

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'I-1' NEW DELHI**

**BEFORE SHRI N. K. BILLAIYA, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER**

I.T.A. No. 3717/DEL/2017 (A.Y 2013-14)

(THROUGH VIDEO CONFERENCING)

Kusum Healthcare Pvt. Ltd. D-158A, Okhla Industrial Area, Phase-1 New Delhi AABCK7043B (APPELLANT)	Vs	Addl. CIT Special Range-5 New Delhi (RESPONDENT)
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Appellant by	Sh. Vishal Kalra & Sh. S. S. Tomar, Advs & Ms. Reema Malik, Adv
Respondent by	Sh. M. Barnwal, Sr. DR

Date of Hearing	06.08.2020
Date of Pronouncement	01.09.2020

ORDER

PER SUCHITRA KAMBLE, JM

This appeal is filed by the assessee against the order dated 30/05/2017 passed by Addl. Commissioner of Income Tax, Special Range-5, New Delhi under Section 143(3) read with Section 144C (13) of the Income Tax Act, 1961 for Assessment Year 2013-14.

2. The grounds of appeal are as under:-

1. *That on the facts and in the circumstances of the case and in law, the order passed by the Learned Assessing Officer ('AO') / Transfer Pricing Officer ('TPO') is bad in law and void.*

2. *The Ld. AO/ Transfer Pricing Officer ("Ld. TPO"), erred both on facts and in law in enhancing the income of the Appellant by INR 19,221,882 on account of interest chargeable on receivables outstanding during the year and in doing so have grossly erred by:*

2.1. *not appreciating the overall arrangement/commercial considerations of the Assessee with its Associated Enterprises ("AEs") and re-characterizing the outstanding receivables from overseas AEs as unsecured loans advanced to the AEs and imputing interest at the rate equal to LIBOR plus 400 basis points;*

2.2. *disregarding the intercompany pricing arrangement and not appreciating the fact that unlike a loan or borrowing, outstanding receivable is not an independent transaction which can be viewed on standalone basis and needs to be examined with the commercial transaction as a result of which the debit balance has come into existence;*

2.3. *ignoring the fact that working capital adjustment takes into account the impact of outstanding receivables on profitability and therefore, no further imputation of interest is warranted;*

2.4. *rejecting the Assessee's contention that no interest is charged to third parties as well and therefore, no adjustment is warranted considering the Comparable Uncontrolled Price method as the "most appropriate method" for determining the arm's length price ("ALP") of the alleged loan provided by the Assessee to the AEs;*

2.5. *disregarding the fact that the Assessee is a low debt company and accordingly, it is not justifiable to presume that borrowed funds have been utilized to pass on the credit facility to the AE;*

2.6. *ignoring the Assessee's contention, without prejudice to other contentions, that if at all interest is to be imputed, instead of an ad-hoc rate of LIBOR plus 400 basis points, the LIBOR rate alone for the FY 2012-13 should be applied for imputing interest;*

3. *The Ld. AO/ Ld. TPO has grossly erred on facts and in law by disregarding judicial pronouncements in India (including the one passed by the Hon'ble Delhi Bench in Appellant's own case for the AY 2010-11 which is upheld by the Hon'ble Delhi High Court) in undertaking the TP adjustment.*

4. *That on the facts and circumstances of the case and in law, the Ld. AO has erred in proposing to initiate penalty proceedings under section 271(l)(c) of the Act mechanically and without recording any adequate reasons for such initiation.*

That the above grounds and sub grounds of objections are without prejudice to each other."

3. The assessee is engaged in manufacturing and sale of pharmaceutical goods / medicines and consists of major revenues on account of export of such pharmaceutical goods / medicines. The assessee filed return of income on 10/02/2015 declaring income at Rs. 45,01,13,530/-. The assessee had entered into international transactions with the associate enterprises (A.Es). A reference was made u/s 92CA (3) of the Income Tax Act, 1961 to the Transfer Pricing Officer (TPO) in view of international transactions of Rs.116,38,13,687/-. The TPO vide order dated 06/10/2016 has made an adjustment of Rs. 1,89,33,756/- towards Arm's Length Price (ALP) on account of interest chargeable on delayed receivable. The draft assessment order was passed u/s 144C(1) read with Section 92CA (3) on 21/12/2016 computing assessed income at Rs.46,90,47,286/-. The assessee company filed objections against draft assessment order, before Dispute Resolution Panel (DRP). The DRP vide order dated 10/04/2017 issued certain directions to the TPO. The TPO passed order u/s 144C (5) on 18/5/2017 in pursuance of directions dated 10/4/2017 of the DRP and computed ALP Adjustment at Rs.1,92,21,882/- as against earlier ALP Adjustment of Rs.1,89,33,756/- proposed to the Assessing Officer. Accordingly, the Assessing Officer assessed the income at Rs.46,93,35,412/-.

4. Being aggrieved by the assessment order, the assessee filed appeal before us.

5. The Ld. AR submitted that the issues contested herein are already decided by the Tribunal for Assessment Year 2010-11 which was confirmed by the Hon'ble Jurisdictional High Court. The Ld. AR submitted that the assessee manufactures and markets pharmaceutical products. It is engaged in export of pharmaceutical products to its overseas associated enterprise (AE) as well as non-group companies. During the relevant assessment year, the assessee had undertaken the international transaction pertaining to export of pharmaceutical products. The said international transaction has been duly accepted by the TOI to be at arm's length. However, the TPO re-characterized

receivables outstanding from AE as unsecured loans advanced by the assessee to its AE and imputed a notional interest based on LIBOR + 400 basis points (resulting in interest rate of 5.013%). An adjustment of Rs. 1,89,33,756/- was made by the TPO in the transfer pricing order. The DRP concurred with the TPO and upheld the approach and adjustment made by the TPO. However, the DRP held that no adjustment on account of interest on receivables outstanding beyond 180 days could have been made beyond March 31, 2013. Thereafter, the Assessing Officer passed the final assessment order after giving effect to the directions issued by the DRP in respect of period of interest to be applied, and made an adjustment of Rs. 1,92,21,882/- to the income of the assessee. The Ld. AR submitted that Ground No. 1 is general in nature. As regards to Ground Nos. 2.1, 2.2, 2.5, 2.6 are academic in nature as per the submissions of the Ld. AR. The Ld. AR further submitted that Ground No. 4 is consequential.

6. As regards to Ground Nos. 2, 2.3, 2.4 and 3 relating to non consideration of working capital adjustment analysis, the Ld. AR submitted that the working capital adjustment takes into account the impact of outstanding receivables on the profitability of the tested party vis-à-vis the comparable companies, so as to bring parity in the working capital investment of the tested party and the comparable companies rather than looking at the receivables independently. During the course of assessment proceedings, an analysis of working capital adjustment was undertaken by the assessee for the comparable companies selected in the TP report. The Ld. AR relied upon the decision of the Hon'ble Delhi High Court in assessee's own case for A.Y. 2010-11 being ITA No. 765/2016. Without prejudice to the above submissions, the Ld. AR further submitted that in respect of the observations of TPO/DRP/AO in treating outstanding receivables from AE as loan advanced, the non-charging of interest on overdue balances of AE should be compared with other cases in which the assessee has extended the credit period to non-group companies i.e., which would serve as an internal CUP. In this respect, the Ld. AR submitted that no interest has been charged on the overdue balances from unrelated third parties

as is the case for outstanding receivables from AE. The Ld. AR further pointed out that AE is the key customer of the assessee and the sales made by the assessee to its AE amounts to 82% of the total turnover of the assessee. In transactions with Non-AEs, the major sales were to Keldow Enterprises, in which case as well, similar delay was there in payment of invoices. In support of this contention, the Ld. AR relied upon the following decisions wherein it has been held that when no interest is charged from both AEs and non AEs, the transaction with non-AEs serves as an internal CUP and thereby, no notional interest can be charged on receivables from AEs:

- i) Kusum Healthcare Pvt. Ltd. vs. Addl. CIT (ITA No. 84/Del/2017)
- ii) Livingstones vs. CIT [TS-962-HC-2016 (BOM)-TP]
- iii) Indo-American Jewellery Ltd. vs. CIT [TS-3-HC-2013(BOM)]
- iv) Bausch & Lomb Eyecare (India) Pvt. Ltd. vs. ADCIT [TS-152-ITAT-2014(DEL)]
- v) Axis Risk Consulting Services (P.) Ltd. vs. DCIT [2018] 92 taxmann.com 103(Del. Tri.)
- vi) Sophos Technologies (P.) Ltd. vs. DCIT [2018] 100 taxmann.com 374 (Ahd. Tri.)

