is highlighted that HDMEPL was also not having ownership rights of these titles during FY 2014-15 and the same were acquired by them from ZEE Music pursuant to agreement dated 03.07.2015 that to in FY 2015-16 relevant to AY 2016-17. Therefore the liability to incur these expenses did not arise in FY 2014-15. The agreement was entered on 20.12.2015 which was subsequent to signing of audited balance sheet and filing of income tax return for FY 2014-15 hence there is no question of treating the same as prior period expense for FY 2014-15.*
- *Regarding next allegation of AO that assessee company has not followed any matching concept of booking revenue to that of expenditure, nor has the assessee followed any of the accounting standards be it Revenue Recognition i.e. Accounting Standard -9 or be it Providing for expenses i.e. Accounting Standard 29, it is submitted that appellant has followed the matching concept all applicable accounting standards are duly followed. Firstly it is submitted that as per matching concept the expenses and income pertaining to specific assessment year are to be recognized in the same assessment year. Since the agreement for acquisition of rights was entered during FY 2015-16, the royalty expense was recognized in FY 2015-16 further the appellant company has also recognized corresponding income of Rs.3,50,00,000/- during the same financial year. This fact was completely ignored*

by the AO and the CIT (A). The income statement pertaining to 20 titles acquired was received from HDMEPL on 22.09.2016 and the balance sheet along with annual accounts for FY 2015-16 were finalized prior to 22.09.2016 i.e. on 01.09.2016, in the annual accounts for FY 2015-16, income of Rs.3,50,00,000/- pertaining to FY 2014-15 and FY 2015-16 was recognized on provisional basis and include taxable income. As per the statement received from HDMEPL total income was Rs.3,56,94,231 out of which revenue pertaining to FY 2014-15 is Rs.1,43,52,320/- and for FY 2015-16 is Rs.2,13,42,212/-. Since the assessee has recognized Rs.3,50,00,000 in FY 2015-16 balance revenue of Rs.6,94,231/-, was further recognized in the FY 2016-17 relevant to AY 2017-18. Therefore, accounting standard 9 for revenue recognition and accounting standard 29 were duly followed. Copy of the ledger account is enclosed herewith on page 1 to 6.

- *Coming to the observations of CIT(A) made via para 6.2 of the appeal order that the appellant had claimed entire royalty payment expenses of Rs.11,79,49,313/- in AY 2016-17 but the income related to the said 16 titles related to FY 2014-15 relevant to AY 2015-16 was not considered in FY 2015-16 relevant to AY 2016-17 and therefore the matching concept was not followed it is submitted that the observation of AO in respect of next year recognition of revenue is nothing but wrong interpretation of facts as revenue to the extent of Rs. 3,50,00,000/- was duly recognised in FY 2015-16.*
- *Coming to the legality on which the assessee company relied and the same were rejected by the CIT(A), case wise submission is as under:*
 - *CIT vs. Exxon Mobile Lubricants Pvt Ltd 8 Taxmann.com 249 (Del)*

The facts of the case are that agreement was entered into with a company "E" in August 2002 with retrospective effect from Jan to March 2002. The assessee incur expenses in January to march 2002 and the same were claimed as prior period expenses during AY 2003-04. The said claim was rejected by the AD on the ground that the expenses were actually incurred during AY 2002-03. However tribunal held that liability of assessee under agreement had accrued in August, 2002, when agreement was executed and, therefore, its liability to pay for period

January, 2002 to March, 2002 arose and crystallized in August, 2002. This decision was upheld by Delhi High Court vide order dated 08.09.2010. Copy of judgement enclosed at Page No. 133 to 136 of paper book.

- *Times Internet Ltd Vs. Add. CIT 88 Taxmann.com 387 (Delhi ITAT)*

CIT (A) simply without making any observation and just by reproducing para 26 of decision of Hon'ble ITAT Delhi in the case of Times Internet Ltd Vs. ACIT, Range-16 rejected the claim of assessee company. The same para is reproduced as under:

"26. We find substance in the above contentions of the Learned AR that now it is an established proposition of law that merely because an expenditure relates to a transaction of an earlier years/ it does not become a liability payable in the earlier years unless It can be said that the liability was determined and crystallized in the said year. The authorities below have not disputed the genuineness of the above expenditure and their only finding is that the said expenditure pertains to previous assessment year i.e. 2004-05. We are of the view that when tax rate for the assessment years 2004-05 and 2005-06 is the same, the approach of the authorities below on the issue is not appreciable and it is also contrary to the established position of the law that year of crystallization of the liability is more important for the purpose of assessment of income in that year. We thus while setting aside the orders of the authorities below direct the Assessing Officer to allow the claimed expenditure during the year. The grounds involving the issue are accordingly allowed."

