

IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES “ A ” BENCH: BANGALORE
**BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER
AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

IT(TP)A No.2355/Bang/2019
(Assessment Year: 2015-16)

M/s. Goldman Sachs Services Pvt. Ltd.,
Wing A, B & C, Helios Business Park,
150, ORR, Kadubeesanahalli,
Bangalore-560103
PAN AACCG 2435N

....Appellant

Vs.

Joint Commissioner of Income Tax,
Special Range 3, Bangalore.

.....Respondent.

Assessee By:	Shri Sharath Rao, C.A.
Revenue By:	Ms. Neera Malhotra, CIT (D.R)

Date of Hearing :	12.03.2020
Date of Pronouncement :	15.06.2020

ORDER

PER SHRI PAVAN KUMAR GADALE, JM :

The assessee has filed an appeal against the order under Section 143(3) r.w.s. 144C of the Income Tax Act 1961 ('the Act') dt.17.10.2019 passed in

pursuance to the directions of Dispute Resolution Panel (DRP) under Section 144C(5) of the Act dt.27.09.2019.

2. The assessee has Raised the following grounds of appeal :

1. " The assessment order passed by the Learned Joint Commissioner of Income-tax, Special Range – 3 ("AO"), under section 143(3) read with section 144C of the Income-tax Act, 1961 ("the Act"), the order of the Learned Transfer Pricing Officer ("TPO") issued under section 92CA of the Act and the directions of the Honourable Dispute Resolution Panel ("DRP") issued under section 144C(5) of the Act for the Assessment Year ("AY") 2015-16, in so far as it is prejudicial to the interests of Goldman Sachs Services Private Limited ("GSSPL" or the "Appellant"), are not in accordance with the law, made in violation of the principles of equity and natural justice and are contrary to the facts and circumstances of the present case.

2. Adjustment under section 92CA of the Act

2.1 Rejection of the transfer pricing documentation of the Appellant

2.1.1 The Honorable DRP and the learned AO/TPO have erred in law and on facts by rejecting the Transfer Pricing ("TP") documentation which has been prepared by the Appellant with respect to Information Technology ("IT") & Information technology enabled service ("ITES") segment, in the manner contemplated under the relevant provisions of the Act and the Income-tax Rules, 1962 ("the Rules").

2.1.2 The Honorable DRP and the Learned AO/TPO have erred in law in rejecting the TP Study of the Assessee as "not reliable or correct", under Section 92C(3) of the Act, merely because the learned TPO did not agree with the positions and filters adopted by the Assessee in its TP Study and adopted certain additional filters / modified filters in selecting the comparable companies by using non contemporaneous data of the said companies.

Rejection of the comparability analysis undertaken by the Assessee

2.1.3 The Honorable DRP and the learned AO have erred in law in confirming the actions of learned TPO in conducting a fresh search for comparable companies and by rejecting the search process carried out by the Assessee, without giving justifiable reasons. The Honorable DRP and learned TPO / AO failed to appreciate that the TPO can proceed to determine the ALP for the international transactions of the Assessee on its own only upon satisfaction of the conditions mentioned in Section 92C(3) of the Act, which were not satisfied in the impugned case. Further, the learned TPO did not consider the requirement of Rule 10D(4) of the Rules when undertaking a fresh search for comparable companies.

2.1.4 The Honorable DRP and the learned AO/TPO have erred in not providing the Assessee an opportunity of undertaking a fresh search for comparable companies at the time of TP assessment, considering the updated data available in public domain at the time of TP assessment which was used by the learned TPO in undertaking the fresh search.

2.2 Non-availability of data for FY 2014-15

The Honorable DRP and learned TPO/ AO have erred in selecting the companies only if the data pertaining to FY 2014-15 is available in the public databases.

2.3 Companies with different FY ending

The Honorable DRP and learned AO / TPO have erred in law and on facts in rejecting certain comparable companies on the basis that their year ending dates do not coincide with the Assessee's year ending date. By doing so, the learned AO / TPO erred in disregarding various judicial pronouncements in this regard.

2.4 Usage of employee cost filter

The Honorable DRP and learned AO / TPO have erred in law and on facts in using employee cost filter of 25% in selecting comparable companies.

2.5 Application of export earning filter

The Honorable DRP and learned AO / TPO have erred in law and facts in applying the export earning filter with a threshold limit of 75% in selecting the comparable companies.

2.6 Companies reporting abnormal profits ought to be rejected

The Honorable DRP and learned AO / TPO have erred in law and facts by not rejecting Rheal Software Private Limited, which reports abnormal profits.

2.7 Companies selected for exclusion by the Assessee during the course of assessment proceedings in respect of IT service segment.

The Honorable DRP and learned AO/ TPO have erred in considering the following companies as comparable to the Assessee, despite the same not being comparable to that of the Assessee due to various factors such as functional comparability, product / intangible led revenues, inadequate financial information, use of unreliable segment financials, extra ordinary events / business restructuring, abnormal year, judicial precedents etc.

- (i) Infobeans Technologies Limited
- (ii) Larsen & Toubro Infotech Limited
- (iii) R S Software (India) Limited
- (iv) Aspire Systems (India) Private Limited
- (v) Cybage Software Private Limited
- (vi) Infosys Limited
- (vii) Inteq Software Private Limited
- (viii) Mindtree Limited
- (ix) Nihilent Technologies Limited
- (x) Persistent Systems Limited
- (xi) Rheal Software Limited
- (xii) Tata Elxsi Limited

2.8 Companies sought for inclusion by the Assessee during the course of assessment proceedings in respect to IT service segment

The Honorable DRP and learned AO / TPO have erred in law and on facts in rejecting the following comparable companies requested for inclusion by the Assessee during the course of assessment proceedings:

- (i) Akshay Software Technologies Limited
- (ii) Caliber Point Business Solutions Limited (Segmental)
- (iii) Sagar Soft India Limited NC
- (iv) TVS Infotech Limited
- (v) Bells Softech Limited
- (vi) Daffodil Software Limited
- (vii) Evoke Technologies Limited
- (viii) I2T2 India Limited
- (ix) Melstar Information Technologies Ltd.
- (x) Minvesta Infotech Limited
- (xi) New-Age Bizsoft Solutions Pvt Ltd

2.9 Computation of operating profit margins of comparable companies

The Honorable DRP and learned AO / TPO have erred in considering provision for bad and doubtful debts as operating in nature while computing the operating profit margins of comparable companies.

