



IN THE INCOME TAX APPELLATE TRIBUNAL "K", BENCH MUMBAI

BEFORE SHRI R.C.SHARMA, AM

&

SHRI RAM LAL NEGI, JM

ITA No.4060/Mum/2016

(Assessment Year :2010-11)

M/s. IIML Assets Advisors Ltd., Formerly known as Saffron Asset Advisors Pvt. Ltd.,) The IL & FS Financial Centre Plot No.C-22, G-Block, Bandra Kurla Complex, Bandra (E) Mumbai – 400 051	Vs.	The Deputy Commissioner of Income-Tax Circle – 7(2), Room No.624, Aayakar Bhavan M.K.Road Mumbai – 400 020
PAN/GIR No.AAJCS5304B		
Appellant)	..	Respondent)

Assessee by	Shri Gopal Bohra
Revenue by	Shri V. Jenardhanan
Date of Hearing	20/06/2018
Date of Pronouncement	20/06/2018

आदेश / O R D E R

PER R.C.SHARMA (A.M):

This is an appeal filed by the assessee against the order of CIT(A)-56, Mumbai dated 22/03/2016 for A.Y.2010-11 in the matter of order passed u/s.143(3) r.w.s.144C of the IT Act.

2. Rival contentions have been heard and record perused.
3. Assessee is engaged in the business of providing non-binding investment advisory services to its associated enterprises i.e., to Saffron Capital Securities Limited, Mauritius. Assessee has benchmarked its

international transaction under transactional Net Margin Method. Assessee has selected following companies as functionally comparable in its transfer pricing study report.

1. ICRA Management Consulting Services Ltd.,
2. IDC (India) Limited
4. Assessee computed its operating profit to cost at 25.34% and of the comparable selected was 4.02% (average margin). Accordingly as per assessee, the international transaction was at an arm's length price. During the course of scrutiny assessment, AO referred the matter to the TPO who rejected the comparable selected by the assessee and has adopted following six new comparables and made a transfer pricing adjustment of Rs.3,14,40,626/-.

Sr. No	Name of the Comparable	PLI
1	Future Capital Investment Advisors Limited	14.76%
2	Future Capital Holdings Limited. (Segment-Investment advisory)	31.68%
3	IDFC Investment Advisors Limited	36.62%
4	ICRA Online Limited	41.77%
5	Khshitij Investment Advisory Co Limited	32.33%
6	Motilal Oswal Investment Advisors Limited	97.87%
	Arithmetic Mean	42.51%

5. By the impugned order CIT(A) confirmed the action of the AO. Against which assessee is in further appeal before us.

6. It was argued by learned AR that if both the comparable selected by assessee is accepted as comparable and Motilal Oswal Investment Advisors Limited as selected by the TPO is rejected, there will be no transfer pricing adjustment as PLI of the assessee would remain at 25.34% which is higher than the average PLI of remaining comparables at 23.6%. Learned AR cited various judicial pronouncements according to which ICRA Management Consulting Services Ltd., and IDC (India) Limited is a good comparable since assessee company is also engaged in advisory and consultancy services and functionally comparable.

7. On the other hand, learned DR relied on the order of the lower authorities.

8. We have considered rival contentions and carefully gone through the orders of the authorities below and found that ICRA Management Consulting Services Ltd., is engaged in providing advisory services and functionally comparable with the assessee's company. In the following judicial pronouncements it has been held to be eligible for comparison.

- *AGM India Advisors Pvt. Ltd., (70 taxmann.com 219 AY 2010-11 internal page no 14 & 15*
- *Temasek Holding Advisors India Private Limited (ITA 776/M/2015 AY 2010-11) at internal page no 26 to 28*
- *Temasek Holdings Advisors India Private Limited (ITA: 4203/M/2012 & 6504/M/2012) at internal page no 57 & 58*

- *Mumbai ITAT in General Atlantic Pvt. Ltd. v DCIT (ITA 2207/M/2016 order dated 21.02.2018). Refer para 6 & 14 on page 4 & 10 respectively*

9. Similarly, IDC (India) Limited is also engaged in advisory and consultancy services and functionally comparable with the assessee. In the following judicial pronouncements, it was held to be fit for comparison:-

- *AGM India Advisors Private Limited -..(70 taxmann.com 219 AY 2010-11) at internal page no 14 & 15*
- *Tameasek Holding Advisors India Private Limited (ITA 776/M/2015 AY 2010-11) at internal page no 26 to 28*
- *Temasek Holdings Advisors India Private Limited (ITA: 4203/M/2012 & 6504/M/2012) at internal page no 57 & 58*
- *Mumbai ITAT in General Atlantic Pvt. Ltd, v DCIT (ITA 2207/M/2Q16 order dated 21.02.2018). Refer Internal page 11 & 12 respectively.*
- *Bombay HC in the case of General Atlantic Pvt. Ltd., (68 taxmann.com 88 refer internal page no. 1 to 3)*

10. We also found that Motilal Oswal Investment Advisors Limited is a company engaged in the business of investment banking / merchant banking activity, hence not comparable with the assessee. Following judicial pronouncements support our contention:-

- *Mumbai ITAT in the case of NVP Venture Capital India P Ltd vs DCIT (58 taxmann.com 87 for AY 2010-11) at internal page no 6.*
- *AGM India Advisors Private Limited (70 taxmann.com 219 AY 2010-11) at internal page no 8 & 9*
- *Tameasek Holding Advisors India Private Limited (ITA 776/M/2015 AY 2010-11) at internal page no 31 & 32*

- *Bain Capital Advisors Private Limited vs DCIT (413/M/2015) at internal page no 3 to 5*
- *Q India Investment Advisors P Ltd vs DCIT (923/M/2015) at internal page no 3 to 5*
- *3i India Private Limited vs DCIT (581/M/2015) at internal page no 32 &33*
- *Acumen Fund Advisory Services India Private Limited (50 taxmann.com 317) at internal page no.7 & 8.*
- *Mumbai ITAT in the case of Wells Fargo Real Estate Advisors Pvt. Ltd., vs. DCIT (ITA No.1093/M/2014) at internal page no.5 to 7.*

11. We further observe that only if Motilal Oswal Investment Advisors Limited is rejected from the list of comparables selected by the TPO, the arithmetic name of PLI of the comparable will fall within +/- 5% range prescribed u/s. proviso to Section 92C of the Act, as applicable to A.Y.2010-11. Accordingly, there will be no transfer pricing adjustment.

12. In the result, appeal of the assessee is allowed in part in terms indicated hereinabove.

Order pronounced in the open court on this 20/06/2018

Sd/-
(RAM LAL NEGI)
JUDICIAL MEMBER

Sd/-
(R.C.SHARMA)
ACCOUNTANT MEMBER

Mumbai; Dated 20/06/2018
Karuna Sr.PS

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A), Mumbai.
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

सत्यापित प्रति //True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai