

IN THE INCOME TAX APPELLATE TRIBUNAL “C”, BENCH KOLKATA
BEFORE SHRI S. S. GODARA, JM & DR. A.L. SAINI, AM

ITA No.95/Kol/2018
(Assessment Year: 2013-14)

AT & S Austria Technologie & Systemtechnik Aktiengesellschaft Anup Sinha & Associates, EC-210, Block EC, Sector-1, Salt Lake, Kolkata – 700064	Vs.	DCIT, Circle-11(1), Kolkata
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAICA5300Q		
(अपीलार्थी /Appellant)	..	(प्रत्यर्थी / Respondent)

Appellant by : Smt. Rituparna Sinha, FCA
Respondent by : Dr. P.K. Srihari, CIT(DR)

सुनवाई की तारीख / **Date of Hearing** : **04/11/2019**
घोषणा की तारीख/**Date of Pronouncement** : **31/01/2020**

आदेश / O R D E R

Per Dr. A. L. Saini, AM:

The captioned appeal filed by the assessee, pertaining to Assessment Year 2013-14 is directed against the fair assessment order passed by Assessing Officer u/s 143(3) r.w.s 144C(13) of the Income Tax Act, 1961 (hereinafter referred to as the ‘Act’), which incorporates the directions of the Dispute Resolution Panel u/s 144(5) of the Income Tax Act, dated 19.09.2017.

2. The facts of the case which can be stated quite shortly are as follows: AT & S Austria Technologie & Systemtechnik Aktiengesellschaft (hereinafter referred to as AT&S Austria / assessee) is incorporated in Austria and is a tax resident of Austria. The AT&S Austria does not have a permanent establishment in India. The AT&S Austria has set up a wholly-owned subsidiary in India namely AT & S India Pvt. Ltd. (hereinafter referred to as ‘AT&S India’) which is a tax resident of India. The AT&S Austria and AT&S India are associated enterprises within the meaning of section 92A of the Income-tax Act, 1961. The AT&S Austria is regularly filing income tax return in India. The Transfer Pricing Officer

(hereinafter referred to as the 'TPO') vide order dated 19/12/2016 under section 92CA (5) read with 154 / 92CA (3) of the Act directed the following arm's length price (hereinafter referred to as 'ALP') adjustments:

- (i).Receipt of interest on loan and advance (INR 12,59,12,941/-): ALP adjustment being INR 40,34,89,761/-;
- (ii).Receipt of corporate guarantee fee (INR 36,43,759/-): ALP adjustment being INR 36,43,760/-; and
- (iii).Receipt of IT support service cost (INR 3,58,02,269/-): ALP adjustment being INR 9,48,760/- .

Subsequently, being aggrieved by the order of TPO, the assessee filed his objections before the Dispute Resolution Panel (hereinafter referred to the 'DRP'). The Dispute Resolution Panel vide order dated 19/09/2017 issued directions under section 144C (5) of the Act and directed the lower authority to reduce the ALP adjustments in respect of interest on loan & advance and corporate guarantee fee but confirmed the ALP adjustment in respect of IT support service cost. Accordingly, the TPO (vide order dated 20/11/2017 issued under section 92CA (3) read with 144C (5) of the Act) directed the following ALP adjustments:

- (i) Receipt of interest on loan and advance: ALP adjustment reduced from INR 40,34,89,761/- to INR 3,13,68,273/-
- (ii) Receipt of corporate guarantee fee: ALP adjustment reduced from INR 36,43,760/- to INR 9,72,959/- and
- (iii) Receipt of IT support service cost: ALP adjustment being INR 9,48,760/-, as determined by the TPO.

Thereafter, the Assessing Officer (hereinafter referred to as the 'AO') vide order dated 29/11/2017 issued under section 143(3) read with section 144C (13) of the Act determined the total income of the assessee chargeable to tax in India for the relevant assessment year as under:

Table No. 1 – Computation of income chargeable to tax

Particulars	Amount (INR)
Interest income (12,59,12,941+3,13,68,273)	15,72,81,214
Corporate guarantee fee (36,43,760+9,72,959)	46,16,719
IT support service cost (3,58,02,269+9,48,760)	3,67,51,029
Total	<u>19,86,48,960</u>

3. Aggrieved by the order of the AO/TPO, the assessee is in appeal before us.

4.. Ground Nos. 1, 2 and 3 are directed against the arm's length price adjustment of INR 3,13,68,273/- made by the AO in respect of receipt of interest on loans and advance granted to AT&S India.

5. The brief qua the issue are the AT&S India ('borrower') raised loans / external commercial borrowing (hereinafter referred to as 'ECB') from AT&S Austria ('lender'). In this connection, AT&S Austria entered into loan agreements dated 31st May, 2008 and 1st December, 2008, with AT&S India for advancing the aforesaid ECBs to the latter amounting to Euro 20.8 million and Euro 16.4 million respectively. The aforesaid ECBs were approved by the Reserve Bank of India (hereinafter referred to as the 'RBI') under the automatic route as per the guidelines issued by the RBI on ECBs. The borrower obtained 'Loan Registration Number' (LRN) for the said loans as per the guidelines issued by the RBI.

The borrower agreed that the rates of interest applicable for the said loans (ECBs) would be LIBOR+350 bps and LIBOR+ 100 bps respectively and the aforesaid interest rates were fixed by complying with the all-in-cost ceilings fixed by the RBI vide circular issued at that material point of time. The said loans had an average maturity period of more than five years. The loan proceeds were agreed to be used by the borrower for the purpose of purchasing capital equipment. In this connection, all the instructions given in the circular issued by the RBI for ECB were followed by the borrower. AT&S Austria entered into a 'Distribution Agreement' with AT&S India under which AT&S India sold its manufactured goods to AT&S Austria for further sale to independent customers outside India. In this connection, attention is invited to the 'Addendum to Distribution Agreement dated 15th October 2002' wherein it is mentioned under 'Payment Terms' that the distributor (i.e. AT&S Austria) may make advance payments on request from the supplier (i.e. AT&S India) which would not exceed two months' projected sales or Euro 5.0 Mio whichever is less. The advance payment would bear interest at three months LIBOR(EURO) plus 100 basis points per annum from the date of receipt of advance. The advance received from the distributor would be adjusted against future billings. It is pertinent to note that the tenure of the export advance was less than three years (**short-term export advance**). In this connection, all the instructions given in the circular issued by the RBI for export advance (including the maximum ceiling fixed by the RBI) were followed by the borrower. The borrower currently deducts withholding tax at the rate of 10% per annum out of the interest payable by the borrower to the lender before remitting the interest to the lender. The aforesaid deduction of tax at source is being made under the provisions of section 195 of the Act read with the relevant provisions of the Double Taxation Avoidance Agreement (hereinafter referred to as the 'DTAA') entered into between India and Austria.

As disclosed in Form No. 3CEB of the assessee (i.e. AT&S Austria) for the AY 2013-14, the international transactions involving receipt of interests on ECB and export advance were at arm's length under the CUP Method. The TPO rejected the assessee's plea and determined the arm's length interest rate in respect of ECB as well as export advance at 20.45% per annum. The DRP rejected the aforesaid rate and determined the arm's length interest rate for ECBs as well as export advance at **LIBOR plus 450 basis points**. Accordingly, the ALP adjustment in respect of ECB carrying interest rate of LIBOR plus 350 basis points was computed at INR 73,02,884/- and the ALP adjustment in respect of export advance was computed at INR 2,40,65,389/-. Thus, the ALP adjustments in respect of ECB and advance aggregated to INR 3,13,68,273/-.

6. We heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id DRP/TPO and other materials brought on record.

Before us, Rituparna Sinha, Id Counsel for the assessee, begins by pointing out that as disclosed in Form No. 3CEB of AT&S India for the AY 2013-14, the international transactions involving payment of interests on ECB and export advance by AT&S India to AT&S Austria were at arm's length under the CUP Method. The TPO accepted that the aforesaid international transactions were at arm's length under the CUP Method in the hands of AT&S India and did not recommend any ALP adjustment in respect thereof in the order issued under section 92CA(3) of the Act to AT&S India. Therefore, where the transaction has been accepted at arms -length in the case of borrower (AT&S India) and no ALP adjustment was made, the same should be treated at arms -length in the hands of the lender (AT &S Austria) also. On merits also, the Id Counsel argued that the

action of the AO in making an ALP adjustment of INR 3,13,68,273/- is based on the decision rendered by the DRP that the arm's length interest rate would be LIBOR plus 450 basis points in respect of an external commercial borrowing (ECB) carrying interest rate of LIBOR plus 350 basis points and short-term export advance carrying interest rate of LIBOR plus 100 basis points, which is not acceptable. It is necessary to consider LIBOR as the appropriate benchmark interest rate that conforms to the arm's length standard under the CUP Method. Since the assessee charged interest to AT&S India over and above LIBOR in case of loan and advance, therefore the ALP adjustment of INR 3,13,68,273/- made by the AO may be deleted.

7. On the other hand, the Ld. DR for the Revenue has invited our attention to the decision of the Special Bench of the Income Tax Appellate Tribunal (Kolkata) in the matter of Instrumentarium Corporation Ltd Finland vs. ADIT [ITA No. 1548 and 1549 / Kol / 2009], wherein the Coordinate Bench rendered the decision stating that the transfer pricing provision contained in Chapter X of the Act did not contemplate taking of a holistic view i.e. considering lowering of the overall profit or increasing overall loss for the group companies taken together.

In the aforesaid case, the non-resident assessee has granted interest free loan to its Indian associated enterprise ('AE'). The TPO has determined arm's length interest income in the hands of the non-resident assessee and accordingly, made an arm's length interest adjustment in the hands of the non-resident assessee. It is the assessee's contention that if interest is charged by the non-resident assessee to its India AE, the receipt in the hands of non-resident assessee would be chargeable to tax @10 percent in view of the specific provision of the tax treaty. However, the corresponding deduction of interest expense in the hands of Indian AE would reduce taxability of the Indian AE which would otherwise be at 36.75 percent. The net effect would be that the Indian tax base would stand eroded by 26.75 (36.75%-10%) percent of the arm's length price adjustment in respect of

interest on loan. It would trigger the provision of sub-section (3) of section 92 of the Act and hence, the provisions of the transfer pricing could not be pressed into service in this case.

The Special Bench rejected the above holistic view taken by the assessee and held that provision of sub-section (3) of section 92 of the Act did not contemplate taking of a holistic view i.e. considering lowering of the overall profit or increasing overall loss for the group companies taken together. The provision of sub-section (3) of section 92 of the Act would be applied to the non-resident assessee independent of the taxability of its Indian associated enterprise. Hence, the computation of arm's length interest income in the hands of the non-resident assessee would not trigger the provision of sub-section (3) of section 92 of the Act.

The Id DR pointed out that in the instant case, AT&S India paid interests to the non-resident assessee on loan which were benchmarked by AT&S India by applying the CUP Method and the TPO had duly accepted the arm's length nature of the interest payments under the CUP Method in the hands of AT&S India, but this does not mean that adjustment should not be made in the hands of AT&S Austria (Assessee). Therefore, the arms length price (ALP) adjustment is necessary in the hands of the AT&S Austria (assessee) irrespective of the fact that TPO had duly accepted the arm's length nature of the interest payments under the CUP Method in the hands of AT&S India. Therefore, in the light of the decision of the Special Bench of the Income Tax Appellate Tribunal (Kolkata) in the matter of Instrumentarium Corporation Ltd Finland vs. ADIT [ITA No. 1548 and 1549 / Kol / 2009](supra), it is abundantly clear that the provision of sub-section (3) of section 92 of the Act did not contemplate taking of a holistic view i.e. considering lowering of the overall profit or increasing overall loss for the group

companies taken together. The provision of sub-section (3) of section 92 of the Act would be applied to the non-resident assessee (AT&S Austria) independent of the taxability of its Indian associated enterprise (AT&S India). Therefore, the transfer pricing adjustment made by the TPO should be sustained.

8. Per Contra, Rituparna Sinha, Id Counsel for the assessee, submitted before us that in the judgment of the Coordinate Bench of Kolkata in the matter of Instrumentarium Corporation Ltd Finland vs. ADIT [ITA No. 1548 and 1549 / Kol / 2009] (supra), the non-resident assessee granted interest free loan to its Indian AE. Neither the non-resident assessee nor the Indian AE determined the arm's length interest rate by applying any of the methods, being the most appropriate method, prescribed under section 92C of the Act. The TPO determined the arm's length interest rate in the hands of the non-resident assessee and accordingly, made an ALP adjustment in the hands of the non-resident assessee. The Special Bench confirmed the aforesaid action of the TPO. Before the Tribunal, the assessee contended that in case an upward adjustment to the income of the non-resident assessee is made in respect of interest, it would lead to further corresponding deduction in the hands of the Indian AE and consequently, result in erosion of tax base of India. The Tribunal, under this circumstance, rejected the contention of the assessee as the arm's length interest rate has to be determined in respect of an international transaction as per the provision of the transfer pricing laws of India. However, in the instant case, AT&S India paid interests to the non-resident assessee (AT&S Austria) on loan and export advance which were appropriately benchmarked by AT&S India by applying the CUP Method and the TPO had duly accepted the arm's length nature of the interest payments under the CUP Method in the hands of AT&S India. In view of this, the aforesaid decision of the Special Bench is not applicable on the facts of the non-resident assessee's case (AT &S Austria) under consideration.

9. We note that the assessee granted loan and advance to AT&S India in foreign currency (Euro) and AT&S India repaid principal / paid interest on loan in foreign currency (Euro). The assessee company adopted Euro-LIBOR as appropriate benchmark that conforms to the arm's length standard under the CUP Method. The assessee (AT&S Austria) applied the Euro-LIBOR rates prevailing during the relevant period for computation of interest payable by AT&S India to the assessee and further added credit spread of 350 basis points (net of tax) for loan and 100 basis points for advance and claimed that the interest received by the assessee (AT&S Austria) from AT&S India is at arm's length under the CUP Method. We note that in the case of foreign currency loan advanced by one associated enterprise to the other, LIBOR is the appropriate benchmark interest rate which conforms to the arm's length standard under the CUP Method. The assessee claimed that the aforesaid international transactions are at arm's length under the CUP Method, for that he relied on the judgment of the Hon'ble Delhi High Court in the matter of CIT vs. Cotton Naturals (I) (P) Ltd reported in [2015] 231 Taxman 401/ 55 taxmann.com 523, wherein it was held as follows:

“Facts

The assessee, manufacturer and exporter of rider apparels, advanced a foreign currency loan to its associated enterprise (AE) in the US at the interest rate of 4% per annum. The assessee set up the AE in the US for the purpose of marketing and promoting its export in the USA. The assessee contended that the aforesaid interest rate was at arm's length as the rate was comparable to the export packing credit rate obtained from independent banks in India. The TPO determined the arm's length interest rate at 14% per annum. The DRP granted partial relief by determining the arm's length interest rate at 12.20%.

On appeal by the assessee, the Tribunal held that the CUP method is the most appropriate method in order to ascertain the arm's length price of the international transaction as that of the assessee. The Tribunal further held that the financial position and credit rating of the subsidiaries would be broadly the same

as the holding company. In such a situation, domestic prime lending rate would have no applicability and LIBOR should be taken as the benchmark interest rate under the CUP Method for the said international transaction.

The Revenue preferred appeal before the Hon'ble Delhi High Court. The Hon'ble High Court has confirmed that the CUP method would be the most appropriate method in order to ascertain the arm's length interest rate in relation to the foreign currency loan advanced by one associated enterprise to the other. The Hon'ble Delhi High Court has confirmed the view of the Tribunal that the credit rating of the subsidiaries would broadly be the same as that of the holding company. In such a situation, LIBOR should be taken as the benchmark interest rate under the CUP Method in respect of foreign currency loan advanced by one associated enterprise to the other. The Hon'ble High Court has held that the arm's length interest rate should be the market-determined interest rate applicable to the currency concerned in which the loan was to be repaid. The Hon'ble High Court has held that the Chapter X of the Income-tax Act, 1961 and Transfer Pricing rules contained in the Income-tax Rules, 1962, do not permit the Revenue authorities to restructure actual business transactions that are legitimate in nature (i.e. to re-write the character and nature of a legitimate transaction). The Hon'ble High Court has rejected the reasoning given by the TPO that the transfer pricing adjustment could restructure the transaction to reflect maximum return that a party could have earned and that would be the yardstick or the benchmark for determining the interest payable by the subsidiary AE. The Hon'ble High Court has held that the above is not what Chapter X of the Act and Rules mandate and stipulate. The aforesaid provisions permit transfer pricing adjustment so as to bring to tax what would have been paid for the transaction in the same or similar comparable circumstances by an independent third party. Finally, the Hon'ble

High Court has held that the substantial question of law mentioned in the decision is answered against the Revenue.

10. We note that lending money is not one of the main businesses of the assessee (AT&S Austria) and AT&S India being a wholly-owned subsidiary of the assessee, the assessee is not exposed to significant credit risk in respect of the loan made to AT&S India. Therefore, the credit rating of AT&S India would broadly be the same as that of the assessee. Hence, the DRP was not justified in adding credit spread of 450 basis points to LIBOR, while determining the arm's length interest rate in respect of loan and advance. We note that in the instant case, the DRP did not mention in his order the comparability analysis prescribed under clause (a) of sub-rule (1) of rule 10B of the Income-tax Rules, 1962. The said Rule is reproduced below for ready reference as follows:

“Determination of arm's length price under section 92C .

10B . (1) For the purposes of sub-section (2) of section 92C, the arm's length price in relation to an international transaction [or a specified domestic transaction] shall be determined by any of the following methods, being the most appropriate method, in the following manner, namely :—

- (a) comparable uncontrolled price method, by which,—***
 - (i) the price charged or paid for property transferred or services provided in a comparable uncontrolled transaction, or a number of such transactions, is identified;*
 - (ii) such price is adjusted to account for differences, if any, between the international transaction [or the specified domestic transaction] and the comparable uncontrolled transactions or between the enterprises entering into such transactions, which could materially affect the price in the open market;*
 - (iii) the adjusted price arrived at under sub-clause (ii) is taken to be an arm's length price in respect of the property transferred or services provided in the international transaction [or the specified domestic transaction]”*

We note that Ld DRP failed to analyse price charged for services provided in a comparable uncontrolled transaction, or a number of such transactions and such price is adjusted to account for differences, if any, between the international transaction. Therefore, the findings of the ld DRP is not as per clause (a) of sub-rule (1) of rule 10B of the Income-tax Rules, 1962, as mentioned above. The DRP did not bring on record any comparable uncontrolled transaction under the CUP Method for substantiating that the interest rate of LIBOR plus 450 basis points conformed to the arm's length standard under the CUP Method.

We note that LIBOR is the appropriate benchmark interest rate for intra-group loans denominated in foreign currency and hence, the arm's length interest rate determined by the DRP at LIBOR plus 450 basis points, based on restructuring of the international transaction under consideration, has no legal basis in the light of the decision rendered by the Hon'ble High Court in the matter of CIT vs. Cotton Natural (supra). Therefore, the arms length price adjustment made by DRP/TPO needs to be deleted.

11. We note that another judgment on the identical facts was delivered by the Hon'ble High Court of Rajasthan in the matter of CIT vs. Vaibhav Gems Ltd dated 13th October, 2017 reported in [2017] 88 taxmann.com 12 (Raj). In this case the assessee advanced loan to associated enterprise in foreign currency on which no interest was charged. The TPO proposed ALP adjustment at the rate of LIBOR plus 2% credit spread in respect of the aforesaid loan. The Tribunal confirmed the adjustment prevailing at the rate of LIBOR plus 2% on account of interest free loans provided by Vaibhav Gems Ltd to its associated enterprise for the relevant assessment year. In this connection, the Hon'ble High Court of Rajasthan placed reliance on the decision of the Hon'ble Delhi High Court in the

matter of CIT v. Cotton Naturals (I) (P) Ltd reported in [2015] 231 Taxman 401 / 55 taxmann.com 523 (as referred to hereinabove). The Hon'ble High Court of Rajasthan held as follows:

“11. Regarding ITA no.149/2015 preferred by the assessee in view of the Delhi High Court judgment (para no.14), the international transaction is required to be accepted, therefore, tribunal has committed serious error. The assessee will be entitled for the benefit of average LIBOR rate existing at that time which was 0.79% and addition of adhoc 2% is not proper. In that view of the matter, the addition of 2% interest in the income is required to be quashed and set aside.”

It may be noted here that the Hon'ble High Court of Rajasthan confirmed that LIBOR would be the appropriate benchmark for interest on intra-group loan in foreign currency and in this connection, no credit spread is to be added to LIBOR for determining the arm's length interest rate. The aforesaid decision of the Hon'ble High Court of Rajasthan is confirmed by the Hon'ble Supreme Court in the matter of CIT vs. Vaibhav Gems Ltd reported in [2018] 99 taxmann.com 2 (SC).

12. The Id Counsel also cited before us the judgment of the Hon'ble High Court of Bombay in the matter of CIT v. Tata Autocomp Systems Ltd, dated 15th February, 2015, reported in [2015] 56 taxmann.com 206 (Bombay). In this case the respondent-assessee, engaged in the business of manufacturing of plastic parts and rendering engineering services, advanced an amount of Euro 26.25 lakhs to its wholly owned subsidiary in Germany. The respondent-assessee charged no interest on the above loan. The TPO determined the arm's length interest on the loan advanced by the respondent-assessee to its German subsidiary at 10.25%. The said measure of rate of interest was on the basis of lending rate charged by the banks in India. The DRP enhanced ALP i.e. the interest on the loan given by the respondent-assessee to its German associated enterprise to 12%. The Hon'ble Tribunal held that as the loan was advanced to associated enterprise in Germany

and the same was consumed in Germany, the claim of the respondent-assessee to adopt EURIBOR rate as stated before the TPO was reasonable and deserved to be accepted. The Hon'ble High Court, having considered that the Tribunal adopted EURIBOR rate as benchmark interest rate, confirmed the action of the Tribunal and dismissed the revenue's appeal.

It is pertinent to note that the Hon'ble Rajasthan High Court, while rendering the aforesaid decision in the matter of Vaibhav Gems Ltd (supra), had taken into consideration the decision dated 15th February, 2015, of the Hon'ble High Court of Bombay in the matter of CIT v. Tata Autocomp Systems Ltd (supra). The Hon'ble Rajasthan High Court rejected the principle enunciated by the Hon'ble High Court of Bombay in the matter of Tata Autocomp Systems Ltd (supra) and strongly relied upon the decision of the Hon'ble High Court of Delhi in the matter of Cotton Naturals (supra).

We note that the decision of the Hon'ble Delhi High Court in the case of CIT v. Cotton Naturals (I) (P) Ltd (supra) and the decision of the Hon'ble Rajasthan High Court in the case of CIT vs. Vaibhav Gems Ltd (supra) go in favour of the assessee. However, the Hon'ble Bombay High Court in the case of CIT v. Tata Autocomp Systems Ltd held that the arm's length interest rate would be determined based on the benchmark prevailing in the country in which the loan was consumed. We note that as per the settled judicial principle, where there are two contrary views taken by different High Courts, then the view favourable to the assessee should be adopted, for that we rely on the judgment of the Hon'ble Supreme Court in the matter of CIT vs. Vegetable Products Ltd reported in [1972] 88 ITR 192 (SC), wherein the Hon'ble Supreme Court has laid down a principle that "...if two reasonable constructions of a taxing provisions are possible, that construction which favours the assessee must be adopted. This is a well-accepted rule of construction recognised by this court in several of its

decisions.” We also rely on the decision of the Hon’ble Supreme Court in the matter of CIT vs. Naga Hills Tea Co. Ltd. reported in [1973] 89 ITR 236 (SC), wherein it is held that: *“If a provision of a taxing statute can be reasonably interpreted in two ways, that interpretation which is favourable to the assessee, has got to be accepted. This is a well accepted view of law.”* In view of this, we adopt the aforesaid view taken by the Hon’ble Delhi High Court in the case of CIT v. Cotton Naturals (I) (P) Ltd (supra) and the Hon’ble Rajasthan High Court in the case of CIT vs. Vaibhav Gems Ltd and hence, accept that LIBOR is the appropriate benchmark that conforms to the arm’s length standard under the CUP Method.

13. We note that jurisdictional Coordinate Bench of ITAT Kolkata, in the matter of M/s Electrosteel Castings Ltd vs. DCIT dated 25.11.2016 bearing IT (SS) No. 47 to 53/Kol/2014 & 256/Kol/2015 & 66/Kol/2016 for AY 2003-04 to AY 2011-12 and IT (SS) No. 54 to 60/Kol/2014 & 313/Kol/2015 & 124/Kol/2016 for AY 2003-04 to AY 2011-12, on the identical facts, held as follows:

“The assessee, manufacturer and exporter of ductile iron pipe, provides interest free loan to its non-resident associated enterprise (‘AE’). The TPO proposes to compute the arm’s length interest rate at cost of fund in the hands of the assessee (having been the base rate of 8%) plus credit spread of 7% (which was added to the base rate on the reasoning given by the TPO that the credit rating of the AE would be “CC+” or “CC”).

The Ld. DRP has held that computation of percentage of interest to be added for credit rating of the AE (borrower) as done by the TPO is arbitrary and has no basis whatsoever. The Ld. DRP has noted that the TPO relies upon a booklet ‘Corporate Rating Criteria’ issued by ‘Standard & Poor’s in the year 2006 for arriving at the credit rating of ‘CC+’ or ‘C’ of the AE. The booklet prescribes credit rating based on various ratios like EBIT interest coverage, return on capital etc. and also credit ratings based on size of the corporate. However, the Income-tax Act, 1961, read with the Transfer Pricing Rules prescribing for computation of arm’s length price has not authorised the AO to assign credit rating to corporate AEs. Therefore, the Ld. DRP has held that the action of the TPO is arbitrary and not as per law. The Ld. DRP, however, applies the CBDT’s safe harbour rules in the case of lending between AEs wherein the CBDT has opined that addition of additional 3% (amount

of loan exceeding Rs. 50 Crore) on account of credit rating and risk of borrower AE would be added to the base rate of interest charged on loans.

The Jurisdictional Tribunal has held that instead of the base rate of 8% (which is based on lending rates of banks within India for commercial borrowing), it would be appropriate to apply LIBOR rate (i.e. not the domestic lending rate). Regarding credit spread, the Tribunal has placed reliance on the decision of the Hon'ble Delhi Tribunal in the matter of Kohinoor Foods Ltd vs. ACIT reported in (2014) 52 taxmann.com 454 (Delhi - Trib.). The Hon'ble Delhi Tribunal in the aforesaid case has held that there are well settled modalities for advancing of loan by financial institutions whose primary purpose is to advance funds with commercial consideration to earn interest out of the transactions. Such transactions are governed by different considerations like earnings, guarantee of loan, market conditions, political and legal situation of various countries etc. The advancing of loan between two associated enterprises cannot be akin to financial institutions. Hence, the Hon'ble Tribunal is of the view that the correct comparable which can be applied in these facts and circumstances is the LIBRO rate which is internationally recognized."

We note that TPO, after verifying the details submitted by AT&S India, did not direct any ALP adjustment in the hands of AT&S India for the assessment year 2013-14 in respect of payment of interest on loan and advance for the assessment year under consideration. However, the TPO directed ALP adjustment in the hands of the assessee (AT &S Austria) in respect of the same international transactions for the same assessment year as referred to hereinabove. Though the DRP directed the AO/TPO to reduce the ALP adjustment proposed in the draft assessment order, the DRP could not appreciate that the stand taken by the TPO in the case of AT&S India for the assessment year 2013-14 was inconsistent with the stand taken by the TPO in the case of assessee (AT &S Austria) for the assessment year 2013-14 in respect of the same international transaction and having same loan agreement.

We note that AO/DRP erred making an ALP adjustment of INR 3,13,68,273/- without appreciating that the TPO considered the said international transactions at

arm's length in the hands of AT&S India Pvt Ltd for the assessment year 2013-14, but considered the said international transactions as not at arm's length in the hands of the assessee for the assessment year 2013-14, thereby contradicting his own stand.

As mentioned above, that the payments of interest on loan and interest on advance in the hands of AT&S India satisfied the test that the transactions did not result in higher outgoings than those which would have been made by persons entering into similar transactions with unrelated parties in comparable circumstances. It signified that the aforesaid transactions did not cause erosion of tax base of India and hence, were at arm's length. That is, once it was admitted by the TPO that the payments of interest on ECB and advance were at arm's length in the hands of AT&S India for the assessment year 2013-14 (i.e. the said transactions did not result in shifting of profit out of Indian tax jurisdiction in the hands of AT&S India), it was unsustainable for the TPO to hold that the same international transactions as aforesaid resulted in shifting of profit out of Indian tax jurisdiction in the hands of the assessee for the same assessment year as mentioned herein above and to make arm's length price adjustment in the hands of the assessee (AT & S Austria) in respect of the said interests. The DRP therefore erred in directing ALP adjustment in respect of the aforesaid interest on loan and advance in the hands of the assessee.

14. The Indian Transfer Pricing Laws contained in Chapter X of the Act has not contemplated determination of arm's length price of an international transaction in two different ways in the hands of payee (i.e. assessee in the instant case- AT & S Austria) and the payer (i.e. AT&S India in the instant case). In the event it is done, the same would produce anomalous result which is never intended by the Legislature. Thus, the approach adopted by the TPO to benchmark the same international transaction in two different ways in the hands of two different

taxpayers for the same assessment year signifies arbitrariness in the action of the TPO.

In the instant case, the payment of interest made by AT&S India to AT&S Austria on the one hand and the receipt of interest by AT&S Austria from AT&S India on the other hand have taken place under the same agreement i.e. Loan Agreement and Distribution Agreement. In this scenario, if the arm's length interest rate is determined by the DRP at LIBOR plus 450 basis points in the hands of AT&S Austria, then the international transactions under consideration would never be at arm's length in the hands of AT&S India. Similarly, if the international transactions under consideration are accepted by the TPO to be at arm's length in the hands of AT&S India, the same would never be at arm's length in the hands of AT&S Austria. Thus, the international transactions under consideration would never be at arm's length both in the hands of AT&S Austria and AT&S India simultaneously. The Legislature has never shown an intention to treat the same international transaction in two different ways in the hands of two associated enterprises such that there would be arm's length price adjustment at least in the hands of one of the associated enterprises. Hence, the approach adopted by the DRP/TPO is not acceptable.

We note that the assessee granted loan and advance to AT&S India in foreign currency (Euro) and AT&S India repaid principal / paid interest on loan and advance in foreign currency (Euro). Hence, in the instant case, Euro-LIBOR would be the appropriate benchmark that conforms to the arm's length standard under the CUP Method. The assessee applied the Euro-LIBOR rates prevailing during the relevant period for computation of interest payable by AT&S India to the assessee and further added credit spread of 350 basis points (net of tax) for loan and 100 basis points for advance. Hence, the interest received by the

assessee from AT&S India is at arm's length under the CUP Method. In the assessee's case, the DRP did not mention in his order the comparability analysis prescribed under clause (a) of sub-rule (1) of rule 10B of the Income-tax Rules, 1962. The DRP did not bring on record any comparable uncontrolled transaction under the CUP Method for substantiating that the interest rate of LIBOR plus 450 basis points conformed to the arm's length standard under the CUP Method. Therefore, taking into account these facts and circumstances as narrated above we delete the upward adjustment of INR 3,13,68,273/- to the income of the assessee.

15. Ground No. 4 to 9 are directed against the arm's length price adjustment of INR 9,48,760/- made by the AO in respect of recovery of information technology ('IT') service cost from AT&S India.

16. Facts of the case which can be stated quite shortly are as follows. The assessee entered into the 'IT Cost Pooling Agreement' with its group companies including AT&S India under which all the parties to the aforesaid agreement combined together for financing the object of arranging IT products and related services primarily from unrelated IT companies. It is pertinent to note that the assessee, in order to arrange IT products and related services for the benefit of group companies, entered into several agreements with unrelated IT companies such as IBM, Microsoft, Siemens, T-Systems and so forth. The cost incurred by the assessee for arranging IT products and related services was allocated on actual basis to all the parties to the agreement using appropriate allocation keys as mentioned in the aforesaid agreement. No profit element was added to the actual cost for the purpose of allocation of the same to the parties to the aforesaid agreement. AT&S Austria acted as administrator to the periodical cost pooling process and collected the total costs from the parties to the agreement. The cost

allocation was duly verified and certified by the independent auditor of AT&S Austria, namely, PwC Wirtschaftsprüfung GmbH, vide letter dated 3rd May 2013.

The TPO could not appreciate the aforesaid arrangement made within the group for securing IT products and related services from unrelated IT companies. The TPO held in his order that the assessee provided the requisite services on cost to cost basis. However, in the commercial world, any third party would have provided services along with an element of profit mark-up. The TPO had just mentioned names of five independent companies and their OP/TC ratio in his order. He computed the arithmetic mean of the OP/TC of the five companies at 2.65% and accordingly, made an upward adjustment of INR 948,760/- to the income of the assessee (i.e. 2.65% of INR 3,58,02,269/-).

The TPO did not mention the method applied by him for benchmarking the said transaction. He did not document any comparability analysis in his order with reference to the 'function-asset-risk' profile (FAR) of the said companies. In the draft assessment order, the AO held that the services rendered by the assessee fell within the definition of royalty as well as fees for technical services as per Article 12 of the Double Tax Avoidance Agreement ('DTAA') entered into between India and Austria. The DRP confirmed the addition made by the AO/TPO to the tune of Rs. 9,48,760/- and dismissed the objections of the assessee.

17. Aggrieved by the order of the DRP/TPO, the assessee is in appeal before us.

18. Rituparna Sinha, Ld Counsel for the assessee submitted before the Bench that the TPO mentioned in his order for the assessment year 2013-14 that the assessee provided requisite services on cost to cost basis. The ld Counsel relied on the decision of the Hon'ble Kolkata Tribunal in AT&S India vis-à-vis AT&S

Austria's own case for the assessment years 2002-03 and 2003-04. The Id Counsel pointed out that the AO, on the same facts and circumstances of the case as stated herein above for the assessment year under consideration, alleged that the services provided were in the nature of fees for technical services under section 9(1)(vii) of the Act. The AO rejected the assessee's contention that the payment constituted reimbursement of expenditure to AT&S Austria. Since the assessee did not deduct tax at source, the AO disallowed the entire payment under section 40(a)(i) of the Act. On appeal, the CIT(A) sustained the order of the AO. On further appeal by assessee the Tribunal noted that AT&S Austria entered into agreements with several companies (IBM, Microsoft, SAP) for utilizing their products. In turn, it permitted the group companies to utilize those products and the total payments made to the service providers were allocated to the group companies which actually utilised the services. Placing reliance *inter alia* on the decision of the Hon'ble High Court of Calcutta in the case of CIT v Dunlop Rubber Co. Ltd. reported in 142 ITR 493, Tribunal held that the transaction under consideration was reimbursement of expenditure and no income could be said to have generated requiring deduction of tax. Since there was no liability of deduction of tax at source, section 40(a)(i) of the Act could not be invoked.

It is to be noted that for the succeeding assessment years (AY 2004-05, AY 2005-06, AY 2006-07 and AY 2008-09), the Hon'ble Tribunal followed their own decision as stated hereinabove on the same facts and circumstances of the case and granted relief to AT&S India. In view of the above, Id Counsel prayed the Bench that the shared IT cost recovered by the assessee from AT&S India in the instant to neither fees for technical services nor royalty in the hands of the assessee in India, therefore arms length price adjustment of Rs. 9,48,760/- should be deleted.

19. On the other hand, the Ld. DR for the Revenue has primarily reiterated the stand taken by the DRP/TPO, which we have already noted in our earlier para and is not being repeated for the sake of brevity.

20. We heard both the parties and carefully gone through the submission put forth on behalf of the assessee along with the documents furnished and the case laws relied upon, and perused the fact of the case including the findings of the Id CIT(A) and other materials brought on record. We note that there is merit in the submissions of the Id Counsel, as the issue involved in these grounds are covered by the judgments of the Coordinate Bench in the case of AT&S India vis-à-vis AT&S Austria's, own case, for the assessment years 2002-03 and 2003-04. It should be noted that the IT products and related services arranged by the assessee from independent IT companies for the use of AT&S India were integral part of the business of AT&S India. The aforesaid products and services connected to AT&S India with all the group companies, global suppliers, global customers and other parties for the purpose of business, enabled AT&S India to record and store substantial amount of business data and to share the same with the group companies and further enabled AT&S India to conduct its business effectively and efficiently in the modern computerized business environment throughout the world. In return, AT&S India paid its due share of cost to the assessee which did not include any profit element.

The payment made by AT&S India to the assessee is in the nature of reimbursement of cost whereby AT&S India paid its due share of the expenses incurred by the assessee on the IT system maintained under the IT Cost Pooling Agreement. Hence, the recovery of cost in the hands of the assessee could not be income chargeable to tax in India.

21. We note that assessee entered into 'IT Cost Pooling Agreement' with its group companies including AT&S India under which all the parties to the aforesaid agreement combined together for financing the object of arranging IT products and related services primarily from unrelated IT companies (IBM, Microsoft, SAP etc.). The cost incurred by the assessee for arranging IT products and related services was allocated on actual basis to all the parties to the agreement using appropriate allocation keys as mentioned in the aforesaid agreement. No profit element was added to the actual cost for the purpose of allocation of the same to the parties to the aforesaid agreement. No third party was given access to the IT products and related services arranged by the assessee under the 'IT Cost Pooling Agreement'. At this juncture it is appropriate to quote the judgment of the Hon'ble Supreme Court in the case of CIT vs. Bankipur Club Ltd reported in [1997] 92 Taxmann 278 (SC), wherein the Hon'ble Apex Court, by taking a cue from Halsbury Laws of England, has enunciated the following principle:

"Where a number of persons combine together and contribute to a common fund for the financing of some venture or object and will in this respect have no dealings or relations with any outside body, then any surplus returned to those persons cannot be regarded in any sense as profit. There must be complete identity between the contributors and the participators. If these requirements are fulfilled, it is immaterial what particular form the association takes. Trading between persons associating together in this way does not give rise to profits which are chargeable to tax."

We note that the assessee entered into 'IT Cost Pooling Agreement' with its group companies including AT&S India under which all the parties to the aforesaid agreement combined together for financing the object of arranging IT products and related services for all the parties to the aforesaid agreement. No

third party (i.e. third party means entity not being party to the 'IT Cost Pooling Agreement') was given access to the IT products and related services arranged by the assessee under the 'IT Cost Pooling Agreement'. The costs incurred by the assessee for arranging IT products and related services were allocated to the parties to the aforesaid agreement on actual basis (i.e. without adding any profit element to the cost) using appropriate allocation keys mentioned in the aforesaid agreement. Thus, there was complete identity between the contributors to the IT cost pool and participators in the benefit under the aforesaid agreement i.e. both parties having been AT&S group companies. The fund contributed by the group companies was not spent for any purpose which was not within the scope of the aforesaid agreement. The payment made by AT&S India to the assessee is in the nature of reimbursement of cost, therefore we delete the addition of Rs.9,48,760/-.

22. During the Course of hearing the Id Counsel informs the Bench that assessee does not want to press ground No. 10 and 11, therefore, we dismiss them as not pressed.

23. Ground No. 12 to 15 are directed against the arm's length price adjustment of INR 9,72,959/- made by the TPO/DRP in respect of receipt of corporate guarantee fee from AT&S India.

24. When this appeal was called out for hearing, learned counsel for the assessee invited our attention to the order passed by the Division Bench of this Tribunal in the case of M/s Emami Limited, in ITA No.1958/Kol/2017, Assessment Year: 2013-14 whereby the issue Corporate guarantee has been discussed and adjudicated in favour of assessee. Learned counsel for the assessee submitted

that the present issue is squarely covered by the aforesaid order of the Tribunal, a copy of which was also placed before the Bench.

25. Learned Departmental Representative relied upon the orders of the TPO/AO.

26. We see no reasons to take any other view of the matter than the view so taken by the Division Bench of this Tribunal in the case of M/s Emami Limited, in ITA No.1958/Kol/2017, Assessment Year: 2013-14. In this order, the Tribunal has inter alia observed as follows:

“9. After giving our thoughtful consideration to the submission of the parties and perusing the judicial decisions relied upon by the Ld. AR, we find that the issue involved, in respect to corporate guarantee, in the present appeal is no longer res integra. We note that financial guarantee is a promise made by a person (the guarantor) to a lender (guaranteed party) promising to pay the lender the money owed to it by the borrower (obligor) on whose behalf the guarantee is given, if the borrower fails to pay back the debt due to the lender. A guarantee to a lender that a loan will be repaid, guaranteed by a company other than the one who took the loan, is called a corporate guarantee.

The Ld Counsel for the assessee submitted before us that extending corporate guarantee for borrowings by subsidiaries was a shareholder activity, that it was not an international transaction, that no fee was warranted since no cost was incurred, and that bank guarantees were not comparable to corporate guarantees since the business of the bank was different from that of a corporate.

Before us, Ld DR for the Revenue submitted that there are plethora of judicial pronouncements wherein it has been held that the corporate guarantee is in the nature of service provided by the taxpayer to its associate enterprises (AEs) and hence should bear a charge. The judgments have explicitly held that after the Income Tax Act, 1961 was amended by the Finance Act, 2012 to include 'guarantee' within the definition of "international transaction" with retrospective effect from 01.04.2002, the corporate guarantee should be benchmarked from arm's length perspective.

10. However, after hearing both the parties, we note that there are plethora of judicial pronouncements wherein it has been held that corporate guarantee does not constitute an international transaction and accordingly there should not be a charge. We note that in assessee's case under consideration, the assessee, in

order to avoid protracted litigation made an estimated adjustment of Rs.51,50,327/- @ 1% of the corporate guarantee amount as fees for corporate guarantee, for income tax purposes. However, the TPO rejected the method adopted by the assessee and recomputed the arm's length price by making upward adjustment.

We note that the assessee has extended this corporate guarantee as a shareholder activity hence the adjustment should not be made. The primary object of the assessee is to help the subsidiary company and protect its interest and there is no object of the assessee company to earn the interest income by furnishing the corporate guarantee to the associated enterprises. We note that in the judgment of the Co-ordinate Bench of ITAT Ahmadabad, in the case of Micro Link Limited vs. ACIT [TS-568-ITAT-2015] (Ahd) wherein the Co-ordinate Bench has held that corporate guarantee does not constitute international transaction as per section 92B of the Act as amended by the Finance Act, 2012. The relevant extracts of the judgment is reproduced as under:

"On a conceptual note, thus, there is a valid school of thought that the corporate guarantees can indeed be a mode of ownership contribution, particularly when as is often the case, "where such a guarantee is given, it compensates for the inadequacy in the financial position of the borrower; specifically the fact that the subsidiary does not have enough shareholders funds. There can be number of reasons, including regulatory issues and market conditions in the related jurisdictions, in which such a contribution, by way of a guarantee, would justify to be a more appropriate and preferred mode of contribution vis-a-vis equity contribution ... "

" ... In other words, these guarantees were specifically stated to be in the nature of shareholder activities. The assessee's claim of the guarantees being in the nature of quasi capital, and thus being in the nature of a shareholder's activity, is not rejected either. The concept of issuance of corporate guarantees as a shareholder activity is not alien to the transfer pricing literature in general .."

".... We have noticed that the 'OECD' Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations specifically recognizes that an activity in the nature of shareholder activity, which is solely because of ownership interest in one or more of the group members, i.e. in the capacity as shareholder "would not justify a charge to the recipient companies". It is thus clear that a shareholder activity, in issuance of corporate guarantees, is taken out of ambit of the group services. Clearly, therefore, as long as a guarantee is on account of, what can be termed as 'shareholder's activities', even on the first principles, it is outside the ambit of transfer pricing adjustment in respect of arm's length price. "

" We are in agreement with these views. There can thus be activities which benefit the group entities but these activities need not necessarily be 'provision for services'. The fact that the OECD considers such activities in the services segment does not alter the character of the activities. While the group entity is thus indeed benefited by the shareholder activities, these activities do not necessarily constitute services ... "

" The issuance of financial guarantee in favour of an entity, which does not have adequate strength of its own to meet such obligations, will rarely be done. The very comparison, between the consideration for which banks issue financial guarantees on behalf of its clients with the consideration for which the corporate issue guarantees for their subsidiaries, is ill conceived."

" ... These guarantees do not have any impact on income, profits, losses or assets of the assessee. There can be a hypothetical situation in which a guarantee default takes place and, therefore, the enterprise may have to pay the guarantee amounts but such a situation, even if that be so, is only a hypothetical situation, which are, as discussed above, excluded. When an assessee extends an assistance to the associated enterprise, which does not cost anything to the assessee and particularly for which the assessee could not have realized money by giving it to someone else during the course of its normal business, such an assistance or accommodation does not have any bearing on its profits, income, losses or assets, and, therefore, it is outside the ambit of international transaction under section 92B (1) of the Act "

11. We rely on the judgment of the Co-ordinate Bench of ITAT, Delhi in the case of Bharti Airtel Ltd. vs. ACIT in I.T.A. No. 5816/Kol/2012, wherein the definition of international transaction in view of the amendments, vide Finance Act, 2012, had been discussed and it was held that the provision of corporate guarantee is not an international transaction. The relevant extract of the judgment is reproduced as under:

"Para 23 The issue whether giving a corporate guarantee amounts to an 'international transaction' has not been raised or discussed in the cases where ALP adjustments have been upheld and therefore those decisions cannot be put against the taxpayer

"Para 27.... The Explanation inserted vide Finance Act 2012 is to be read in conjunction with the main provision and in harmony with the scheme of provision under section 92B of the Act. It is essential that in order to be an 'international transaction' providing corporate guarantee should have a bearing on the profits, income losses or assets of the enterprise:"

"Para 31.... The contents of the Explanation fortifies, rather than mitigates, the significance of expression 'having a bearing on profits, income, losses or assets' appearing in section 92B(1) of the Act ... "

"Para 33 The onus is on the tax authorities to demonstrate that the transaction is of such nature as to have 'bearing on profits, income, losses or assets of the enterprise' and has to be on real basis even if in present or in future, and not on contingent or hypothetical basis"

"Para 32.... There can be a situation in which a guarantee default takes place and therefore, the enterprise may have to pay the guarantee amount but such a situation even if that be so is only a hypothetical situation"

"Para 32 When an assessee extends an assistance to the associated enterprise which does not cost anything to the assessee and particularly for which the assessee could not have realized money by giving it to someone else during the course of its normal business, such an assistance or accommodation does not have any bearing on its profits, income, losses or assets and therefore it is outside the ambit of international transaction under section 92B(1) of the Act. ..."

"Para 35 In the case of GE Capital Canada -vs- The Queen, the tax court of Canada has indeed dealt with ALP determination of the guarantee fees, but then it was done in the light of their domestic law provisions which are quite at variance with the Indian transfer pricing legislation"

Similar views have been held by various coordinate benches, including jurisdictional as under:

- i) Tega Industries Ltd. vs. DCIT [I.T.A. No. 912/2012 dated. 03.08.2016, [Kol Trib.]*
- ii) Marico Ltd. vs. ACIT [TS-411-ITAT-2016 (Mum)-TP]*
- iii) TVS Logistics Services Ltd. [TS-324-ITAT-2016 (CHNY)-TP]*
- iv) Manugraph India Ltd. [TS 324-ITAT 2016 (Mum)-TP]*
- v) Siro Clinpharm Pvt. Ltd. vs. DCIT [ITS-185- ITAT 2016 (Mum)-TP]*
- vi) Apollo Health Street Ltd. vs. DCIT [TS-184- ITAT 2014 (HYD)-TP]*

Therefore, based on the above mentioned precedents, we note that the provision of corporate guarantee is not an international transaction. Hence, respectfully following the judgment of the co-ordinate benches cited above, we confirm the findings of the ld. CIT(A).

27. As the issue is squarely covered in favour of the assessee by the decision of the coordinate bench, in the case of M/s Emami Limited, in ITA

No.1958/Kol/2017, Assessment Year: 2013-14, (supra) and there is no change in facts and law and the Revenue is unable to produce any material to controvert the aforesaid findings of the coordinate Bench. Respectfully following the above binding precedent, we delete the addition of Rs.9,72,959/-.

28. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on this 31/01/2020.

Sd/-
(S. S. Godara)

न्यायिक सदस्य / JUDICIAL MEMBER
कोलकाता / Kolkata;
Dated:31./01/2020
RS, Sr.PS

Sd/-
(A. L. Saini)

लेखा सदस्य / ACCOUNTANT MEMBER

आदेश की प्रतिलिपि अग्रहित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant- AT & S Austria Technologie & Systemtechnik Aktiengesellschaft
2. प्रत्यर्थी / The Respondent.- DCIT, Circle-11(1), Kolkata
3. आयकर आयुक्त(अपील) / The CIT(A),
4. आयकर आयुक्त / CIT
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, कोलकाता / DR, ITAT, Kolkata
6. गार्ड फाईल / Guard file.

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By Order

Assistant Registrar,
I.T.A.T, Kolkata Benches,
Kolkata.