2.10 Use of information obtained under Section 133(6) of the Act

2.10.1 The Honorable DRP and learned AO / TPO have erred in law and on facts by gathering information from various companies under Section 133(6) of the Act, which were not available with the Assessee at the time of preparing its TP documentation.

2.10.2 The Honorable DRP and learned AO / TPO have erred in law by relying upon the information not available in public domain while carrying out the benchmarking analysis under the Act.

2.11 Not granting working capital adjustment

2.11.1 The Honorable DRP and learned AO / TPO have erred in law by disregarding the Section 92C of the Act and Rule 10B of the Rules by not considering the working capital adjustment while computing the net profit margin which constitutes difference if any, between the comparable uncontrolled transactions or between the enterprises entering into such transactions, which could materially affect the amount of net profit margin in the open market as per 10B(3) of the Rules.

2.11.2 The Honorable DRP and learned AO / TPO have erred in law by disregarding the guidance's prescribed in TP guidelines issued by the Institute of Chartered Accountants of India, Revised – 2017 ("ICAI Guidelines"), OECD TP guidelines for Multinational Enterprises and Tax Administration issued by Organization for Economic Cooperation and Development ("OECD Guidelines") in July 2017, United Nations Practice Manual on Transfer Pricing for Developing Countries (2017) ("UN TP Manual") and also a plethora of judicial pronouncements of Indian

revenue authorities granting working capital adjustment while computing the arm's length price / net margin of comparable companies to remove any material differences on account of different working capital condition that exist between the comparable companies and the Assessee.

2.12 Risk adjustment

- 2.12.1 The Honorable DRP and learned AO / TPO have erred in not appreciating that the Assessee operates at less than normal risks as compared to comparable companies, which carry higher risks and accordingly erred in not granting appropriate risk adjustments.
- 2.12.2 The Honorable DRP and learned AO / TPO have erred in concluding that there exists a single customer risk and that such a risk nullifies any risk adjustment that could be provided. Further, the Honorable DRP and learned AO / TPO have erred in concluding that there is no reliable method to compute the risk adjustment.
- 2.12.3 The Honorable DRP and learned AO / TPO have erred in law and on facts by not providing reasons for rejecting the methodology/workings provided by the Assessee for computing the risk adjustment.

3. Other TP related grounds

- 3.1 The Honourable DRP and the Learned AO/ TPO have failed to appreciate the Appellant's commercial judgment about the application of arm's length principle which is tied to the business realities.
- 3.2 The Honourable DRP and the Learned AO/ TPO have erred in law and on facts, in making several observations and findings, which are based on incorrect interpretation of law and contrary to facts of the case.
- 3.3 The Honourable DRP and the Learned AO/ TPO have erred in law and on facts by not relying on the judicial precedents available and submitted by the Appellant during the course of assessments.
- 3.4 The Honourable DRP and the Learned AO/ TPO have erred by not carrying out the determination of arm's length price as required under section 92C of the Act read with Rule 10D of the Rules.

4. Disallowance under section 14A of the Act

- 4.1. The Honorable DRP and the Learned AO have erred in law and on facts in upholding the disallowance of Rs 1,37,500 under section 14A of the Act read with Rule 8D of the Income-tax Rules, 1962 ("the Rules") in connection with the investment of funds largely in its group companies.
- 4.2. The Honorable DRP and the Learned AO have erred in law and on facts in disallowing an amount of Rs 1,37,500 under section 14A of the Act by mechanically applying Rule 8D when there is no basis to reject the Appellant's claim that no expenditure was incurred for earning exempt income.

- 4.3. The Honorable DRP and the Learned AO have erred in law and on facts in not considering the contention of the Appellant that there was no exempt income earned in the first place and consequently no expenditure could have been incurred for earning exempt income during the relevant AY and hence the applicability of section 14A of the Act does not arise.
- 4.4. The Honorable DRP and the Learned AO have erred in not considering the decision of the Honorable Bangalore ITAT in Appellant's own case for AY 2009-10, AY 2010-11 and AY 2011-2012, and the judgement of Commissioner of Income Tax (Appeals) [CIT(A)] for AY 2013-14, wherein the disallowance made under section 14A of the Act, on similar facts has been deleted.
5. Disallowance under section 40(a)(i) of the act towards reimbursement of salary cost
- 5.1 The Honorable DRP and the Learned AO have erred in law and on facts in treating the reimbursement of salary costs of INR 48,35,91,738, as constituting 'consideration' for the alleged services being provided by the Appellant's overseas associated enterprise i.e., Goldman Sachs & Co ("GS & Co"), a resident of United States of America ("USA").
- 5.2 The Honorable DRP and the Learned AO have erred on facts in not appreciating the submissions made submitted by the Appellant that the expatriate employees remain in the payroll of the Appellant and are also entirely controlled by the Appellant.
- 5.3 The Honorable DRP and the Learned AO have erred on facts in holding that the Appellant had entered into a Secondment Agreement with GS & Co, whereas no such agreement exists between the assessee and GS & Co.
- 5.4 The Honorable DRP and the Learned AO have erred on facts by not appreciating that the payment was not towards rendition of any service but represents mere reimbursement of salary and other related costs on a 'cost-to-cost' basis.
- 5.5 The Honorable DRP and the Learned AO have erred in law and on facts in concluding that the reimbursement of salary costs to GS & Co amounted to payment towards Fees for Technical Services ("FTS") under explanation 2 to section 9(1)(vii) of the Act.
- 5.6 The Honorable DRP and the Learned AO have erred in law and on facts in concluding that the aforesaid reimbursements paid by the Appellant to GS & Co are also taxable as FTS or as Fees for Included Services ("FIS") under the double taxation avoidance agreement between India and USA and consequently holding the Appellant liable to deduct tax at source under section 195 of the Act, from the said payments.
- 5.7 The Honorable DRP and the Learned AO have erred in law and on facts in upholding the requirement of TDS under section 195 of the Act despite the salary payments having already suffered TDS under section 192 of the Act, giving rise to double taxation on the same transaction.
6. Disallowance of corporate social responsibility expenses claimed as deduction under section 80G of the Act

- 6.1 The honorable DRP and the learned AO have erred in law and on facts in disallowing an amount of INR 1,12,60,750 claimed as deduction under section 80G of the Act, holding that the contributions towards Corporate Social Responsibility ("CSR") of the Appellant were not eligible for the said deduction under section 80G of the Act.
- 6.2 The Honorable DRP and the learned AO have erred in law by concluding that the deduction under section 80G of the Act is available only for the payments grouped as donations and not for CSR contributions.
- 6.3 The Honorable DRP and the learned AO have erred by concluding that the deduction under section 80G of the Act wherein there is no explicit provisions under the law to disallow the claim under section 80G of the Act, in respect of CSR contributions.
- 6.4 The Honorable DRP and the learned AO have erred in law by disregarding the fact that the deductions claimed under section 80G of the Act pertained to eligible payments specified under section 80G of the Act.
- 6.5 The Honorable DRP and the learned AO have erred in law and on facts in stating that the amount grouped under CSR contributions has not been paid by the Appellant on a voluntary basis, and hence the same is not eligible to be claimed as deduction under section 80G of the Act."