In view of the above, where there is a uniform and consistent policy/practice followed by the assessee pertaining to outstanding receivables in respect of AEs and non-AEs, no adjustment in respect of notional interest on outstanding receivables is warranted.

7. The Ld. DR submitted that all the grounds of appeal, taken by the assessee in its appeal, emerge from one fundamental issue as to justification of TP adjustment on account of delayed realization of receivables from AE. The assessee has relied upon the case-laws in its own case [both Tribunal and Hon'ble Delhi High Court] and has urged that the issue is covered. However, the facts in the case of the assessee are analyzed to discern a pattern that would substantiate that the delayed realization of outstanding receivables beyond 180 days, for the supplies made to the AE, is not in accordance with

normal trade practices and reflects an arrangement of international transactions which are intended to benefit the AE. The analysis of the facts & figures clearly negates the claim of the assessee that the working capital adjustment takes into account the impact of such delayed realization of outstanding receivables from AE. Further the case of the assessee is squarely covered by a recent decision of ITAT, Delhi in the case of Techbooks International Pvt. Ltd., ITA No.6102/Del/2016, order dt.06.07.2020 wherein the case of the assessee (i.e. Kusum Healthcare) was also considered in addition to some other case-laws. Whether the working capital adjustment factors in the impact of such delayed realization of receivables, has also been analyzed by Tribunal in view of the facts of the case which are identical to the case of the appellant and decided against the assessee. It is also urged before the Bench that res-judicata is not applicable in income-tax proceedings and reliance in this regard is placed on the decision of jurisdictional High Court in the case of Krishak Bharati Cooperative Ltd vs. DCIT [2012] 23 taxmann.com 265 (Delhi) wherein Hon'ble Delhi High Court has held that the rule of consistency should not create anomaly. As regards to Ground Nos. 2.1 & 2.6 relating to application of interest rate @ LIBOR plus 400 bps applied by the TPO/AO and upheld by Ld. DRP, the Ld. DR submitted that necessary discussions have been recorded by the TPO in para-20 at P/13 of his order. The TPO has considered the reply of the appellant and applied the interest rate of LIBOR plus 400 bps keeping in view the currency of payments received, opportunity cost and the discussions & findings of Ld. DRP in AY 2011-12 in the case of the assessee itself. The discussions in the TPO order may kindly be referred to. The DRP have discussed the issue in detail viz. various factors, credit spread demanded by the lenders in similar situations, risks borne by the appellant, opportunity cost, decision of jurisdictional High Court in the case of Cotton Naturals India Pvt. Ltd., ITA No.233/2014 and then have given its findings at P/18-23 of its order upholding the credit spread of 400 bps over LIBOR rate. As regards to GOA 2.2 to 2.5 are interlinked and the Ld. DR submitted that the TPO issued a show-cause dt.05.09.2016, examined the

reply of the assessee vis-a-vis the relevant facts and has recorded his elaborate discussions in his order. The TPO has recorded his discussions w.r. to FAR analysis of the assessee at P/2 to 8. The TPO has discussed relevant provisions of Sec. 92CA(2A), 92CA(2B), Explanation (1)(c) to Sec.92B, Sec. 92F(v) and sec. 92B(1) and amendments brought by Finance Act, 2012. Thereafter the TPO has made elaborate discussions on the issues involved in para-15 to 20. The TPO has also discussed various case-laws in his order. The TPO has adopted the segregated approach for benchmarking of outstanding receivables from AE on account of its delayed realisation for the delay beyond the period of 180 days as the assessee itself admitted to have allowed a period of 180 days for realisation of such receivables. Thus it may be noted that for the delay upto the period of 180 days no interest has been imputed by the TPO. The DRP has given its findings at P/ 5-6 on characterization of such receivables & segregated approach by the TPO to arrive at the ALP of such receivables lying unrecovered beyond a period of 180 days and have upheld the action of the TPO. The DRP has considered the issue in detail whether the working capital adjustment takes into account the impact of outstanding receivables in view of the facts of the case, time value of money at P/6-12 and have upheld the action of the TPO in its findings. The DRP have also considered the arguments of the assessee that "since no interest has been charged from non-AE for delayed realisation, no adjustment is warranted for determining the ALP of receivables from AE". The DRP have discussed the issue in greater detail at P/12-18 of its order. The Ld. DR specifically made reference where the discussion of the DRP on this issue was at P/16-17. The DRP have noted that there was categorical mention of charging interest on delayed payments against sale beyond a period stipulated in the agreement with the non-AE and the AE. The assessee took the argument that it did not recover any interest from either parties. The DRP have given its findings that the material factor for scrutiny from transfer pricing angle was not whether the assessee is charging any interest on the overdue outstanding receivables from its AEs or non-AEs or not but actually what should have been time value of money and what price was imputable to the

