

I-T department moves HC against Flipkart's ITAT ruling

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BENGALURU: The income tax (I-T) department has taken Walmart-owned Flipkart to high court over its Rs 110-crore demand. The case relates to the treatment of discounts as capital expenditure instead of revenue expenditure, according to court listings reviewed by TOI. Flipkart was issued a notice last month to appear and represent its case following the tax department's petition.

The matter had first moved to the Income Tax Appellate Tribunal (ITAT), which had given a ruling in 2018 allowing Flipkart to treat the marketing expenses and discounts as a loss. The tax demand here is for the financial year 2015-16, which has now got into another legal wrangle. Flipkart had argued earlier that it cannot pay taxes on what it terms as 'fictional income'. Sources in the court also said the tax department is now pursuing the matter after the ITAT order in favour of Flipkart.

The contention of the I-T department has been that Flipkart earned an enduring benefit via aggressive cash discounts, which in turn resulted in losses. In simple terms, under I-T laws, if an expenditure results in an enduring benefit, it is to be capitalised. On the other hand, a revenue expenditure is deducted from the income of that particular year to arrive at the taxable profit or losses.

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In Flipkart's case, capitalisation of the discounts and marketing expense would mean an adjustment to the income. Rebutting this, Flipkart had pointed out that a product has to be sold at a particular price, and revenue that is not earned cannot be treated as capital expenditure and added back to the income.

“This is a standard notice issued by the court in all appeals. The current ruling from the ITAT is in our favour. We will await the listing of the appeal by the court for hearings and will respond accordingly,” a Flipkart person said in an emailed response.