

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL, 'D' BENCH, CHENNAI**  
श्री ए. मोहन अलंकामणी, लेखा सदस्य एवं श्री धुव्वुरु आर.एल रेड्डी, न्यायिक सदस्य के समक्ष  
**BEFORE SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER**  
**AND SHRI DUVVURU RL REDDY, JUDICIAL MEMBER**

आयकर अपील सं./I.T.A.No.3029/Chny/2017  
(निर्धारण वर्ष / Assessment Year: 2013-14)

M/s. Mos Metro India Pvt. Ltd., 88/150, Dharma Towers, Second Floor, Room No.9, Nelson Manikam Road, Choolaimedu, Chennai – 600 094.	Vs	The Deputy Commissioner of Income Tax, Corporate Circle 4(1), Chennai.
PAN: AAHCM5709N		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से/ Appellant by	:	Shri K. Senguttuvan, Advocate
प्रत्यर्थी की ओर से/ Respondent by	:	Shri Homi Raj Vansh, CIT

सुनवाई की तारीख/Date of hearing	:	30.07.2018
घोषणा की तारीख /Date of Pronouncement	:	31.07.2018

**आदेश / ORDER**

**Per A. Mohan Alankamony, AM:-**

This appeal by the assessee is arising out of the directions issued by the learned Dispute Resolution Panel-2, Bengaluru dated 18.09.2017 and the assessment order passed by the learned DCIT dated 06.10.2017 passed U/s. 143(3) r.w.s. 92CA(3) r.w.s. 144C(5) of the Act for the assessment year 2013-14.

2. The assessee has raised several grounds in its appeal however the crux of the issue argued before us is that the assessee is aggrieved by the order of the Ld.DRP because the Ld.Members of the DRP had rejected the TP study report submitted by the assessee on the grounds that the same was not furnished before the Ld.TPO.

3. The brief facts of the case are that the assessee is a private limited company engaged in business as civil contractors filed its return of income for the assessment year 2013-14 on 30.11.2013 admitting total income of Rs.7,93,01,160/-. The case was selected for scrutiny and notice U/s.143(2) & 142(1) of the Act was issued on 16.09.2014 & 08.06.2015 respectively. Thereafter the case was referred to the Ld.TPO who passed order U/s. 92CA(3) of the Act on 24-10-2016 followed by draft assessment order on 31.12.2016. Subsequently the Ld.Members of the DRP issued directions on 18.09.2017 wherein they confirmed the order of the Ld.TPO who had made upward adjustment in the case of the assessee.

4. At the outset the Ld.AR submitted that the assessee was unable to furnish its TP study report before the Ld.TPO due to paucity of time, however the same was submitted before the Ld.Members of the DRP. It was further submitted that the Ld.Members of the DRP rejected the

TP study report furnished by the assessee because the same was not placed before the Ld.TPO at the time of the proceedings before him. The Ld.AR therefore pleaded that the matter may be remitted back to the file of Ld.TPO in order to consider the TP report submitted by the assessee and thereafter pass appropriate order in accordance with law and merits. The Ld.DR strongly objected to the submission of the Ld.AR and prayed for confirming the orders of the Ld.Revenue Authorities because the assessee had not complied with the procedures within the stipulated period prescribed under the Act.

5. We have heard the rival submissions and carefully perused the materials on record. We do not find force in the argument of the Ld.AR. The assessee is bound to submit the TP study report before the Ld.TPO within the time limit prescribed under the Act, which it has failed miserably. As admitted by the Ld.AR, in accordance with Section 92E of the Act, the assessee is bound to furnish a report from an accountant with respect to the international transaction, transacted by the assessee within the stipulated period. As per Rule 12(2) such audit report from the accountant has to be attached with the return of income under any of the provisions of the Act. Further proviso to Rule 12(2) also stipulates that such report has to be furnished electronically. From the facts of the case, we find that the assessee has not complied

with the above referred provisions of the Act as well as the Rules. However, taking into consideration that the assessee has subsequently filed the report before the Ld.Members of the DRP, in the interest of justice, we hereby remit the matter back to the file of Ld.Members of the DRP with directions to admit the TP study report submitted by the assessee and thereafter pass appropriate order in accordance with merit and law after duly considering the TP study report submitted by the assessee.

6. In the result appeal of the assessee is allowed for statistical purposes as indicated herein above.

Order pronounced on the 31<sup>st</sup> July, 2018 at Chennai.

Sd/-  
(धुव्वुरु आर.एल रेड्डी)  
( Duvvuru RL Reddy )  
न्यायिक सदस्य /Judicial Member

Sd/-  
(ए. मोहन अलंकामणी)  
( A. Mohan Alankamony )  
लेखा सदस्य / Accountant Member

चेन्नई/Chennai,  
दिनांक/Dated 31<sup>st</sup> July, 2018

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

- |                        |                          |                              |
|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT     | 5. विभागीय प्रतिनिधि/DR  | 6. गार्ड फाईल/GF             |