3. The Brief facts of the case are that the assessee is subsidiary company of Goldman Sachs Mauritius LLC and Goldman Sachs (Mauritius) NBFC LLC and being part of the Goldman Sachs Group. The assessee is engaged in development of computer software and provides Software Development Services to the Associated Enterprises (AEs) outside India and has Information Technology Enabled Services (ITES) to support the business processes of the Goldman Sachs Group companies and the assessee company is compensated at Cost+ mark up of 16%. The assessee company filed the Return of Income for the Assessment Year 2015-16 electronically on 30.12.2014 with total income of Rs.383,05,12,310/-. The case was selected for scrutiny under CASS and Notice under Section 143(2) and 142(1) of the Act were issued. On perusal of the Form No.3CB filed by the

assessee, the Assessing Officer found there are international transactions with its AEs, and with prior approval of Prin.CIT-3, the matter was referred to the Transfer Pricing Officer (TPO) for determination of Arm's Length Price (ALP).The assessee has filed the TP Study report, and as per the report in the F.Y. 2014-15, it has received an amount of Rs.880,96,98,062/- from its AEs outside India in respect of software development services and the margin computed on operating cost worked out to 16%.The assessee has adopted TNMM as Most Appropriate Method (MAM), Whereas the Assessing Officer required the details as per the provisions of Section 92D of the Act along with financials, Annual Reports and copies of agreements.The assessee company has selected 14 comparables in software development services and 11 comparables in ITES as per the TP documents. The TPO has issued show cause notice to the assessee on rejection of TP Study and the assessee has filed objections, submissions referred at Para 5.3 of the T.P. Order. The TPO after rejecting the TP Study has applied the filters to the software development services segment and ITES segments. Finally, the TPO selected the comparables in software development services segment and ITES and has dealt on the functionality and margins and finally selected 16 comparables in software development services which includes 5 comparables selected by the assessee referred at Para 21 page 80 of T P Order as under:

S.No.	Company Name	Financial Year wise OP/OC (%)			
		2014-15	2013-14	2012-13	Average
1	Kals Information Systems Ltd	5.77	16.94	13.51	11.88
2	E-Zest Solutions Ltd	12.59	15.80	Fails Export Filter	14.05
3	CG-VAK Software & Exports Ltd.	19.87	13.81	22.07	18.50
4	Tata Elxsi Ltd. (Seg)	23.33	22.02	11.24	19.34
5	Rheal Software Pvt. Ltd.	2.76	36.64	No data in Public Domain	19.88
6	Mindtree Ltd.	20.55	21.18	19.75	20.55
7	Larsen & Toubro Infotech Ltd.	24.22	23.54	25.10	24.21
8	R S Software (India) Ltd.	32.66	24.14	17.44	24.82
9	Infobeans Technologies Ltd.	20.70	41.95	29.22	29.91
10	Persistent Systems Ltd.	31.11	35.44	28.20	31.69
11	Nihilent Technologies Ltd.	29.19	35.72	No data in Public Domain	32.21
12	Aspire Systems (India) Pvt. Ltd.	30.98	38.04	No data in Public Domain	34.18
13	Inteq Software Pvt. Ltd.	31.16	45.00	Fails Employee cost filter	37.90
14	Infosys Ltd.	40.29	36.28	39.25	38.59
15	Thirdware Solution Ltd.	43.69	44.68	32.65	41.12
16	Cybage Software Pvt. Ltd.	68.17	68.82	60.81	66.27
	35th Percentile				20.55%
	Median				27.37%
	65th Percentile				37.90%

4. In ITES Segment, the TPO has selected 11 comparables referred at page 81 of the T P Order as under:

S.No.	Company Name	F.Year wise OP/OC (%)			Wt. Average
		2014-15	2013-14	2012-13	
1	ACE BPO Services Pvt Ltd	2.21	1.40	3.21	2.38
2	Jindal Intellicom Limited	7.87	11.56	-2.84	5.44
3	Microgenetic Systems Limited	1.08	13.00	16.97	10.18
4	Crossdomain Solutions Pvt Ltd	15.23	21.18	22.43	18.81
5	Tech Mahindra BSPL	29.96	13.45	Fails RPT Filter	21.05
6	BNR Udyog (Seg)	6.62	27.40	35.80	23.26
7	A G S Health Pvt. Ltd.	25.35	No Data	No Data	25.35
8	Infosys B P O Ltd.	26.16	27.43	29.31	27.45
9	S P I Technologies India Pvt. Ltd.	33.29	42.72	No Data	36.62
10	Excel Infoways Ltd.	2.55	27.97	70.07	39.97
11	E-Care India Pvt Ltd	27.02	47.46	53.91	40.77
	35th Percentile				18.81%
	Median				23.26%
	65th Percentile				27.45%

The TPO has computed ALP at page 81 at Para 22.4 and 23 read as under:

22.4. Computation of Arm's Length Price:

22.4.1 The median of the weighted average Profit Level indicators is taken as the arm's length margin. Please see Annexure 1 & 2 for details of computation of PLI of the comparable. Based

on this, the arm's length price of the services rendered by the taxpayer to its AE(s) is computed as under:

SWD SEGMENT		
Particulars	Formula	Amount (in Rs.)
Taxpayer's operating revenue	OR	8,67,78,00,000
Taxpayer's operating cost	OC	7,48,10,00,000
Taxpayer's operating profit	OP	1,19,68,00,000
Taxpayer's PLI	$PLI=OP/OC$	16.00%
35th Percentile Margin of comparable set		20.55%
Adjustment Required (if $PLI < 35$ th Percentile)		Yes
Median Margin of comparable set	M	27.37%
Arm's Length Price	$ALP=(1+M)*OC$	9,52,85,49,700
Price Received	OR	8,67,78,00,000
Shortfall being adjustment	$ALP-OR$	85,07,49,700

22.4.2 The above shortfall of Rs. 85,07,49,700 is treated as transfer pricing adjustment u/s 92CA in respect of software development segment of the taxpayer's international transactions.

ITES SEGMENT		
Particulars	Formula	Amount (in Rs.)
Taxpayer's operating revenue	OR	13,73,24,00,000
Taxpayer's operating cost	OC	11,83,85,00,000
Taxpayer's operating profit	OP	1,89,39,00,000
Taxpayer's PLI	$PLI=OP/OC$	16.00%
35th Percentile Margin of comparable set		18.81%
Adjustment Required (if $PLI < 35$ th Percentile)		Yes
Median Margin of comparable set	M	23.26%
Arm's Length Price	$ALP=(1+M)*OC$	14,59,21,35,100
Price Received	OR	13,73,24,00,000
Shortfall being adjustment	$ALP-OR$	85,97,35,100

22.4.3 The above shortfall of Rs. 85,97,35,100 is treated as transfer pricing adjustment u/s 92CA in respect of ITeS of the taxpayer's international transactions.

23. Summary of adjustments

S.No	Description	Adjustment u/s 92CA(In Rs.)
1	Software development segment	85,07,49,700
2	ITeS segment	85,97,35,100
Total adjustment u/s 92CA		171,04,84,800

5. The TPO has passed the order under Section 92CA of the Act dt.30.10.2018. The Draft assessment order was passed by the TPO/- under Section 143(3) r.w.s. 144C dt.24.12.2018, with Transfer Pricing Adjustment of Rs.171,04,84,800/- and disallowance under Section 14A of the Act of Rs.1,37,500/-, disallowance under Section 80G of the Act of Rs.1,12,60,750/- and disallowance under Section 40 (a)(i) of the Act for secondment of employees payment for non-deduction of TDS on Fees for Technical Services(FTS) Rs.48,35,91,738/-. Aggrieved by the order, the assessee has filed objections in Form 35A with DRP. Whereas the DRP in the software development services segment considered the objections and directed the TPO to include comparables Cignity Technologies Limited, Sasken Communication Technologies Ltd. and no Working Capital Adjustment was granted to the assessee and the order was passed under Section 144C(5) of the Act on 27.09.2019. Subsequently, the final assessment order giving effect to the directions of DRP confirming the Transfer Pricing Adjustment to the extent of Rs.61,43,50,100/- and disallowance under Section 14A of Rs.1,37,500/-, deduction

under Section 80G of the Act of Rs.1,12,60,750/- and disallowance under Section 40 (a)(i) of the Act of Rs.48,35,91,738/- with assessed the total income of Rs.493,98,52,398/- was passed under Section 143(3) r.w.s.144C of the Act on 17.10.2019. Aggrieved by the order, the assessee has filed an appeal before the Tribunal.

6. At the time of hearing, the learned Authorized Representative mentioned though the assessee has raised various Grounds of Appeal, but they are restricted to the extent of arguments. The Ground of appeal No.5.3 pertains to secondment agreement and the assessee is inclined to be intervener with GS & Co. in the Special Bench formed on this disputed issue. Whereas in respect of software development services(SDS) segment the Ld.AR prayed for exclusion of three comparables and inclusion of three comparables and filed Chart and Paper Book supporting the arguments and also made submissions on disallowances under Section 14A and 80G of the Act and prayed for allowing the assessee appeal. Contra, the learned Departmental Representative objected to the submissions and supported the order of TPO and DRP and relied on the judicial decisions.

7. We heard the rival submissions and perused the material on record. The LdAr made submissions for exclusion of 3 comparables as under -

(i) L & T Infotech Limited – where the turnover of the company is Rs.4778.10 Crores with margin of 24.21% and the comparable is functionally different as it has diversified activities and is engaged in consultancy services and further there is no segmental data. The Company owns brand and products and is also engaged in trading activities and has overseas delivery centers with the sales and marketing, R & D activities and has presence of intangibles and brand. During the year it has extra-ordinary event of acquisition of Information Systems Resource Centre Pvt. Ltd.

(ii) Persistent Systems Limited – the comparable company has a turnover of Rs.1289.61 Crores with margin of 31.69% and it is functionally different and provides, complete life cycle services and specialized software products, technology innovation and there is no segmental data.. The company has presence of intangibles, brand ownership and provision of IP led solutions and proprietary products and is engaged in R & D activities, onsite activities, and the personnel cost includes cost of technical personnel.

(iii) Infosys Limited- the company has turnover of Rs.47,825 Crores with margin of 38.59%.The comparable is in business consultancy, technology engineering and outsourcing service business and market leader. It provides IP based solutions and has ownership of IP and has revenues from licensing of software products,

presence of brand building, and own products. It is engaged in R & D activities and no segmental information available and further has different business model with facilities outside India and onsite activities with extra-ordinary events of acquisitions.

8. The learned Departmental Representative relied on the order for the Asst. Year 2014-15 in IT(TP)A No.3244/Bang/2018 dt.29.01.2020 in assessee case at page 22 of the Tribunal order at para 5.1.2 read as under :

“ 5.1.2. Larsen and Toubro Infotech Ltd

This comparable was upheld by authorities below and has been objected by assessee for its inclusion. Ld.AR submitted that this company is functionally not comparable with that of assessee and is engaged in providing consultancy and testing services. Further it has been submitted that there is no segmental information available in the annual reports of this company. Ld.AR submitted that this company owns its own brand and have products and are engaged in trading activity. This company also has R&D services and presence of huge intangibles and brands.

On the contrary, Ld.CIT DR submitted that, this company should be remanded by following the view taken by coordinate bench of this Tribunal in case of CGI Information Systems and management consultants (P) Ltd. vs DCIT reported in (2019) 101 Taxmann.com 294. We have perused submissions advanced by both sides in light of records placed before us.