time value of money. The DRP have also discussed relevant case-laws, OECD definitions / guidelines and finally upheld the action of the Assessing Officer. As regards to Ground No. 2.5, the assessee submitted that it is a low debt company and no borrowed funds have been utilized to pass on the credit facility. This issue has also been considered by the DRP at P/18 and have given its findings that in view of their detailed discussions & decisions w.r. to substantive grounds 2.3 & 2.4, the same is only academic and hence infructuous. The facts show that the period of delay of realisation of such outstanding receivables varied from 181 days to 430 days in the case of AE [at P/14-28 of order of TPO which contains computation of interest]. The period of delayed realization of recevables and the pattern is in total variance from those in the case of non-AE. It may be noted that a margin period of 180 days, as per agreement and as stated by the assessee, have been considered by the TPO and to be reasonable & fair to the assessee, the interest have been computed for the period beyond 180 days only. Further as directed by the DRP, the interest have been computed in respect of overdue receivables upto 31st March of the FY under consideration. In addition to the discussions by the TPO and the DRP it would be interesting to consider certain crucial facts & figures of the year as well as that of last FY as reflected in the financial statements of the assessee & the annexure filed before Tribunal. The same are reproduced as under:-

Particulars	Figures as on 31.03.2013		Figures as on 31.03.2012		Remarks
Share-capital	7.99 Cr.		7.99Cr.		
Reserve &Surplus	147.43 Cr.		119.20 Cr.		
Total Funds	155.42 Cr.		127.19 Cr.		P/62 of PB
Sales of product	141.13 Cr.		104.95 Cr.		P/63 of PB
	AE	Non AE	AE	Non AE	Annexure-I.
	98.23 Cr.		NA	NA	Sales to AE for FY

		42.90Cr			2012-13 comes to 69.6% of total sales & in the case of non-AE it is 30.4%. Bifurcated figures for FY 2011-12 is not available in PB.
Trade receivables (i.e outstanding with both AE & non-AE)	119.57 Cr.		97.06 Cr.		P/62 of PB
	AE	Non AE	AE	Non AE	Annexure-I.
	105.53 Cr	14.04 Cr.	NA	NA	Bifurcated figures for FY 2011-12 is not available in PB. The appellant has claimed that it is a low debt Co. It is seen that the Trade receivables account for 67.9% of total funds in FY 2012-13 in the case of AE and 9.03% in the case of Non AE. Further, if compared with the

					<p>sales of the year the Trade receivables comes to 121.72% of total sales to AE whereas it is 32.7% in the case of non AE. Comments in below mentioned para 4.2.10 may kindly be refer to.</p>
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The assessee is engaged in sales of various pharmaceuticals products to both AE & non AE. The appellant has claimed that it is a low debt Co. which is a matter of fact but has no relevance to the issue. From the figures reproduced above in para 4.2.9, it is abundantly clear that the Trade receivables account for 67.9% of total funds in FY 2012-13 in the case of AE and it is 9.03% in the case of non-AE. Further, if compared with the sales of the year the Trade receivables comes to 121.72% of total sales to AE whereas it is 32.7% in the case of non-AE. The Bifurcated figures for FY 2011-12 is not available in PB. It is requested that if need be, the assessee may be asked to provide the same which can be analysed thereupon. The ratio of trade receivables to total funds as well as total sales in the case of AE vis-à-vis those in the case of non-AE are not comparable at all. In fact the over-due outstandings with the AE at the end of the year exceeds the total sales to the AE during the year which only indicate that the funds in the form of overdue trade receivables are enjoyed by the AE of the assessee over the years without any interest. This kind of arrangement also indicate that the practice/arrangement being followed by the appellant in the case of the AE is that when next payment against the supply becomes due, only then the earlier trade outstandings or a part thereof is released which in fact amounts to perpetual retention of the funds by the AE without any visible

commitment to payback in time as per the agreement which is entirely against the normal trade practices. By following this practice/arrangement the AE is enjoying 68% (approx) funds of the assessee in the form of outstanding receivables without any interest and only a portion of the funds is allowed, that to when another payment becomes due, which are necessary for logistics support and to meet the various expenses to keep the assessee afloat. These vital facts & ratios substantiate that the arrangements between the assessee and the AE are intended to benefit the AE. In view of these crucial facts, the benchmarking to account for the opportunity cost and time value of money in the case of the assessee is warranted. Under these facts & circumstances, separate benchmarking of interest on over delayed realisation of such outstanding receivables is quite justified. The arguments/objections of the appellant are accordingly totally misplaced. The assessee has relied upon the decision of the ITAT in its own case for AY 2010-11 and the order of Hon'ble Delhi High Court wherein the said order of the ITAT for AY 2010-11 has been upheld and the Departmental appeal has been dismissed. However, the facts, ratios and analysis of facts for the year in the case of the assessee itself, which indicate a definite pattern intended to benefit the AE, need to be considered afresh in accordance with the observations of Hon'ble Delhi High Court. On meticulous interpretation of the observations of Hon'ble Delhi High Court, it is abundantly clear that Hon'ble Court has not categorically stated that no adjustment for overdue trading receivables can be made. The Hon'ble High Court has in fact given a clear finding that a proper inquiry may be made by analysing the statistics over a period of time to discern a pattern which would indicate that vis-à-vis the receivables for the supplies made to an AE, the arrangement reflects an international transaction intended to benefit the AE in some way. The facts, statistics, ratios & analysis of such facts/statistics as discussed in para 4.2.9 & 4.2.10 clearly make out the pattern which indicate such arrangement between the assessee and the AE which are intended to benefit the AE in some way. The Ld. DR relied upon the decision of the ITAT in the case of Techbooks International Pvt. Ltd., ITA No. 6102/Del/2016, order dt.

06.07.2020. Paras relevant to the issues are 16 to 23 at P/8-14 of the order. The facts in the case of Techbooks International are identical to those in the case of the assessee. The issue in the case of the assessee and all the grounds of appeal of the assessee including treatment of such outstanding receivables as loans, denial to aggregated benchmarking of principle transactions & outstanding receivables, plea of working capital adjustment and the payment pattern showing the transfer of profits by way of abnormally delaying realisation of outstanding receivables are squarely covered in the decision in the case of Techbooks International. The case-law in assessee's own case (i.e. Kusum Healthcare Pvt. Ltd), relied on by the assessee, has also been considered/analysed in the case of Techbooks International and in addition other case-laws have also been considered/discussed by the ITAT. The same may kindly be referred to and it is requested to kindly consider the same to have a holistic view on the issue. It is also urged before the Bench that res-judicata is not applicable in income-tax proceedings and reliance in this regard is placed on the decision of jurisdictional High Court in the case of Krishak Bharati Cooperative Ltd vs DCIT [2012] 23 taxmann.com 265 (Delhi) wherein Hon'ble Delhi HC considered the decision of Hon'ble Supreme Court in the case of Radhasoami Satsang vs CIT {1992] 60 taxman 248(SC) and has held that the rule of consistency should not create anomaly. In view of the above facts & submissions, the Ld. DR requested that the decision of the Hon'ble Courts in earlier years in the case of the assessee may not be blindly followed in the name of rule of consistency and the issue may be considered afresh in view of the glaring facts, ratios, analysis of facts in the case of the assessee and relevant case laws.

7. In rejoinder the Ld. AR submitted that the factual aspects in Tech Book India & the circumstances arises in that case are totally different in present assessee's case. Therefore, the said decision will not be applicable in the present case. The factual aspect has remained similar for Assessment Year 2010-11, 2011-12, 2012-13 & in the present Assessment Year. The assessee

in the present case in all the previous years has given the details of outstanding receivables and its interest as well as in the present Assessment Year also all the outstanding receivables with the calculation was given by the assessee before all the Revenue Authorities (AO/ TPO/ DRP).

8. We have heard both the parties and perused the material available on record. As regards to Ground Nos. 1, 2.1, 2.2, 2.5, 2.6 are either general or academic. Hence Ground Nos. 1, 2.1, 2.2, 2.5 and 2.6 are dismissed. As regards to Ground Nos. 2, 2.3, 2.4 and 3, the assessee has given a calculation of interest on outstanding receivables for bills raised during the Financial Year 2012-13 & given an outstanding receivables along with details of Invoice Number, Shipment date, party name, CIF Value in rupees, exchange rate, calculation amount in foreign currency and Indian Rupees, collection date and thereafter the assessee has also calculated the period of realization in cases where the collection date is restricted up to March 31st, 2013. The Transfer Pricing Officer re-characterized outstanding receivables for the period exceeding 180 days as unsecured loans advanced by the assessee who is its AE's and imputed interest profit call to LIBOR plus 400 basis points (resulting in interest rate of 5.013%). The invoices are raised and payment is received in foreign currency. The profit loss index outstanding receivables as unsecured loans on account of delay in receipt of payment are merely re-characterization of outstanding receivable and not an actual international transaction. The law only requires actual transactions to be at Arm's Length and does not permit computation of Arm's Length Price based on further notional transactions. Working Capital adjustment needs to be done to the impact of outstanding receivables on profit ability. Working Capital yields a return resulting from higher sales price or lower cost of goods sold which would have a positive impact on the operational result. Assessee had earned significantly higher margin than the comparable companies which have been accepted by the TPO which more than compensates for the credit period extended to the AE's.

Thus, the approach of aggregating the international transactions pertaining to sale of goods of AE's and receivables arising from such transactions which is undoubtedly inextricable and connected is in accordance with established transfer pricing principles. In 2010-11, the Tribunal considered this aspect and held that the working capital adjustment before levying notional interest on the outstanding receivable and concluded that since the sale price of the goods already factor in the long credit period no adjustment on account of notional interest on outstanding receivables is warranted. As per without prejudice argument of the Ld. AR and from the records it emerges that no interest was charged on the delay in receipt of receivable in respect of the delay in receipt of receivables in the nature of unsecured loan. The interest shall be charged at LIBOR plus rate and not at the prevailing SBI Base rate as per held by the Assessing Officer. In 2011-12, the DRP concluded that since the receivables from AE are in US Dollars, LIBOR plus rate should be applicable in case of the assessee. After considering for all in cost selling, credit rating, security and transactions cost, 400 basis points should be added to LIBOR plus rate of the year. Thus, average 12 months USD Labor for 2012 was 1.013%. Thus, the applicable rate for computing interest on outstanding receivables should be 5.013%. Regarding details of outstanding receivables of AE as on 1/4/2012 along with realization dated for each invoice. Thus, opening outstanding receivables were raised in previous Financial Years. The notional interest on the same, have already been added by respective Transfer Pricing Officers, in the assessment orders of relevant previous years in which such invoices were raised. Further, such interest was computed till the actual period of realization of those invoices, which even extended beyond the respective Financial Year under consideration. We have observed that the submissions of the Ld. DR and the calculations given during the hearing are not tenable as it has not considered the calculations given by the assessee before the TPO/Assessing Officer/DRP. Thus, the calculations given by the Ld. DR at this juncture will not appropriate as the case of the assessee is regarding outstanding receivables and the principal of Techbooks International (supra)

will not apply in the present case. In this present assessment, the assessee has given all the details which was reproduced by the Transfer Pricing Officer (TPO) in its order and without discussing calculations and the evidences produced by the assessee, simplicitor made adjustment. There was no contrary facts given by the TPO in consonance with the evidence produced by the assessee before the TPO. The facts of Techbooks International (supra) are totally different which can be emerged from the para of the said decision where the assessee's case for Assessment Year 2010-11 has been taken into account. Thus, the calculation given by the DR in his submissions is not in consonance with the actual figures and the calculations considered by the TPO as well as the DRP at the time of assessment proceedings. The facts of the assessee's case are identical in the present year to that of A.Y. 2010-11 which is already decided by the Hon'ble Delhi High Court in assessee's favour. No distinguishing facts were pointed out by the Ld. DR. Hence, Ground Nos. 2, 2.3, 2.4 and 3 are allowed. As regards Ground No. 4, the same is consequential in nature. Thus, appeal of the assessee is partly allowed.

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

Order pronounced in the Open Court on this 01st day of SEPTEMBER, 2020

Sd/-

(N. K. BILLAIYA)
ACCOUNTANT MEMBER

Sd/-

(SUCHITRA KAMBLE)
JUDICIAL MEMBER

Dated: 01/09/2020
*R. Naheed **

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr. PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr. PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	