In the above para Hon'ble ITAT Bench H New Delhi clearly stated that merely because an expenditure relates to a transaction of an earlier years, it does not become a liability payable in the earlier years unless it can be said that the liability was determined and crystallized in the said year. In the case of assessee company the liability was determined and crystallized on 20.12.2015 and therefore the same was recognized as expenses in the said assessment year. Copy of

judgement is enclosed at Page No. 146 to 153 of paper book.”

11. On the other hand, ld. DR for the Revenue relied on the orders of the lower authorities.
12. Considered the rival submissions and material placed on record. We observe from the record that the assessee company was established to commercially exploit the music albums of various tracks available with Hungama and Zee Music. We observed that assessee and Hungama entered into license agreement on 20.12.2015 and the license holder, Hungama granted permission to the assessee to use the above license held by it, which was previously acquired by another agreement entered by Hungama with Zee Music. As per the terms of license agreement, the assessee has agreed pay the licensor i.e., Hungama a minimum guarantee fee of Rs.11,73,62,500/- for 6 years. Therefore, it is only a minimum guarantee license fee not a Royalty payment towards transfer of property. The property right was only with licensor. Technically, the assessee has given only a guarantee of revenue for 6 years that means the assessee has given guarantee of license fee of Rs. 1,95,60,416/- (11,73,62,500/6 years)per annum. It is only a guaranteed amount and the assessee has to meet out the above license fees otherwise, it has to recompensate the same to the licensor. In the agreement, there is no mention of any commitment that guarantee is for every year or to be compensated at the

end of the 6th year. Therefore, it is closely linked to the earning of revenue. It is relevant to point out that the Hangama also entered into similar agreement with Zee Music and the same chart of music albums and date of commencement of dates are mentioned. That means the licensor has taken similar license from Zee and sublet the same to the assessee. It cannot be treated as license fees paid and claimed as expenditure. We further observe that the dates mentioned in the start date of each album are the starting date of commercial utilization of respective album not the payment of license fees.

13. The next issue is whether the license fees paid are to be considered as prior period expenses, as discussed above, the assessee has acquired the license only on 20.12.2015 and there is no expenses for previous period. The license was acquired by Hangama from Zee and the same was sublet to the assessee. Therefore, the assessee can book the expenses from the commencement date of the agreement and also book any income only from that date. Therefore, the assessee has to first earn the revenue and correspondingly, book the matching license fees paid to the licensor. In the given case, we observed that the assessee has booked the above guarantee license fees as expenditure and kept the corresponding liability as outstanding in the form of Trade Payables. It has accounted only Rs.485,08,613 as income from Royalty and licensing fees. Therefore, the

licensor is not expected to earn the income from the date of entering the agreement, the license fees is payable subsequent to the agreement. Therefore, the assessee has adopted wrong method of accounting and not commercially viable method of settlement. Therefore, we are directing the AO to allow only the license fees relevant for the current period i.e., for the period of 4 months (from December 2015 to March 2016) out of Rs.195,60,416/- (guaranteed license fees for the year), the amount of Rs.65,20,140/-, balance amount of license fees which as per accounts submitted before us shows that it is not paid but kept as trade liabilities. Therefore, the claim of expenses of Rs.11,79,49,313 to be disallowed and allow only the expenses of Rs. 65,20,140/- and balance amount has to be allowed to carry forward the same for the next assessment year.

14. Even otherwise, if we consider the above payment was made during this year, even then the amount paid of Rs.11,79,49,313/- has to be treat as deferred payment of license fees, which has to be amortized over the period of 6 years. In this year, the assessee has utilized the license only for 4 months and balance amount has to be amortized in the next 5 years and 8 months. Based on the above findings, we are of the view that the method of accounting adopted by the assessee is not proper.
15. After considering the assessment order, we observed that the AO has not understood the transaction and disallowed the part of royalty expenses as

prior period expenses by observing the dates mentioned in the individual music titles, which is not date of acquiring the license but it is the date of start date of commercial exploitation of relevant tracks. In our considered view, the method adopted by the assessee as well as the disallowance made by the AO is not appropriate. Therefore, we direct the Assessing Officer to redo the assessment denovo and consider the above observation and allow the relevant expenditure as per law. At this stage, we cannot change the Balance Sheet even though followed the wrong method of recognition of income & expenditure. The Assessing Officer has to determine the actual income and expenses by treating the license fees paid as deferred revenue expenditure and allow the relevant cost during the license period of six years. Needless to add that assessee may be given proper opportunity of being heard.

16. In the result, appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on this 10TH day of January, 2025.

**SD/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER**

**SD/-
(S.RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

**Dated : 10.01.2025
TS**

Copy forwarded to:

1. Assessee
2. Respondent
3. CIT
4. CIT(Appeals)/NFAC, Delhi.
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI