

# Income Tax department to consider ITAT's Flipkart ruling

## Synopsis

In a bid to cut down on litigation, the government only files appeals in cases that are merited “CCIT will examine the order, then a decision would be taken,” a senior income tax official told ET.



In its order, ITAT said the loss declared by Flipkart in the return of income should be accepted by the assessing officer.

**Income tax** authorities will closely examine the decision of the **Income Tax Appellate Tribunal (ITAT)** in the **Flipkart** discount case and decide the next course of action accordingly. An official at the level of chief commissioner will review the ITAT decision that went in the company's favour and against the income tax department.

In a bid to cut down on litigation, the government only files appeals in cases that are merited “CCIT will examine the order, then a decision would be taken,” a senior income tax official told ET.

The income tax department had sought `110 crore from Flipkart as tax for assessment year 2015-16 after classifying discounts offered by the company and spending on marketing as capital expenditure.

ITAT accepted Flipkart's argument to treat this as tax-deductible revenue expenditure. Most online platforms offer discounts to customers as part of their marketing strategy. The matter was seen as a test case for the sector that relies heavily on discounts, advertisement and marketing.

An adverse ruling would have seen similar tax liabilities arise for other **e-commerce** players.

In its order, ITAT said the loss declared by Flipkart in the return of income should be accepted by the assessing officer, overruling the decision disallowing expenses and arriving at a positive total income by assuming that there was an expenditure of a capital nature incurred by the company.

It said making such income chargeable to tax is “without any basis and not in accordance with law and the said manner of determination of total income is hereby deleted.” The conclusion by income tax authorities that the assessee had incurred expenditure for creating tangible assets, **brands** or goodwill is without any basis, it said.

“We do not think it necessary to deal with the arguments that even assuming that expenditure was incurred by the assessee the expenditure for building brand or creating intangible or goodwill is revenue expenditure and allowable

as deduction,” it said. “It is also not necessary for us to go into the question of estimation of quantum of expenditure on creating intangibles.”

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