

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

Before Shri Saktijit Dey, Judicial Member &
Shri Manoj Kumar Aggarwal, Accountant Member

ITA No.850/Mum/2017
Assessment Year : 2012-13

Tata Motors European Technical Centre Plc, C/o 3 rd Floor, Nanavati Mahalaya 18, Homi Mody Street, Hutatma Chowk, Mumbai 400 001. PAN AACCT7506K	Vs .	DCIT International Taxation 4(1)(2), Mumbai
(Appellant)		(Respondent)

Appellant By : Shri Srihari M Iyer

Respondent By : Shri Rignesh Das & Shri Jayant Kumar

Date of Hearing : 06.09.2018

Date of Pronouncement : 12.09.2018

ORDER

Per Saktijit Dey, Judicial Member

This appeal by the assessee is directed against the final assessment order, dated 30.11.2016, passed u/s. 143(3) r.w.s. 144C(13) of the Income Tax Act, 1961, for the assessment year 2012-13, in pursuance to the directions of the Dispute Resolution Panel (2) (DRP), Mumbai.

2. In ground no.1 assessee has challenged the rejection of foreign companies selected as comparables by the assessee for benchmarking the international transactions with its Associated Enterprises (AE). At the outset, learned AR submitted that in A.Y. 2008-09, 2009-10 and 2010-11, the

Tribunal has decided the issue in favour of the assessee. However, he submitted the issue has become academic in the impugned assessment year, since, by virtue of the directions of DRP with regard to other facets of transfer pricing adjustment, ultimately no addition on account of transfer pricing adjustment has been made in the final assessment order. Thus, he expressed his intention not to press the ground raised. The learned DR submitted, since, in the final assessment order no addition on account of transfer pricing adjustment has been made, the issue in this ground is academic in nature hence, not required to be decided.

3. We have considered rival contentions and perused material on record. We find, though, grounds relating to this issue were raised before the DRP, however, the DRP did not decide the issue upon considering the fact that on the basis of its directions no transfer pricing adjustment survives. Thus, in essence, the issue raised in this ground is of mere academic importance. Therefore, there is no need to delve into the issue. Suffice to say, the contention of the assessee that the Tribunal has accepted the selection of foreign comparables in A.Ys. 2008-09 and 2009-10 in ITA 7630/Mum/2012 and ITA 1698/Mum/2014, order dated 22.12.2014, is found to be correct. Therefore, in view of the aforesaid decision of the Tribunal, the issue raised in this ground is kept open for decision, if need be, in future. With the aforesaid observation this ground is dismissed.

4. Ground no.2 raised by the assessee is relating to incorrect adjustments of refund. At the outset, learned AR submitted that in the meanwhile the Assessing Officer has rectified the mistake and granted correct refund to the assessee. Hence, this ground has become infructuous. In view of the aforesaid submissions of the learned AR this ground is dismissed.

5. In the result, assessee's appeal is dismissed.

Order pronounced in the open court on this day of 12th September 2018.

Sd/-
(Manoj Kumar Aggarwal)
ACCOUNTANT MEMBER

Mumbai, Dated : 12th September, 2018.

Sd/-
(Saktijit Dey)
JUDICIAL MEMBER

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Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Mumbai.
4. The CIT
5. The DR, 'K' Bench, ITAT, Mumbai

BY ORDER,

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(Assistant Registrar)
Income Tax Appellate Tribunal, Mumbai