Ld.CIT DR placed reliance on decision of CGI Information Systems and management consultants (P) Ltd. vs DCIT (supra), wherein this Tribunal observed and decided as under:

"9. In respect of the applicability of this Tribunal order for exclusion of Larsen & Toubro Infotech Ltd, this has been submitted by Id. AR of assessee in the chart submitted before us that on page no. 698 of Annual Report paper book, this company has debited an amount of Rs. 27,10,89,274/- as cost of bought-out items for resale. But this fact was not brought to the notice of the Tribunal in the case of Advice America Software Development Center (P.) Ltd. (supra). It has also been submitted that on page no. 706 of Annual Report paper book, this has been reported that this company is engaged in sale of services to its related parties and this fact was also not brought to the notice of Tribunal in case of Advice America Software Development Center (P.) Ltd. (supra). When we examine paras 14 to 20 of this Tribunal order where there is discussion regarding inclusion/exclusion of Larsen & Toubro Infotech Ltd, we find that there is no discussion on these two aspects that this company is having significant amount of cost of bought-out items for resale and it is engaged in sale of services and products to its related parties and hence, in our considered opinion, this Tribunal order cannot be considered as a binding precedence

because this Tribunal order is silent on these two important aspects as to this aspect that this company is having sizeable amount of bought out items for resale and have related party transactions in respect of sales of services and products. We also find that in the case of remaining three Tribunal orders i.e. Microsoft Research Lab India Pvt. Ltd.'s case (supra), WM Global Technology Services (India) (P.) Ltd. (supra) and in the case of Tecnotree Convergence Pvt. Ltd. (supra), the matter was remanded to the TPO for fresh decision. Hence, we feel it proper that in the present case also, this issue should go back to the file of TPO for fresh decision after providing adequate opportunity of being heard to the assessee and while deciding the issue afresh, all the available Tribunal orders on this issue should be considered by the TPO in proper perspective."

It is observed that the decision in case of CGI Information Systems Management Consultants Pvt.Ltd VS. DCIT(supra) was in respect of assessment year 2013-14. On perusal of annual report of this comparable placed at page 2012 of paper book volume 5, it is observed that during the year this company has not derived any revenue from sale of products. The only revenue earned by this comparable during the relevant year under consideration is from sale of services. It is observed at page 2022 that this company incurred overseas staff costs at Rs.15,46,46,82,017/-, reveals that revenue earned from software services is mainly from offshore services. In the present case of assessee, there is no such expenses incurred for overseas staff costs. At page 2022 of paper book Volume 5, it is clear that export revenue from software services amounts to Rs.44,14,84,25,372/- out of gross income of Rs.46,43,94,03,178/-. In view of the aforesaid observations for year under consideration, the issue of comparability of this company should be examined by Ld.AO/TPO afresh.

Accordingly, we set aside this comparable back to Ld. AO/TPO."

9. But The learned Authorized Representative supported his arguments with the decision of the co-ordinate bench of this Tribunal for the A.Y. 2015-16 Yahoo Software India Pvt. Ltd. Vs. JCT (115 Taxman.com 60) and the three comparables discussed for exclusion in the above paragraphs are dealt by the co-ordinate bench of the Tribunal at page 13, Para 37 to 40 of the order which is read as under :

" 37. On the issue of RPT filter, we notice that the TPO in para 16 has accepted that the RPT filter should be @ 25%. In the case of Persistent Systems Ltd., the RPT is at 31.32% as extracted in the earlier part of this order and therefore this company should be excluded by application of RPT filter. In view of the above, we do not wish to go into other grounds on which this company is sought to be excluded viz., that it is a product company and there is no segmental data between product and services segment, presence of onsite activity and the impact of extra-ordinary event of acquisition during the relevant previous year. Therefore, this company is directed to be excluded from the list of comparable company.

38. As far as L&T Infotech Ltd. is concerned, the ld. counsel for the assessee brought to our notice the decision of ITAT Delhi Bench in the case of Saxo India Pvt. Ltd. v. ACIT, ITA No.6148/Del/2015 for AY 2011- 12, order dated 5.2.2016, wherein the Tribunal took note of the fact that this company was also trading in software and owned insignificant intangible assets. The company was excluded from the list of

comparable companies with reference to SWD services provider such as the assessee. The Id. Counsel pointed out that though this decision was rendered with reference to AY 2011-12, the same reasoning would apply to AY 2015-16 also and in this regard, he drew our attention to page 696 of assessee's PB, which gives the details of the revenue generated by this company without any segmental break-up. Our attention was also drawn to page 682 of PB which shows that there is substantial onsite revenue activity as well as cost incurred on onsite software development. We notice from page 676 of assessee's PB that this company as part of its operating profit in Schedule O of profit & loss account contains expenditure for 'cost of bought out items for resale' and this is a significant part of the operating expenditure. When we see the revenue in Schedule M of the profit & loss account, there is no break-up of the revenue with regard to software services and software product. In our opinion, this distinction is enough to exclude this company from the list of comparable companies as held by the Hon'ble Delhi ITAT in the case of Saxo India Pvt. Ltd. (supra) which decision was also confirmed by the Hon'ble Delhi High Court.

39. The next company which the assessee seeks to exclude is Infosys Ltd. As far as this company is concerned, it is seen that the following are the functional dissimilarities brought to our notice:-
"Functionally dissimilar

- owns intellectual properties, incurs significant R&D costs & onsite activity. - Engaged in diversified business activities.

- Involved in development of software products in addition to software services. - Owns intellectual property rights.

- Incurs significant research and development costs. - Carries out significant activities based on onsite business.

- Owns products such as Finacle, Edge Verve and other product based solutions.

Extra-ordinary event of merger with Infosys Consulting India Ltd.

Segmental profit & loss account not available. Commands substantial brand value.

40. The DRP, however, has not thought it fit to exclude this company by observing that this company has substantial pre-dominant revenue from software services and the growth was not attributable to any brand value. Presence of onsite activity and the expenses on R&D have all been brushed aside. In our view, the difference pointed out by the Id. counsel for the assessee before us show that this company cannot be compared with that of the assessee basically because of its business model, presence of onsite revenue generation and other reasons cited before us. Besides, the reason that turnover of this company is huge and more than 10 times that of the assessee."

We find the decision relied, pertains to A.Y. 2015-16, and the comparable

Persistent Systems Limited was excluded based on the RPT filter and the L & T

InfoTech Limited was considered for exclusion because of trading in software and

owned significant intangible assets, and further the Infosys Limited was excluded considering the brand presence and turnover criteria. We follow the judicial precedence and direct the TPO to exclude L & T InfoTech Limited, Persistent Systems Limited and Infosys Limited from the final list of comparables for determination of ALP.

10. The learned Authorized Representative argued for inclusion of three comparables (i) I2T2 India Limited, (ii) Evoke Technologies Limited and (iii) Melstar Information Technologies Limited and made submissions on comparables and substantiated with chart and Paper Book.

(i) I2T2 India Limited – The LdAr submitted that the comparable company margin is 3.67%. The comparable has to be included as the RPT details are available in the Annual Report and referred to page no 2385 of the Paper Book. We are of the opinion that the Assessing Officer could have called for the information under Section 133(6) of the Act to confirm the details in the proceedings. Accordingly, we restore this comparable to the file of the TPO/A.O. for examination and verification of facts.

(ii) Evoke Technologies Limited – has margin of 0.53%. The LdAr submitted that the company is functionally comparable and passes all the TPO's filters. The branch is a sub-set of an entity and the results of the branch are included in the

audited financial statements of the entity and qualify export revenue, as the company is in the business of software development services and implement services. The LdAr has supported his arguments with the Paper Book at page no 2452 and Profit and Loss Account. Whereas the DRP has commented that unaudited accounts cannot be relied. The learned Authorized Representative relied on the decision of Nokia Seimens Networks India (P) Ltd. Vs. ACIT 70 taxmann.com 236 (Del), with observations at page 5 as under :

- Undisputedly the TPO has used segmental data of this comparable company relating to software development profit segment provided to him under section 133(6), which cannot be doubted without any cogent material brought on record by the assessee-company. Profit & loss account of this comparable company apparently proves the profitability of software development services segment. Segmental data obtained by the TPO though not audited but to controvert this data, the assessee had not produced any material on record and as such, this company is a valid comparable for TP adjustment in this case. [Para 55]

Considering the facts and submissions, we restore the comparable to the file of Assessing Officer for examination and verification of the facts and material.

(iii) Mel star Information Technology Limited margin is 5.29%. The company has made profit in the current year and not a loss making company. Whereas the DRP has rejected the company, which has incurred loss in two years out of three years. But for all the past years, the TPO had applied benchmark of rejecting companies with loses for all three years.

11. The learned Authorised Representative relied on the decision of CIT Vs. Goldman Sachs (2016) 69 Taxmann.com 19 and Star International Limited Vs. DCIT (2019) 112 Taxman.com 258. In the case of CIT Vs. Goldman Sachs India

Securities (P) Limited (Supra) in paras 4(a) and 4(b) the observations are read as under :

4. (a) The Respondent-Assessee urged before the Tribunal that the upward adjustment of Rs.1.60 Crores by the TPO pertaining to Business Support Services rendered to its AE was, inter alia, on the basis of having rejected one of the comparable namely Capital Trust Limited, chosen by the Respondent-Assessee. This was rejected on account of the fact that Capital Trust Limited is a loss making unit. Before the Tribunal, the Respondent-Assessee contended that the nature of business as carried out by the Capital Trust Ltd., and that carried out by the Respondent-Assessee are similar. Therefore it ought to have been included in as comparable to arrive at the ALP;

(b) The Revenue on the other hand contended that Capital Trust Limited is a persistent loss making unit and, thus, cannot be used as a comparable for the purpose of determining the ALP. The Tribunal by the impugned order held on a finding of fact that for the Assessment Year 2005-06 - Capital Trust Ltd. has made a profit although it made a loss for the subsequent two years namely Assessment Year 2006-07 and 2007-08. However, the impugned order of the Tribunal inter alia relies upon its order in the case of *Brigade Global Services (P.) Ltd. v. ITO* [2013] 33 taxmann.com 618 (Hyd. - Trib.) rendered by the coordinate Bench at Hyderabad- wherein it is held that only persistently loss making unit cannot be said as comparable. In this case, the impugned order holds on facts that Capital Trust Ltd. it is not a persistent loss making unit. Therefore, Capital Trust Ltd. is comparable; and

12. We, considering the facts, circumstances and judicial decisions are of the opinion that the disputed issue in respect of losses of continuous three years has to be verified/ tested by the Assessing Officer. Accordingly we remit this matter to the file of TPO/A.O for examination.

13. The learned Authorized Representative made submissions on ground of appeal No.5.3 pertains to entering of Secondment Agreement with GS & Co. The assessee is inclined to be intervener with GS & Co. in the Special Bench formed on this disputed issue. Since the matter has not attained finality and there are no observations of DRP on this pertinent issue. Accordingly, we restore this disputed issue to the file of DRP for examination and comments and allow the ground of appeal of the assessee for statistical purpose.

14. The LdAr argued Ground of Appeal No.2.12 in connection with non-granting of Working Capital Adjustment by TPO/A.O and relied on the assessee own case for the Assessment Year 2014-15 in ITA No.3244/Bang/2018 and the observations at page 40 Para 7 to 7.9 of the order which are read as under :

“ 7. Ground No. 2.6-2.7 are in respect of computing incorrect operating margins of comparables by not granting appropriate working capital and risk adjustments.

7.1. It has been submitted by Ld.AR that working capital and risk adjustment has been denied to assessee on the ground that assessee failed to demonstrate such differences could have any impact on assessee's profit. It has been submitted by Ld.AR that the submissions advanced by assessee demonstrating computational impact has not been considered by the Ld.AO/TPO. Before us, Ld.AR submitted that it is an accepted principle upheld in various decisions of this tribunal that working capital adjustment should be allowed on actuals. It has been submitted that all relevant details for computation of working capital was provided to AO/DRP which has been disregarded. He placed reliance upon the decision of coordinate bench of this Tribunal in case of Huawei Technologies India Pvt. Ltd vs JCIT reported in (2019) 101 taxman.com 313, wherein it has been held that the working capital has to be granted in actual.

7.2. On the contrary, Ld.CIT DR placed reliance upon orders passed by authorities below.

We have perused submissions advanced by both sides in light of records placed before us including the decision relied upon by Ld.AR in case of Huawei Technologies India Pvt.Ltd vs JCIT (supra). A reading of Rule 10B(l)(e)(iii) of the Rules read with Sec. 92CA of the Act, would clearly shows that the net profit margin arising in comparable uncontrolled transactions has to be adjusted to take into account the differences, if any, between the international transaction and the comparable uncontrolled transactions, which could materially affect the amount of net profit margin in the open market. 7.2. Chapters I and III of OECD Transfer Pricing Guidelines contain guidelines on comparability analyses for transfer pricing purposes. Guidelines on adjustments to be provided is found in paragraphs 3.47-3.54 and in the Annex to Chapter III. The guidelines must be followed for computing arm's length principle, and for comparing comparable uncontrolled transactions. Reasonably accurate adjustments should be made to eliminate effect of any such differences.

7.3. Paragraphs 13 to 16 of OECD guidelines, emphasizes need for working capital adjustment in terms of receivables and payables as under:

"13. In a competitive environment, money has a time value. If a company provided, say, 60 days trade terms for payment of accounts, the Price of the goods should equate to the price for immediate payment plus 60 days of interest on the immediate payment price. By carrying high accounts receivable a company is allowing its customers a relatively long period to pay their accounts. It would need to borrow money to fund the credit terms and/or suffer a reduction in the amount of cash surplus which it would otherwise have available to invest. In a competitive environment, the price should therefore include an element to reflect these payment terms and compensate for the timing effect.

14. The opposite applies to higher levels of accounts payable. By carrying high accounts payable, a company is benefitting from a relatively long period to pay its suppliers. It would need to borrow less money to fund its purchases and/or benefit from an increase in the amount of cash surplus available to invest. In a competitive environment, the cost of goods sold should include an element to reflect these payment terms and compensate for the timing effect.

15. A company with high levels of inventory would similarly need to either borrow to fund the purchase, or reduce the amount of cash surplus which it is able to invest. Note that the interest rate July 2010 Page 6 might be affected by the funding structure (e.g. where the purchase of inventory is partly funded by equity) or by the risk associated with holding specific types of inventory)

16. Making a working capital adjustment is an attempt to adjust for the differences in time value of money between the tested party and potential comparables, with an assumption that the difference should be reflected in profits. The underlying reasoning is that:

A company will need funding to cover the time gap between the time it invests money (i.e. pays money to supplier) and the time it collects the investment (i.e. collects money from customers)

This time gap is calculated as: the period needed to sell inventories to customers + (plus) the period needed to collect money from customers - (less) the period granted to pay debts in suppliers"

7.4. The reverse applies to huge accounts payable. By having high accounts payable, a company is benefitting from a relatively long period to pay its suppliers. It would need to borrow less money to fund its purchases and/or benefit from an increase in the amount of cash surplus available to invest. In a competitive environment, the cost of goods sold should include an element to reflect these payment terms and compensate for the timing effect. A company with high levels of inventory would similarly need to either borrow to fund the purchase, or reduce the amount of cash surplus which it is able to invest. Making a working capital adjustment is an attempt to adjust for the differences in time value of money between the tested party and potential comparables, with an assumption that the difference should be reflected in profits. Methodology to compute working capital adjustment is given in Paragraphs 13 to 16 of the aforesaid OECD Guidelines(supra). These guideline also indicate factors that needs to considered like;

7.5. The point in time at which the Receivables, Inventory and Payables should be compared between tested party and comparables, and whether it should be the figures of receivables, inventory payable at the yearend or beginning of the year or average of these figures that should be considered,;

7.6. In the matter of determination of Arm's Length Price, it cannot be said that the burden is on the Assessee or the Department to show what is the Arm's Length Price. The data available with Assessee and Department should be the starting point and depending on the facts and circumstances of a case, further details can be called for. As far as Assessee is concerned, the facts and figures with regard to its business must be furnished. In so far as applying inventory, receivables and payables for computing working capital adjustment alledged by DRP/TPO in case of certain comparables, ITAT Delhi Bench in case of ITO v E Value Servc.com, reported in [2016] 75 taxmann.com 195 held that, insisting on daily balances of working capital requirements to compute working capital adjustment is not proper, as it will be impossible to carry out such exercise and that working capital adjustment has to be based on the opening and closing working capital deployed.

7.7. It must not be forgotten that transfer pricing analysis is estimation and not an exact science. One has to see that, reasonable adjustment must be made where ever it is needed, so as to bring both comparable and test party on same footing. In present facts of case, DRP may be correct in denying

working adjustment due to unavailability required data, however there is no merit in observations of DRP/TPO as supported by Ld.CIR DR, in denying working capital adjustment due to absence of details for working out adjustments in comparable companies chosen. If we appreciate the argument advanced by Ld.CIT DR, there would remain no comparables for the purpose of comparability analysis to determine ALP of an international transaction, and this would be fatal to entire exercise of transfer pricing analysis.

7.8. Regarding comparable companies, one has to fall back upon only on information available in public domain. If that information is insufficient, it is beyond the power of Assessee to produce correct information about comparable companies. Revenue on the other hand has sufficient powers u/s.133(6) to compel production of required details from comparable companies. If this power is not exercised to find to get information required, then it is no defense to say that Assessee has not furnished required details to deny any adjustment on account of working capital differences. Therefore this objection of DRP is not sustainable. Therefore in, endeavor should be made to bring in comparable companies for the purpose of broad comparison and working capital adjustment claimed by Assessee should be analysed, keeping in mind, OECD guidelines (supra).

7.9. Based on the above discussions, and respectfully following decision of coordinate Bench of this Tribunal in the case of Huawei Technologies India (P.) Ltd. (supra), we direct working capital adjustment to be computed and to allow as per actuals, after considering exclusion/inclusion of comparable companies in the final set of comparables as discussed hereinabove.

Accordingly this ground raised by assessee stands allowed.”

Following the judicial precedence, we direct the TPO/A.O with similar directions to grant Working Capital Adjustment.

15. The learned Authorized Representative submitted that the Assessing Officer has disallowed under Section 14A r.w. Rule 8D(2)(iii), where the assessee has disclosed investment of Rs.1,44,00,000/-.Since these investments need a potential Advisor to earn exempted income, the Ao computed disallowance under Rule 8D(2)(iii) of Rs.1,37,500 based on the disclosures in the Balance Sheet. But the assessee company has not yielded any exempted income nor dividend income in the financial year and the LdAr referred to the disclosures in the Paper Book, financial statements at page 20 Schedule 3.17,were there is no dividend nor

exempted income received as per profit and loss account. Further similar disallowance was deleted in assessee own case for the Assessment Year 2014-15 as no dividend income has been earned on investments. The learned Authorized Representative relied on the decision of Hon'ble Delhi High Court in the case of Cheminvest Ltd. Vs. CIT 378 ITR 33 (Del) where the Hon'ble High Court has held that unless and until exempted income is received for the concerned assessment year, the provisions of Section 14A of the Act are not applicable. We find the co-ordinate Bench of the Tribunal in assessee own case in IT(TP)A No.3244/Bang/2018 for the Assessment Year 2014-15 has dealt at pages 46 & 47 para 8 of the order as under :

“ 8. Ground No. 4 raised by assessee is in respect of disallowance made by Ld.AO under section 14 A of the Act.

8.1. At the outset Ld.AR submitted that there is no exempt income during the year under consideration and therefore no disallowance could be computed under section 14 A by applying rule 8D. In support of his contentions he placed reliance on a recent ruling by Hon'ble Madras High Court in case of CIT vs Chittinad Logistics Ltd reported in (2018) 18 Taxmann.com 221. It is also been submitted that Hon'ble Supreme Court has dismissed SLP filed by revenue in this case which has been reported in (2018) 95 Taxmann.com 250.

8.2. Ld.CIT DR placed reliance upon orders passed by authorities below.

8.3. We have perused submissions advanced by both sides in light of records placed before us. Admittedly, there is no exempt income earned by assessee during the year, as has been noted by Ld.AO in impugned order. Under such circumstances, ratio of Hon'ble Madras High Court which has been approved by Hon'able Supreme Court in case of Chittinad Logistics Ltd (supra) is squarely applicable. Respectfully following the same we direct Ld.AO to delete addition made under section 14 A read with rule 8D for year under consideration. Accordingly this ground raised by assessee stands allowed.”

We found that there is no exempted income earned by the assessee company in the current financial year. We accordingly, follow the judicial precedence and direct the A.O. to delete the addition and allow the ground of appeal of the assessee.

16. The last ground of appeal argued by the learned Authorized Representative in respect of disallowance of deduction under Section 80G of the Act. In the financial year 2014-15, the assessee has incurred expenditure of Rs.4,72,00,024/- to meet the CSR (Corporate Social Responsibility) as per Policy formulated under Section 135 of the Companies Act, 2013. Out of the said amount, a sum of Rs.2,25,21,500 qualified for deduction under Section 80G of the Act and therefore the assessee claimed of 50% of amount being Rs.1,12,60,750/- as deduction under Section 80G of the Act. The TPO/A.O. has disallowed substantial portion of donation under Section 80G of the Act on the ground that donations were not in the nature of voluntary contribution as required under CSR Policy. Further the Assessing Officer has allowed the contribution to PM National Relief Fund under Section 80G of the Act as it was a direct contribution to the Government. No other inferences were raised by the TPO/A.O. in respect of other donations which are equally eligible for deduction under Section 80G of the Act. The learned Authorized Representative submitted that the donations or expenditure has been incurred wholly and exclusively for the purpose of business and eligible for deduction under Section 37 of the Act and alternatively under Section 80G of the

Act. We found the DRP has dealt at page 81 of the order and observed that, the claims are in the nature of CSR Policy expenditure and hence does not qualify for deduction under Section 80G of the Act. The learned Authorized Representative demonstrated in Paper Book Vol.II at pages 882 & 883 the list of deductions claimed under Section 80G of the Act with a statement of donees along with PAN and address and donation receipts. Further the donation receipts are self-explanatory and are eligible for deduction under Section 80G of the Act. We find that the CSR expenses are required to be incurred by companies as per Section 135 of the Companies Act and the deduction u/s. 37(1) of the Act, is not available from Assessment Year 2015-16 as per the Explanation 2 to Section 37(1) of the Act inserted by the Finance Act No.2. 2014. Whereas, the assessee company has made a claim for deduction of CSR expenses u/s. 80G of the Income Tax Act, 1961. But the assessing officer has rejected the assessee's claim without verifying the nature of contributions and observed that it is not a donation, and was not spent voluntarily for the eligibility of claim u/s. 80G of the Act but due to legal obligation prescribed u/s. 135 r.w. Schedule VII of Companies Act, 2013. We find that the A.O. has allowed deduction u/s. 80G of the Act in respect of contribution made to PM Relief Fund which is not disputed. We are of the opinion that the A.O. has not made his observations clear that no CSR expenses are eligible for deduction u/s. 80G of the

Act. We consider it appropriate to refer to the Clauses (iihk) & (iihl) of sub-section 2 of Section 80G of the Act which are read as under :

“(iihk) the Swachh Bharat Kosh, set up by the Central Government, other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under sub-section (5) of Section 135 of the Companies Act, 2013 (18 of 2013); or

(iihl) the Clean Ganga Fund, set up by the Central Government, where such assessee is a resident and such sum is other than the sum spent by the assessee in pursuance of Corporate Social Responsibility under sub-section (5) of Section 135 of the Companies Act, 2013 (18 of 2013).”

Where these two exceptions are provided in Section 80G of the Act, it can be inferred that the other contributions made u/s. 135(5) of the Companies Act are also eligible for deduction u/s. 80G of Income Tax Act subject to assessee satisfying the requisite conditions prescribed for deduction u/s.80G of the Act. In the present case the A.O. has not dealt on these aspects, prima facie, considered the contributions as not voluntary but a legal obligation and has accepted the genuineness of the contributions. We are of the opinion, that the matter has to be considered for examination and verification of facts subject to the assessee satisfying the requirements of claim u/s.80G of the Act. Accordingly, we restore the entire disputed issues to the file of A.O. for fresh examination and verification as discussed above and the assessee should be provided adequate opportunity of

hearing and shall co-operate in submitting the information and we allow the ground of appeal of the assessee for statistical purposes.

17. In the result, the assessee's appeal is partly allowed for statistical purposes.

Pronounced in the open court on the date mentioned on the caption page.

Sd/-

(A.K. GARODIA)
ACCOUNTANT MEMBER

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Dated: 15.06.2020.

*Reddy GP

Copy to

- | | |
|------------------|-------------------|
| 1. The Appellant | 2. The Respondent |
| 3. CIT (Appeals) | 4. Prin. CIT |
| 5. DR, ITAT | 6. Guard File. |

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore