

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'I-2' NEW DELHI**

**BEFORE SHRI BHAVNESH SAINI, JUDICIAL MEMBER
&
SHRI L.P. SAHU, ACCOUNTANT MEMBER**

**ITA No. 6691/Del/2015
(Assessment Year: 2011-12)**

DCIT, Circle-3(1)(1), New Delhi.	vs	M/s Rools-Royce PLC., C/o BMR & Associates LLP, 22 nd Floor, Building No. 5, Tower A, DLF Cyber City, DLF Phase-III, Gurgaon. PAN No. AACCR6911L
APPELLANT		RESPONDENT

Revenue by	Ms. Anchal Khandelwal, Sr. DR
Assessee by	Sh. S.S. Thomar, Adv.

Date of Hearing	01.10.2018
Date of Pronouncement	03.10.2018

ORDER

PER SHRI BHAVNESH SAINI, J.M.

This appeal by Revenue has been directed against the order of DCIT, Circle 3(1)(1), International Taxation, New Delhi dated 19.10.2015 u/s 143(3)/144C(13) of the Income Tax Act passed in pursuance to the directions of DRP-2, New Delhi dated 21.09.2015 on the following grounds:

- (i) *“Whether on the facts and in the circumstances of the case, the Hon’ble Dispute Resolution Panel (DRP) has erred in directing the Assessing Officer to attribute 35% of the profits to PE in India against the attribution of 75% of the profits done by the AO and in not following the precedent laid down by the Dispute Resolution Panel (DRP) in assessment years 2007-08, 2009-10 & 2010-11 and by the Ld. CIT(A) for the assessment years 2001-02, 2004-05 & 2005-06 when the facts of the AY 2011-12 are similar to the facts of earlier assessment years and in applying the decision of the Hon’ble Tribunal for the assessment years 1997-98 to 2000-01 & 2002-03 to 2003-04 when the facts of these assessment years are different from the facts of AY 2011-12.*
- (ii) *Whether on the facts and in the circumstances of the case, the DRP has erred in ignoring the fact that the assessments for the given AY 2011-12, as well as for the AYs 2007-08, 2009-10 & 2010-11 were framed on the basis of specific information gathered during the course of survey proceedings at the premises of the assessee, and the fact that the assessee has not made out a case for any change in its activities from those discovered during the survey proceedings?*
- (iii) *The appellant prays for leave to add, amend, modify or alter any grounds of appeal at the time or before the hearing of the appeal.”*

2. Ld. Counsel for the assessee at the outset, submitted that after passing of the impugned assessment order, the AO passed the order u/s 90/143(3) of the Act dated 06.07.2018 because the assessee preferred an application under MAP before the Competent Authority. The competent authorities of UK & India have arrived at the resolution with respect to the assessee u/s 90 of the Act read with Article 27 of India UK DTAA. Copy of the resolution of the Competent Authority dated 03.05.2018 is placed on record. The copy of the assessment order dated 06.07.2018 is also placed on record. Ld. Counsel for the assessee, therefore, submitted that since the matter is settled in MAP, therefore, departmental appeal stands infructuous, copy of the above orders are provided to the Ld. DR. Ld. DR did not dispute the same.

3. Since the matter is settled in MAP and a consequent fresh assessment order dated 06.07.2018 has been passed by the AO, assessing the income of the assessee accordingly. Therefore, departmental appeal has become infructuous. Same is accordingly dismissed.

4. In the result, departmental appeal is dismissed.

Order pronounced in the open court.

Sd/-

(L.P. SAHU)

ACCOUNTANT MEMBER

Dated: 03.10.2018

*Kavita Arora

Sd/-

(BHAVNESH SAINI)

JUDICIAL MEMBER

Copy forwarded to:

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

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ASSISTANT REGISTRAR
ITAT NEW DELHI

Date of dictation	01.10.2018
Date on which the typed draft is placed before the dictating Member	03.10.2018
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	03.10.18
Date on which the final order is uploaded on the website of ITAT	03.10.18
Date on which the file goes to the Bench Clerk	03.10.18
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	

