IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'I-1' NEW DELHI

BEFORE SHRI N. K. SAINI, ACCOUNTANT MEMBER
AND
MS SUCHITRA KAMBLE, JUDICIAL MEMBER

ITA No. 6042/DEL/2012 (A.Y 2008-09)

Moserbaer India Ltd. Tax, 43-A, Okhla Indl Area, Phase-III New Delhi-110020 AAAM0322J **(APPELLANT)**	Vs	Assistant Commissioner of Income Tax Circle 5(1) New Delhi **(RESPONDENT)**

ITA No. 2395/DEL/2014 (A.Y 2009-10)

Moserbaer India Ltd. Tax, 43-A, Okhla Indl Area, Phase-III New Delhi-110020 AAAM0322J **(APPELLANT)**	Vs	Assistant Commissioner of Income Tax Circle 5(1) New Delhi **(RESPONDENT)**

ITA No. 1200/DEL/2014 (A.Y 2009-10)

Astt. Commissioner of Income Tax Circle 5(1) New Delhi **(APPELLANT)**	Vs	Moserbaer India Ltd. Tax, 43-A, Okhla Indl Area, Phase-III New Delhi-110020 AAAM0322J **(RESPONDENT)**

ITA No. 1617/DEL/2015 (A.Y 2010-11)

Moserbaer India Ltd. Tax, 43-A, Okhla Indl Area, Phase-III New Delhi-110020 AAAM0322J **(APPELLANT)**	Vs	DCIT Circle 17(1) New Delhi **(RESPONDENT)**

Appellant by	**Sh. Upvan Gupta, Adv**
Respondent by	**Sh. Sanjay I. Bara, CIT DR**

Date of Hearing	**05.07.2018**
Date of Pronouncement	**03 .10.2018**

ORDER

PER SUCHITRA KAMBLE, JM

These appeals are filed by the assessee as well as by the Revenue against the Assessment Orders dated 30/10/2012 for A. Y. 2008-09, 28.02.2014 for A.Y. 2009-10 and 30.01.2014 for A.Y. 2010-11 passed by the Assessing Officer u/s 143 (3) read with Section 144C of the Income Tax Act, 1961.

2. The revised grounds are as under:

ITA No. 6042/DEL/2012(A.Y 2008-09)

GENERAL

1. That assessing officer erred on facts and in law in computing taxable income of the appellant at Rs. 62,39,09,420 as against returned loss of Rs.79,08,80,137.

TRANSFER PRICING ISSUES

2. That the assessing officer erred on facts and in law in making an addition of Rs.73,99,46,465 to the appellant's income on account of the alleged difference in arm's length price of exports made by the appellant to its associated enterprises.

3. That the assessing officer erred on facts and in law in making an addition of Rs. 98,88,047 to the appellant's income on account of the alleged difference in arm's length price of interest charged by appellant from its associated enterprises.

CORPORATE TAX ISSUES

4. That the assessing officer erred on facts and in law in reducing the deduction claimed by appellant under the provisions of section 10B of the Income-tax Act, 1961 ('the Act') to NIL in respect of eligible unit at A-164, Noida by setting off the losses of other units.

5. That the assessing officer erred on facts and in law in not allowing deduction under section 10B of the Act in respect of foreign exchange gain of Rs.2,53,81,255 by holding the same to be income not derived from the industrial undertaking.

6. That the assessing officer erred on facts and in law in not allowing deduction under section 10B of the Act in respect of scrap sales of Rs.1,33,96,944 by holding the same to be income not derived from the industrial undertaking.

7. That the assessing officer erred on facts and in law in disallowing a sum of Rs.9,22,99,536, being 25% of the expenditure on royalty of Rs.36,91,98,145 paid to various parties, as capital expenditure relying upon the decision of Supreme Court in the case of Southern Switchgear Ltd.: 232 ITR 359.

8. That the assessing officer erred on facts and in law in disallowing a sum of Rs. 1,69,22,820 invoking provisions of section 14A of the Act read with Rule 8D of the Income-tax Rules, 1962 ('the Rules'), holding the same to be expenses attributable towards investments made for earning of exempt dividend income, though, the appellant had not earned any dividend/ exempt income during the relevant assessment year.

9. That the assessing officer erred on facts and in law in disallowing a sum of Rs.10,33,76,854, being expenses incurred on issue of foreign currency convertible bonds ('FCCB') holding the same to be capital in nature.

10. That the assessing officer erred on facts and in law in disallowing deduction of a sum of Rs.26,11,87,091, being amount pertaining to amortisation of premium payable at the time of redemption of FCCB, holding the same to be unascertained and contingent in nature."

ITA No. 2395/DEL/2014 (A.Y 2009-10)

GENERAL

1. That Assessing Officer erred on facts and in law in computing taxable income of the assessee appellant at Rs.54,71,49,400/- as against returned loss of Rs.1,93,73,70,310/-

2. That the assessing officer erred on facts and in law in making an addition of Rs. 1,78,26,66,433 to the appellant's income on account of the alleged difference in arm's length price of exports made by the appellant to its associated enterprises.

3. That the assessing officer erred on facts and in law in making an addition of Rs.9,12,25,805 to the appellant's income on account of the alleged

difference in arm's length price of interest charged by appellant from its associated enterprises.

CORPORATE TAX ISSUES

4. That the assessing officer erred on facts and in law in reducing the deduction claimed by appellant under the provisions of section 10B of the Income-tax Act, 1961 ('the Act') in respect of eligible unit at A-164, Noida by setting off the losses of other units.
5. That the assessing officer erred on facts and in law in not allowing deduction under section 10B of the Act in respect of foreign exchange gain of Rs.23,87,05,343 by holding the same to be income not derived from the industrial undertaking.
6. That the assessing officer erred on facts and in law in not allowing deduction under section 10B of the Act in respect of scrap sales of Rs. 1,49,48,144 by holding the same to be income not derived from the industrial undertaking.
7. That the assessing officer erred on facts and in law in disallowing a sum of Rs. 6,87,14,859 (net of depreciation), being 25% of the expenditure on royalty of Rs. 36,64,79,248 paid to various parties, as capital expenditure relying upon the decision of Supreme Court in the case of Southern Switchgear Ltd.: 232 ITR 359.
8. That the assessing officer erred on facts and in law in disallowing a sum of Rs.2,57,60,916 invoking provisions of section 14A of the Act read with Rule 8D of the Income-tax Rules, 1962 ('the Rules'), holding the same to be expenses attributable towards investments made for earning of exempt dividend income, though, the appellant had not earned any dividend/ exempt income during the relevant assessment year.
9. That the assessing officer erred on facts and in law in disallowing deduction of a sum of Rs.38,86,26,890, being amount pertaining to amortisation of premium payable at the time of redemption of foreign currency convertible bonds ('FCCB'), holding the same to be unascertained and contingent in nature.

ITA No. 1200/DEL/2014 (A.Y 2009-10) Revenue's appeal

1. Whether on the facts and circumstances of the case & in law, the Ld. members of DRP erred in directing the A.O to apply PLR of RBI for F.Y 2008-09 to determine ALP of interest receivable from loan to subsidiary as against interest rate applied by the TPO of 17.24% ?

2. Whether on the facts and circumstances of the case & in law, the Ld. members of DRP erred in not directing the A.O to charge the mark up on the interest amount as same is provised in the safe Harbour Rule?
3. Whether on the facts and circumstances of the case & in law, the Ld. members of DRP erred in directing the A.O that no interest need to be charged on share application money pending with its foreign subsidiaries without appreciating the fact that shares have not been allotted within time as per norms of the company law and also the fact that assessee has parked its money with its foreign AE?
4. That the order of the DRP is erroneous and is not tenable on facts and in law.
5. That the grounds of appeal are without prejudice to each other.
6. That the appellant craves leave to add, alter, amend or forgo any ground(s) of appeal either before or at the time of hearing of the appeal.

ITA No. 1617/DEL/2015 (A.Y 2010-11)

GENERAL

1. That assessing officer erred on facts and in law in computing taxable income of the appellant at Rs.1,43,95,15,290 as against returned loss of Rs. 6,63,65,973.
2. That the assessing officer erred on facts and in law in making an addition of Rs.41,53,41,460 to the appellant's income on account of the alleged difference in arm's length price of exports made by the appellant to its associated enterprises.
3. That the assessing officer erred on facts and in law in making an addition of Rs.5,20,26,523 to the appellant's income on account of the alleged difference in arm's length price of interest charged by appellant from its associated enterprises.
4. That the assessing officer erred on facts and in law in making an addition of Rs. 1,29,00,171 to the appellant's income on account of notional interest by recharacterising the share application money paid to the associated enterprise as loan.

CORPORATE TAX ISSUES

5. That the assessing officer erred on facts and in law in reducing the deduction claimed by appellant under the provisions of section 10B of the Income-tax Act, 1961 ('the Act') in respect of eligible unit at A-164, Noida by

setting off the losses of other units.
6. That the assessing officer erred on facts and in law in not allowing deduction under section 10B of the Act in respect of scrap sales of Rs. 8,61,23,941 by holding the same to be income not derived from the industrial undertaking.
7. That the assessing officer erred on facts and in law in arbitrarily reducing a sum of Rs 12,13,80,604 on account of royalty disallowance from the profit of the eligible undertaking.
8. That the assessing officer erred on facts and in law in disallowing a sum of Rs.19,58,46,433 (net of depreciation), being 25% of the expenditure of royalty of Rs.1,04,45,14,309 paid to various parties, as capital expenditure relying upon the decision of Supreme Court in the case of Southern Switchgear Ltd.: 232 ITR 359.
9. That the assessing officer erred on facts and in law in disallowing a sum of Rs.5,12,96,791 invoking provisions of section 14A of the Act read with Rule 8D of the Income-tax Rules, 1962 ('the Rules'), holding the same to be expenses attributable towards investments made for earning of exempt dividend income, though, the appellant had not earned any dividend/ exempt income during the relevant assessment year.
10.That the assessing officer erred on facts and in law in disallowing deduction of a sum of Rs.22,56,54,588, being amount pertaining to amortisation of premium payable at the time of redemption of foreign currency convertible bonds ('FCCB'), holding the same to be unascertained and contingent in nature."

3. The lead appeal is for Assessment Year 2008-09, therefore, the brief facts of Assessment Year 2008-09 is taken here. The assessee company is engaged in the business of manufacture of optical and magnetic, storage media. The product range included recordable compact disks (CD-R) rewritable compact disks (CD-RW), pre-recorded CD/DVD, digital versatile disks in optical media and compact cassettes, microfloppy disks and digital audio tapes in magnetic media segment and home entertainment business. The case was referred to the Transfer Pricing Officer, New Delhi with the approval of CIT-II, New Delhi u/s 92CA of the I.T Act, 1961. The order of the Transfer Pricing Officer-1(3) was passed u/s 92CA (3) of the I.T Act, 1961 on 31/10/2011 where by the TPO has proposed following enhancements in the total income of the assessee for the

international transactions undertaken by the assessee.

Sl.	Particulars	Amount in INR
1	On A/c of exports made to the A.E	73,95,75,860/-
2	On A/c of interest on loan to Subsidiary co	1,58,81,963/-
	TOTAL	75,54,57,823/-

A draft Assessment Order under the provisions of Section 144C(1) read with Section 143(3) was served upon the assessee company on 26/12/2011. The assessee filed its objection in the office of the Dispute Resolution Panel-1, New Delhi. The Dispute Resolution Panel-1, New Delhi vide its order dated 4/9/2012 has disposed off the objections of the assessee company. Thus the assessment order is being finalized in accordance with the directions of the Dispute Resolution Panle-1, New Delhi.

4. The Assessing Officer vide order dated 30/12/2012 passed an assessment order thereby making various additions.

5. Being aggrieved by the Assessment Order, the assessee has filed the present appeal before us.

6. The Ld. AR submitted that Ground No. 1 is general in nature. Hence Ground No. 1 is dismissed.

7. As regards Ground No. 2 relating to exports to AE, the Ld. AR submitted that during the relevant assessment year, the assessee supplied CD's, Floppies etc. to its overseas AEs, viz., Global Data Media FZ LLC, Dubai ('GDM'), European Optic Media Technology Gmbh ('Europtic'} and OM&T BV ('OM&T') worth Rs.544.76 crores. The AEs were engaged in re-selling/ distribution of such products. For benchmarking the aforesaid international transaction, the assessee selected TNMM as the Most Appropriate Method ('MAM') applying Operating Profit/Sales ('OP/Sales') as the Profit Level

Indicator ('PLI') and selected its overseas AEs as tested party, since the same were least complex. The benchmarking analysis of assessee is as under:

Particulars	Results
No. of Comparable Companies	9
Average OP/Sales	2.75%
AEs (GDM, Europtic and OM& TOP/Sales	-1.61%, -44.89%-134.20%

Thus, the tested party, i.e., the overseas AEs have earned less profit than its comparables. Accordingly, the international transaction was considered to be at arm's length price. The TPO, by relying upon the TP orders for A.Ys 2005-06 & 2006-07, rejected the assessee's action of selecting overseas AEs as tested party. By relying upon the said orders, he also rejected the PLI selected by the assessee. Further, by relying upon the TP order for A.Ys 2006-07, the TPO considered assessee as tested party and Operating Profit/ Total Cost ('OP/ TC') as PLI. The TPO also used internal TNMM as MAM and compared assessee's profit of AE segment with the profit of non- AE segment. The Ld. AR submitted that transfer pricing adjustment cannot exceed profit of foreign AE. The Ld. AR relied upon the decision of this Tribunal in assessee's own case for the A.Ys 2003- 04, 2005-06 & 2006-07. (Moser Baer India Ltd. Vs. DCIT 93 Taxmann. Com 79). The aforesaid decision was pronounced by this Tribunal on the basis of another decision of this Tribunal in assessee's own case for the A.Y 2002-03 and the decision of Delhi High Court in the case of CIT Vs Global Ventedge (P) Ltd.: ITA 1828/ 2010 (SLP against this decision has been dismissed by the Supreme Court in CC No.21808/ 2013). The Ld. AR submitted that in the present case, all the 3 AEs had incurred losses in their audited financial statements for the relevant period. The Ld. AR submitted that following the decision of this Tribunal in assessee's own case for the preceding assessment years and the decision of Delhi High Court in the case of Global Vantedge (P) Ltd. (supra), the transfer pricing adjustment in the present case calls for being deleted in totality. Without prejudice, the Ld. AR submitted that, foreign AE can be considered as a tested party as upheld by this Tribunal in assessee's own case for the AYs 2003-04, 2005-06 & 2006-07. Thus, the Ld. AR

submitted that the aforesaid transfer pricing adjustment shall not sustain at all.

8. The Ld. DR relied upon the Assessment Order & order of TPO.

9. We have heard both the parties and perused all the relevant material available on record. For AYs 2003-04, 2005-06 & 2006-07, the Tribunal held as under:-

"7.8. On perusal of observations by Coordinate Bench of this Tribunal in assessee's own case for assessment year 2002-03 (supra) which has been reproduced in earlier part of this order, it is observed that during assessment year 2002-03, assessee filed before Ld. TPO sufficient evidence to substantiate its claim of ALP not exceeding maximum amount received by Associated Enterprises from customers and actual value of international transactions.

However in the present case having regard to our observation from financials of AE, assessee has failed to establish by way of sufficient evidence before Ld. TPO, regarding actual value of international transaction received by AE. It is also observed from the relevant para 21 (supra) reproduced hereinabove this Tribunal refrained from dealing with the other objections raised by assessee therein since the Hon'ble Bench was convinced with the arguments of Ld. AR regarding actual value of transactions received by AE therein.

7.9. Considering totality of facts, we find it is necessary to set aside this issue back to Ld. TPO for due verification of argument advanced by Ld. AR in the 2nd limb on the basis of documents filed by assessee in respect of the same. Ld. TPO is directed to accept assessee's contention of foreign AE to be a tested party in the event assessee is able to provide complete financials of GDM Dubai along with complete financials of relevant comparables required to benchmark the international transaction. Ld. TPO shall then consider the

foreign AE to be tested party. Ld. TPO shall then verify is the Foreign AE could be considered as least complex with minimum adjustments and for which comparables are available easily on public domain.

7.10. In the event assessee is not able to provide complete details as recorded hereinabove, Ld. TPO shall consider assessee to be the tested party in the light of arguments advanced by assessee in 2nd limb of his argument, which has attained finality as SLP has been dismissed by Hon'ble Supreme Court in the case of CIT v. Global Vantage (P.) Ltd. cc No. 21808/2013 vide, order dated 2/01/2014, wherein Hon'ble Supreme Court upheld decision of Hon'ble High Court in the case of CIT v. Global Vantage Pvt. Ltd. TA No. 1828/2010 order dated 14/03/13. To succeed in this argument assessee shall provide all the details to ascertain the correct value of transaction received by A.E.

7.11 Accordingly this ground raised by assessee stands allowed for statistical purposes."

From the perusal of Tribunal's order dated 1/5/2018, the Tribunal has remanded back the issue to the file of the TPO, directing to accept assessee's contention of foreign AE to be a tested party in the event assessee is able to provide complete financials of GDM Dubai along with complete financials of relevant comparables required to benchmark the international transaction. The Tribunal further directed that the TPO shall then consider the foreign AE to be tested party and then verify whether the Foreign AE could be considered as least complex with minimum adjustments and for which comparables are available easily on public domain. It can be seen that in this year assessee submitted that all three AEs had incurred losses in their audited financial statement for the relevant period before. As per the direction of the Tribunl for A.Ys. 2003-04, 2005-06 and 2006-07, the foreign AE can be considered as a

tested party. Therefore, we direct the TPO in the event assessee is able to provide complete financials of foreign AE along with complete financials of relevant comparables required to benchmark the international transaction. We further direct the TPO to consider the foreign AE to be tested party and then verify whether the Foreign AE could be considered as least complex with minimum adjustments and for which comparables are available easily on public domain. Thus, we are remanding back this issue to the file of A.O/TPO. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice. Ground No. 2 is partly allowed for statistical purpose.

10. As regards to Ground No. 3 relating to Transfer Pricing addition in respect of interest on loan given to foreign A.E, the Ld. AR submitted that the assessee had granted loan to its foreign AE, viz., Peraround Ltd., Cyprus and received interest of Rs.99,17,287 thereupon @ Euribor + 200 basis points, which was equivalent to 6.41%. The assessee for the purpose of benchmarking the aforesaid transaction and computing ALP thereof, considered returns available on investment opportunities in India (bank FD, certificate of deposit, commercial paper etc.) as reduced by the country risk premium of investing in the Indian market, which was equivalent to 4.69% (7.88%- 3.19%). The TPO benchmarked the aforesaid transaction @ 17.26% by applying the yield rate on corporate bonds. The said rate was computed by TPO on the basis of information received by him from various banks/ investment companies in India. The DRP directed the TPO to apply the Prime Lending Rate ('PLR') prescribed by RBI @ 13.25% to benchmark the transaction. The Ld. AR submitted that the aforesaid loan was granted by assessee in preceding assessment year, viz., A.Y. 2007-08, wherein, the interest rate charge by assessee was accepted to be at arm's length price. Accordingly, under identical facts and circumstances, TPO cannot deviate from a settled position. The Ld. AR further submitted that the arm's interest rate in respect of loan advanced to foreign A.E., LIBOR/EURIBOR should be taken as benchmark. The Ld. AR

relied upon the following decisions, wherein, it has been held that, arm's interest rate in respect of loan advanced to foreign AE should be computed based on interest rate applicable to currency in which loan has to be repaid (PLR is not relevant for foreign currency loans and LIBOR/ EURIBOR only can be considered for benchmarking the same):

i. CIT vs Cotton Naturals (1) (P) Ltd.: 231 Taxman 401 (Delhi High Court)
ii. CIT vs Tata Autocomp Systems Ltd.: 374 ITR 516 (Mumbai High Court).

The Ld. AR further submitted that the Hon'ble Rajasthan High Court in case of CIT vs. Vaibhav Gems Ltd. 88 taxmann.com 12 held that where assessee extended loan to its AE, adjustment should be made at average LIBOR rate existing at that time, i.e., at 0.79%, instead of LIBOR + 2%. The Ld. AR also relied upon the following case laws:-

- Cotton Naturals (1) (P) Ltd. Vs DCIT: 169 TTJ 685 (Delhi ITAT)
- Motherson Sumi Systems Ltd. Vs Addl. CIT: 58 taxmann.com 38 (Delhi ITAT)
- UFO Movies (I) Ltd. Vs ACIT: 175 TTJ 633 (Delhi ITAT)
- Siva Industries & Holdings Ltd. Vs ACIT: 46 SOT 112 (Chennai ITAT)
- Manugraph India Ltd. Vs DCIT: 69 taxmann.com 400 (Mumbai ITAT)
- Everest Kanto Cylinder Vs DCIT: 75 taxmann.com 238 (Mumbai ITAT)
- Rain Commodities Ltd. Vs Addl. CIT: 65 taxmann.com 240 (Hyderabad ITAT)
- CES (P) Ltd. Vs DCIT: 41 taxmann.com 409 (Hyderabad ITAT)
- Mylan Laboratories Ltd. Vs ACIT: 63 taxmann.com 179 (Hyderabad ITAT)
- Soma Textiles & Industries Ltd. Vs Addl. CIT: 81 taxmann.com 67 (Ahmedabad ITAT)

Accordingly, the adjustment made by TPO on account of difference in ALP of interest calls for being deleted.

11. The Ld. DR relied upon the Assessment Order.

12. We have heard both the parties and perused all the relevant material available on record. It can be seen that interest rate in respect of loan advanced to foreign AE should be computed based on interest rate applicable to currency in which loan has to be repaid. The assessee had granted loan to its foreign AE, viz., Peraround Ltd., Cyprus and received interest of Rs.99,17,287 thereupon @ Euribor + 200 basis points, which was equivalent to 6.41%. The assessee for the purpose of benchmarking the aforesaid transaction and computing ALP thereof, considered returns available on investment opportunities in India (bank FD, certificate of deposit, commercial paper etc.) as reduced by the country risk premium of investing in the Indian market, which was equivalent to 4.69% (7.88%- 3.19%). The aforesaid loan was granted by assessee in preceding assessment year, viz., A.Y. 2007-08, wherein, the interest rate charge by assessee was accepted to be at arm's length price. Thus, the TPO was not correct in deviating its own decision from the previous year as per the rule of consistency. Besides this, the Ld. AR's reliance on the decision of Jurisdictional Delhi High Court in the case of Commissioner of Income-tax -I v. Cotton Naturals (I) (P.) Ltd. 231 taxman 401 is very apt. The Hon'ble High Court held as under:

"28. We do not agree with the finding recorded in paragraph 5 of the TPO's order that the comparable test to be applied is to ascertain what interest would have been earned by the assessed by advancing a loan to an unrelated party in India with a similar financial health as the taxpayer's subsidiary. The aforesaid reasoning is unacceptable and illogical as the loan to the subsidiary AE in the instant case is not granted in India and is not to be repaid in Indian Rupee. It is not a comparable transaction. The finding of the TPO that for this reason the interest rate should be computed at 14% per annum i.e. the average yield on unrated bonds for Financial Years (FY, for short) 2006-07, has to be rejected."

Thus, the contention of the Ld. AR are accepted that where the transaction was of lending money in foreign currency to its foreign subsidiaries the

comparable transactions, therefore, was of foreign currency lent by unrelated parties. The financial position and credit rating of the subsidiaries will be broadly the same as the holding company. In such a situation, domestic prime lending rate would have no applicability and the international rate fixed being EURIBOR + 200 points was properly taken by the assessee. Therefore, the TPO's treatment of benchmarking the aforesaid transaction @ 17.26% by applying the yield rate on corporate bonds as well as the DRP directing the TPO to apply the Prime Lending Rate ('PLR') prescribed by RBI @ 13.25% to benchmark the transaction, both were not correct. Ground No. 3 is allowed.

13. As regards Ground No. 4 relating to deduction under Section 10B to be allowed without setting off the losses of other units, the Ld. AR submitted that the assessee had claimed deduction u/s 10B of the Act in respect of eligible unit without setting off losses of other units. The A.O/DRP held that section 10B deduction is allowable post setting off losses of other units. The Ld. AR submitted the present issue stands settled in favour of the assessee by the decision of Supreme Court in the case of CIT vs Yokogawa India Ltd.: 391 ITR 274, wherein, it has been held that, the state of deduction for section 10A would be while computing across total income of eligible undertaking under Chapter IV of the Act and not at the state of computation of total income under Chapter VI of Act, i.e. before setting off losses of other units.

14. The Ld. DR relied upon the Assessment Order.

15. We have heard both the parties and perused all the relevant material available on record. The issue of claiming deduction u/s 10B of the Act in respect of eligible unit without setting off losses of other units stands settled in favour of the assessee by the decision of Supreme Court in the case of CIT vs Yokogawa India Ltd.: 391 ITR 274, wherein, it has been held that, the state of deduction for section 10A would be while computing across total income of eligible undertaking under Chapter IV of the Act and not at the state of

computation of total income under Chapter VI of Act, i.e. before setting off losses of other units. Ground No. 4 is allowed.

16. As regards Ground No. 5 relating to reduction of deduction u/s 10B on account of sale of forward exchange contract, the Ld. AR submitted that the issue of eligibility of profits arising on sale of forward exchange contract towards deduction under section 10B of the Act stands covered in favour of assessee by the decision of this Hon'ble Tribunal in assessee's own case for the assessment years 2003-04, 2005- 06 & 2006-07. Since the above mentioned receipts had direct nexus with business/ industrial undertaking of the assessee, the same was eligible for deduction u/s 10B.

17. The Ld. DR relied upon the Assessment Order.

18. We have heard both the parties and perused all the relevant material available on record. The issue of reduction of deduction u/s 10B on account of sale of forward exchange contract is already decided in favour of the assessee for A.Y. 2003-04, 2005-06 and 2006-07 by the Tribunal. The Tribunal held as under:

"5.3. We have perused the submissions advanced by both the sides in the light of the records placed before us and the judicial decisions relied upon by Ld. AR.

5.4. It is observed that only activity carried on by assessee is to sell manufactured products through its foreign AE. Therefore it is not correct to say that assessee traded in foreign exchange derivatives. Further authorities below do not dispute that foreign exchange received by assessee was in respect of exports made. Assessing Officer has not brought anything on record to prove that foreign exchange gain was due to any speculative transaction entered into by assessee.

5.5. Under such circumstances we reverse the observations of Ld. CIT (A) and hold that foreign exchange gain earned by assessee was arising out of business of eligible undertaking for purposes of deduction under section 10B of the Act.

5.6. Accordingly this ground raised by assessee stands allowed."

Thus, the issue is squarely covered in favour of the assessee by the decision of the Tribunal for A.Ys. 2003-04, 2005-06 and 2006-07. Ground No. 5 is allowed.

19. As regards to Ground No. 6 relating to reduction of deduction u/s 10B on account of scrap sale, the Ld. AR submitted that the Assessee claimed deduction u/s 10B in respect of Scrap sales. The Assessing Officer, however, held the same to be not derived from business undertaking. The DRP erroneously directed the Assessing Officer to exclude scrap sales from the purview of deduction under section 10B. Scrap sales are sales made by assessee's existing exports business only. The Revenue has not been able to point out any other business from which such sales have been made. The issue is covered in favour of assessee by following decisions:

i) GE BE (P) Ltd. Vs ACIT: 371 ITR 32 (Karnataka High Court)

ii) DCIT vs EXL Service.com (I) (P) Ltd.: ITA No. 4459/Del/2013 (Delhi ITAT)

iii) Sonic Technology India Inc. Vs ITO:ITA No. 2665/Ahd/2011 (Ahmedabad ITAT).

20. The Ld. DR relied upon the Assessment Order.

21. We have heard both the parties and perused all the relevant material available on record. Scrap sales are sales made by assessee's existing exports business only and the Revenue was not able to point out any other business

from which such sales were made. The decisions relied by the Ld. AR are applicable in the present case. The Hon'ble Karnataka High Court in case of GE BE (P) Ltd. (supra) held as under:

"11. Keeping in mind the principle laid down by the Apex Court, no doubt the assessee is not in the business of export of scraps but is in the business of export of X-ray equipments, high voltage tanks and detectors used in CT scanners and after manufacturing these products, they are exported. In the process of manufacturing, the unutilized raw materials forms part of scraps and that scraps also has value. But it is not exported and hence, they are eligible for the benefit under Section 10B of the Act. The assessee should have earned profits and gains from such export of articles or thins. The said articles or things should have been manufactured or produced by the assessee. The Section does not require that the profits and gains derived should be from the articles or things which are exported only. It is the profits and gains derived by an 100% Export Oriented Undertaking from the export of articles. Therefore, when the assessee undertakes manufacturing activity or production activity and in the process it results in any scraps, the said scraps attract the nexus between the profits and gains derived from the assessee from export business. Therefore, it satisfies the requirements of Section 10B and the Tribunal has rightly held that the assessee is entitled to the benefit of Section 10B even in respect of the profits earned out of sale of scraps materials within the country. In that view of the matter, we do not see any infirmity in the order passed by the Tribunal. Accordingly, the third substantial question of law is answered in favour of the assessee and against the Revenue."

In the present case in fact, scrap sales are sales made by assessee's existing exports business only. There is the direct nexus between the profits and gains derived from the assessee from export business and therefore, it satisfies the requirements of Section 10B of the Act. Thus, the Assessing

Officer was not correct in disallowing this claim of the assessee. Ground No. 6 is allowed.

22. As regards to Ground No. 7, relating to disallowance of royalty/technical know-how, the Ld. AR submitted that during the relevant assessment year, the assessee made payment on account of royalty/ technical know-how and claimed deduction for the same. The assessing officer relying upon the decision of Supreme Court in the case of Southern Switchgear vs. CIT: 232 ITR 359 disallowed 25% of the total expenditure and held the same to be capital in nature. The Ld. AR submitted that the aforesaid issue stands covered in favour of assessee by the decision of this Tribunal in assessee's own case for the assessment years 2003-04, 2005-06 & 2006-07.

23. The Ld. DR relied upon the Assessment Order.

24. We have heard both the parties and perused all the relevant material available on record. The Tribunal in assessee's own case for A.Ys. 2003-04, 2005-06 and 2006-07 held as under:

"9.7 Certain facts as observed by Ld. CIT(A) are that know-how are owned by owners and assessee was granted right to use for period of time till agreement continues to exist. And that upon termination, assessee has to discontinue manufacturing activities and sale of products where the use of such know-how is applicable.

9.8 Further Ld. AO observed that assessee has been using know-how since 2003. Ld. TPO observed that agreements entered into by assessee with these parties have been renewed from time to time automatically and assessee is allowed to sell products manufactured with the help of such know-how worldwide. Further agreement with M/s HP grants assessee an exclusive sub-license to reproduce, use and display the HP trade marks in the

territory assigned to assessee and assessee is free as per terms of agreement to contract out the manufacturing of HP branded products to HP approved 3rd parties and to appoint distributors for sale or distribution of HP branded products within the territory.

9.9. From the clauses referred to by Ld. AO in his order, it appears that, assessee acquired merely right to draw upon technical knowledge of foreign companies for a limited purpose of carrying on its business, and that foreign companies did not part with any of their assets absolutely for ever or for a limited period of time, that they continued to have the right to use their knowledge and, even after agreements had run their course, their rights in this behalf was not lost, that assessee had not, therefore, acquired any asset or advantage of an enduring nature for benefit of its business and that payments were, therefore, revenue in nature and were deductible.

9.10. Accordingly we do not find any infirmity in the findings of Ld. CIT(A) and the same is upheld.

9.11. In the result the ground raised by revenue stands dismissed."

Thus, in the present assessment year as well the assessee made payment on account of royalty/ technical know-how and claimed deduction for the same. From the perusal of the agreements, it can be seen that the assessee acquired merely right to draw upon technical knowledge of foreign companies for a limited purpose of carrying on its business, and that foreign companies did not part with any of their assets absolutely for ever or for a limited period of time, that they continued to have the right to use their knowledge and, even after agreements had run their course, their rights in this behalf was not lost, that assessee had not, therefore, acquired any asset or advantage of an enduring nature for benefit of its business and that payments were, therefore, revenue in nature and were deductible. This

position remains identical to that of earlier Assessment years wherein the Tribunal decided this issue in favour of the assessee and against the Revenue. Ground No. 7 is allowed.

25. As regards to Ground No. 8 relating to disallowance u/s. 14A, the Ld. AR submitted that the Assessing Officer, in the assessment order, without recording any satisfaction as to nexus of exempt income earned with expenses incurred by assessee during the relevant assessment year proceeded to make disallowance under section 14A of the Act by applying the provisions of Rule 8D. The Assessing Officer relied upon the decision of Daga Capital (ITAT) (SB) which stands overruled by the Mumbai High Court in the case of Godrej & Boyce vs. CIT: 328 ITR 81. The Ld. AR submitted that, even after coming into existence of Rule 8D, recording of satisfaction by the Assessing Officer qua nexus of exempt income earned with expenses incurred by assessee is a sine qua non, which is not complied with by the Assessing Officer in the present case. The Ld. AR relied upon the following decisions:

- Maxopp Investment Ltd. vs CIT: 402 ITR 640 (SC)
- Eicher Motors Ltd. Vs CIT: 398 ITR 51 (Delhi HC)
- Associated Law Advisers Vs. ITO : 87 taxmann.com 148 (Delhi ITAT)

Further, in absence of earning of exempt dividend income, the provisions of section 14A of the Act cannot be applied. In the present case, no exempt income has been earned by the assessee during the relevant Assessment Year. The Ld. AR relied upon the following decisions:

- Cheminvest Ltd. Vs CIT: 378 ITR 33 (Delhi HC)
- CIT vs Lakhani Marketing Inc.: 226 Taxman 45 (P&H HC)
- CIT vs Chettinad Logistics (P.) Ltd.: 248 Taxman 55 (Madras HC)

Accordingly, disallowance made by the assessing officer under the provisions of section 14A of the Act is unsustainable and calls for being deleted.

26. The Ld. DR relied upon the Assessment Order.

27. We have heard both the parties and perused all the relevant material available on record. The Ld. AR submitted that there is no exempt income earned by the assessee during the present assessment year. But the applicability of Rule 8D can not be done away by the assessee. The Ld. AR relied upon the decision of Maxopp Investment Ltd. (supra) wherein it is held as under:

"41. Having regard to the language of Section 14A(2) of the Act, read with Rule 8D of the Rules, we also make it clear that before applying the theory of apportionment, the AO needs to record satisfaction that having regard to the kind of the assessee, suo moto disallowance under Section 14A was not correct. It will be in those cases where the assessee in his return has himself apportioned but the AO was not accepting the said apportionment. In that eventuality, it will have to record its satisfaction to this effect. Further, while recording such a satisfaction, nature of loan taken by the assessee for purchasing the shares/making the investment in shares is to be examined by the AO."

In fact, the assessee in its return of income has not determined any administrative expenditure incurred in relation to those investments, which would earn tax-free income. The assessee has also not determined or allocated any expenditure on account of interest in relation to the average investment of Rs. 157,63,33,630/-. Therefore, it will be appropriate to remand back this issue to the file of the Assessing Officer for re-computation of disallowance under Section 14A of the Act as per the law. Needless to say, the assessee be given opportunity of hearing by following principles of natural justice. Ground No. 8 is partly allowed for statistical purpose.

28. As regards to Ground No. 9 relating to disallowance of FCCB issue expenses, the Ld. AR submitted that the assessee, in June 2007, i.e., during the relevant assessment year, had issued Zero Coupon Foreign Currency Convertible Bonds ('FCCB') with a total issue size of US$ 150 million to be

listed in Singapore Stock Exchange. The said FCCB could not be issued/ sold to/ in India, USA or Canada. The issue was made in 2 Tranches of USD 75 million each. The gross yield to maturity ('YTM') of Tranche A was fixed at 6.10% p.a. and for Tranche B was 6.75% p.a., with compounding done on a semi-annual basis. The bond-holders also had an option of converting their FCCB's into equity shares anytime on or after 31.07.2007 until 11.06.2012. The assessee incurred expenses of Rs. 10,33,76,854 on issue of FCCB's and claimed the same as deduction in the return of income. The said expenditure, in accordance with the provisions of Section 78 of the Companies Act, 1956, was debited to Securities Premium account and not charged to P&L account. Accordingly, the same was claimed as deduction in the return of income as a separate line item. The Assessing Officer/ DRP disallowed the aforesaid FCCB issue expenses by holding that the same to be incurred on issue of shares and hence capital in nature. The Ld. AR submitted that, the FCCB's under consideration are liable for conversion into equity at the option of the bond-holder and the same is not mandatorily required to be done. The bond-holder may opt to continue being a bond-holder instead of being a shareholder. Accordingly, the FCCB's under consideration, both in accounting books as well as tax returns, are required to be treated as debt till they are converted into equity by the bond-holder (the assessee has no control over conversion/ non-conversion of FCCB's into equity, while, the same is dependent totally on the discretion of the bond-holder). The Ld. AR further submitted that, the window for conversion of bonds into equity expired on 11.06.2012. As on date, as per the real data available qua conversion, not more than 1% of bond-holders exercised the right of conversion and balance, viz., 99% of bond holders always remained in the capacity of a bond-holder only. The issue under consideration, the Ld. AR submitted, is no more res-integra and stands decided in favour of the assessee by the decisions of various High Courts (including the jurisdictional Delhi High Court) and Tribunals. The Ld. AR submitted that the Hon'ble Delhi High Court in the case of CIT vs. Havells India Limited 352 ITR 376 had held that expenditure incurred on issue of debentures is to be allowed as revenue expenditure despite indications to

effect that debentures are to be converted in near future into equity shares. The Ld. AR relied upon the following decisions:

- CIT vs. Secure Meters Limited: 321 ITR 611 (Rajasthan High Court) - SLP dismissed in CC No.10548/ 2009
- CIT vs. First Leasing Co. India Limited: 304 ITR 67 (Madras High Court)
- CIT vs. Southern Petrochemical Industries Corporation Limited: 311 ITR 202 (Madras High Court)
- CIT vs. ITC Hotels Limited: 334 ITR 109 (Karnataka High Court)
- CIT vs. Sukhjit Starch & Chemicals Limited: 326 ITR 29 (Punjab & Haryana High Court)
- Mahindra & Mahindra Limited Vs JCIT: 36 SOT 348 (Mumbai ITAT)
- CIT vs. Reliance Natural Resources Limited: 166 ITD 385 (Mumbai ITAT)

In view of the aforesaid judicial precedents, the Ld. AR submitted that the expenses incurred by assessee on issue of FCCB's calls for being allowed as deduction.

29. The Ld. DR relied upon the Assessment Order.

30. We have heard both the parties and perused all the relevant material available on record. During the present assessment year, the assessee had issued Zero Coupon Foreign Currency Convertible Bonds ('FCCB') with a total issue size of US$ 150 million to be listed in Singapore Stock Exchange. The said FCCB could not be issued/sold to/in India, USA or Canada. The issue was made in 2 Tranches of USD 75 million each. The gross yield to maturity ('YTM') of Tranche A was fixed at 6.10% p.a. and for Tranche B was 6.75% p.a., with compounding done on a semi-annual basis. The bond-holders also had an option of converting their FCCB's into equity shares anytime on or after 31.07.2007 until 11.06.2012. The assessee incurred expenses of Rs. 10,33,76,854 on issue of FCCB's and claimed the same as deduction in the

return of income. These facts were not disputed by the Revenue at any point of time. The said expenditure, in accordance with the provisions of Section 78 of the Companies Act, 1956, was debited to Securities Premium account and not charged to P&L account by the assessee. Accordingly, the same was claimed as deduction in the return of income as a separate line item. The Hon'ble Delhi High Court in the case of CIT vs. Havells India Limited 352 ITR 376 had held that expenditure incurred on issue of debentures is to be allowed as revenue expenditure despite indications to effect that debentures are to be converted in near future into equity shares. Thus, the issue is squarely covered by the Hon'ble Delhi High Court decision. Ground No. 9 is allowed.

31. As regards to Ground No. 10 relating to disallowance of redemption premium amortised in respect of FCCB, the Ld. AR submitted that the assessee, for the purpose of payment of redemption premium to bond-holders in future, amortized the same in books of accounts over the tenure of bonds, on a prudent basis, as the same was an ascertained liability. The premium amortised every year, in accordance with the Company Law provisions, was also debited to Securities Premium account and not charged to P&L account. Accordingly, the same was claimed as deduction in the return of income as a separate line item. During the relevant assessment year, the assessee charged an amount of Rs.30,47,84,267 towards provision for redemption premium. Out of the same, an amount of Rs.4,35,97,176 (proportionate interest expenditure qua FCCB utilization towards purchase of capital assets) was suo motu not claimed as deduction in the return of income. Only Rs.26.11,87,091 (difference of Rs.30,47,84,267 - Rs.4,35,97,176) was claimed as deduction in the return of income. The Assessing Officer/ DRP disallowed the aforesaid redemption premium amortization by holding that the same is unascertained and contingent in nature. The Ld. AR submitted that at the end of the relevant assessment year, the FCCB were in the nature of debt and conversion thereof into equity, was solely at the option of the bond-holder. Accordingly, as a prudent businessman, the assessee was required to ascertain the future liability and create provisions in respect thereof. The Ld. AR also submitted

that, in reality, only 1 % (approx.) of bond holders exercised the option of conversion. In-fact, on the basis of circumstances prevailing at the relevant time, conversion of bonds into equity shares was not at all a viable option for bond-holders, since, the market price of equity shares was much lower than FCCB price, due to global recession and crashing of share markets in India. The Ld. AR submitted that, in respect of the conversion of 1% (approx.) of FCCB by bond-holders into equity shares in subsequent years, the premium already amortized was reversed in books of accounts and was offered to tax in the return of income. The Ld. AR further submitted that it is a trite law that interest on debentures is an allowable expenditure. The Ld. AR relied upon the decision of Supreme Court in the case of Taparia Tools Limited vs JCIT: 372 ITR 605, wherein, it was held that, one time upfront discounted interest payment in respect of 5 years debentures was to be allowed as deduction in year of payment itself. The Ld. AR further submitted that the Apex Court also held that a different treatment towards interest in books of accounts could not be a factor which would deprive assessee from claiming entire expenditure as a deduction. Further, the Ld. AR submitted that the Courts in various decisions have also held that, premium on redemption of FCCB can be amortized over the life of FCCB and be claimed as deduction in the return of income. The Ld. AR pointed out the decision of Mumbai High Court in the case of CIT vs. S.M. Holding & Finance Pvt. Ltd.: 264 ITR 370. In that case, the assessee had issued zero interest unsecured redeemable convertible debentures of Rs.100 each redeemable after 10 years at a premium of 100%. Assessee claimed before the assessing officer a spread over. Assessee claimed that the premium payable by it was Rs.5,47,50,000 after expiry of 10 years. However, the assessee claimed deduction of Rs.54,75,000 p.a. The Assessing Officer disallowed the assessee's claim for deduction of Rs. 54,75,000 on the ground that the liability was not ascertainable. The Assessment Order was confirmed by the CIT(A). However, the Tribunal overruled the CIT(A)'s order in view of the judgment of the Supreme Court in the case of Madras Industrial Investment Corpn. Ltd. v. CIT: 225 ITR 802. On further appeal, the High Court affirmed the decision of the Tribunal by holding that, since, during the relevant assessment year, no

conversation was made, the redemption premium amortization was allowable as deduction. The Ld. AR also relied upon the following decisions:

- CIT vs Shree Rajasthan Syntex Ltd.: 269 ITR 461 (Rajasthan High Court)
- CIT vs Torrent Pharmaceuticals Ltd.: 393 ITR 625 (Gujarat High Court)
- DCIT vs UAG Builders (P) Ltd.: 53 SOT 370 (Delhi ITAT)
- Mahindra & Mahindra Limited Vs DCIT: 54 SOT 146 (Mumbai ITAT)
- LMN India Limited: 307 ITR 40 (AAR)

In view of the aforesaid judicial precedents, the Ld. AR submitted that the redemption premium amortization claimed as deduction by the assessee in the return of income is allowable.

32. The Ld. DR relied upon the Assessment Order.

33. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the assessee, for the purpose of payment of redemption premium to bond-holders in future, amortized the same in books of accounts over the tenure of bonds, on a prudent basis, as the same was an ascertained liability. The premium amortised every year, in accordance with the Company Law provisions, was also debited to Securities Premium account and not charged to P&L account. Accordingly, the same was claimed as deduction in the return of income as a separate line item. During the relevant assessment year, the assessee charged an amount of Rs.30,47,84,267 towards provision for redemption premium. Out of the same, an amount of Rs.4,35,97,176 (proportionate interest expenditure qua FCCB utilization towards purchase of capital assets) was suo motu not claimed as deduction in the return of income. Only Rs.26.11,87,091 (difference of Rs.30,47,84,267 - Rs.4,35,97,176) was claimed as deduction in the return of income. At the end of the relevant assessment year, the FCCB were in the nature of debt and conversion thereof into equity, was solely at the option of the bond-holder.

Accordingly, as a prudent businessman, the assessee was required to ascertain the future liability and create provisions in respect thereof. The Ld. AR reliance upon the decision of Supreme Court in the case of Taparia Tools Limited vs JCIT: 372 ITR 605, is very much applicable in the present case. The Apex Court further held that, one time upfront discounted interest payment in respect of 5 years debentures was to be allowed as deduction in year of payment itself. The Apex Court also held that a different treatment towards interest in books of accounts could not be a factor which would deprive assessee from claiming entire expenditure as a deduction. Further, the Courts in various decisions have also held that, premium on redemption of FCCB can be amortized over the life of FCCB and be claimed as deduction in the return of income. Thus, the Assessing Officer was not correct in disallowing the same. Ground No. 10 is allowed.

34. In result, ITA No. 6042/DEL/2012 for A.Y. 2008-09 filed by the assessee is partly allowed for statistical purpose.

35. The Ld. AR during the course of hearing submitted that the other Assessment Years i.e. 2009-10 and 2010-11 are identical. The Ld. DR submitted that the grounds of assessee's appeal in all the three assessment years are identical.

36. We have heard both the parties and perused all the relevant material available on record. The issues are identical in the appeals filed by the assessee for A.Ys. 2009-10 and 2010-11. Hence, ITA No. 2395/DEL/2014 and 1617/DEL/2015 are partly allowed as per the direction given in ITA No. 6042/DEL/2012 for 2008-09 for each identical ground separately.

37. In result, ITA No. 2395/DEL/2014 and 1617/DEL/2015 are partly allowed for statistical purpose.

38. As regards, the Revenue's appeal for Assessment Year 2009-10 being ITA No. 1200/DEL/2014, the Ld. AR submitted that As regards Ground No. 1 & 2 of the Revenue's appeal, the same is already dealt while dealing with the assessee's appeal. Hence, the Ground No. 1 and 2 of the Revenue's appeal are dismissed.

39. As regards Ground No. 3, the Ld. AR submitted that the same is relating to transaction of payment of share application which does not fall within the purview of term international transaction under Section 92B. The Ld. AR relied upon the decision of the Delhi Tribunal in case of Bharti Airtel Ltd. Vs. Additional CIT 161 TTJ 428. The Ld. DR could not controvert the same. Thus, the issue is squarely covered in favour of the assessee.

40. We have heard both the parties and perused all the relevant material available on record. The Tribunal in case of Bharti Airtel Ltd. (supra) held as under:

"35. .....Suffice to say that we have reached our conclusions on the basis of the legal provisions under section 92B and no judicial precedent, contrary to our understanding of these legal provisions, has been cited before us. There is a decision of the co-ordinate bench in the case of Mahindra & Mahindra (supra), referred to in the DRP order, but that decision does not deal with the scope of amended section 92B and leaves the issue open by stating that post insertion of Explanation to Section 92B, the matter will have to be examined in the light of the amended law. We have held that even after the amendment in Section 92B, by amending Explanation to Section 92B, a corporate guarantee issued for the benefit of the AEs, which does not involve any costs to the assessee, does not have any bearing on profits, income, losses or assets of the enterprise and, therefore, it is outside the ambit of 'international transaction' to which ALP adjustment can be made. As we have decided the matter in favour of the assessee on this short issue, we see no need to address ourselves to other legal issues raised by the assessee and

the judicial precedents cited before us.

36. For the reasons set out above, and as we have held that the issuance of corporate guarantees in question did not constitute 'international transaction' within meanings thereof under section 92B, we uphold the grievance of the assessee and direct the Assessing Officer to delete the impugned ALP adjustment of Rs. 33,10,161. The assessee gets the relief accordingly."

In the present case, transaction of payment of share application does not fall within the purview of term international transaction under Section 92B as there is no direct bearing on the profits, income, losses or assets of the enterprise and, therefore, it is outside the ambit of 'international transaction' to which ALP adjustment can be made. Thus, the issue is squarely covered in favour of the assessee and the DRP rightly directed the Assessing Officer that no interests need to be charged on share application money pending with its foreign subsidiaries. Therefore, Ground No. 3 of Revenue's appeal is dismissed.

41. In result, ITA No. 1200/DEL/2014 filed by the Revenue for A.Y. 2009-10 is dismissed.

43. In result, the three appeal filed by the assessee are partly allowed for statistical purpose and Revenue's appeal for Assessment Year 2009-10 is dismissed.

Order pronounced in the Open Court on 03rd October, 2018.

Sd/- Sd/-

(N. K. SAINI) **(SUCHITRA KAMBLE)**
ACCOUNTANT MEMBER **JUDICIAL MEMBER**

Dated: 03/10/2018
R. Naheed

Copy forwarded to:

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

ASSISTANT REGISTRAR

ITAT NEW DELHI

Date of dictation	05.07.2018
Date on which the typed draft is placed before the dictating Member	05.07.2018
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	04.10 .2018
Date on which the final order is uploaded on the website of ITAT	05.10 .2018
Date on which the file goes to the Bench Clerk	05.10 .2018
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	