

**IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES : "B", BANGALORE**

**BEFORE SHRI B.R.BASKARAN, ACCOUNTANT MEMBER
AND**

SMT. BEENA PILLAI, JUDICIAL MEMBER

**ITA No.295(Bang)/2017
(Assessment Year : 2008-09)**

M/s Meritor HVS (India) Ltd.,
Plot No.36,
Hootgalli Industrial Area,
Mysuru.
Pan No.AABCM8911G

Appellant

Vs

The Asst. Commissioner of Income Tax,
Cicle-1(1),
Mysore.

Respondent

**Appellant by : Smt. Vidya Kurup, Advocate
Revenue by : Ms. Neera Malhotra, CIT-DR**

Date of hearing : 04-12-2019

Date of pronouncement : 13-12-2019

ORDER

PER SMT BEENA PILLAI, JUDICIAL MEMBER:

Present appeal has been filed by assessee against final assessment order dated 10/12/14 passed by Ld. ACIT, Circle 1 (1), Mysore for assessment year 2008-09.

2. At the outset Ld.AR submitted that only dispute raised by Ld.TPO is in respect of payment of development fees (technical fees)/intragroup services. It has been submitted that though assessee filed all relevant details showing rendering of services and the need of such technical assistance from its AE against which the payments have been made Ld. TPO observed and recorded wrong finding in para 2 of his order in the garb of which, addition has been made without following due process of law.

3. Ld.AR further submitted that DRP while considering the issue followed their own predecessor order for assessment year 2007-08 wherein, ALP for services rendered were found to be at 'nil' thereby upholding adjustment proposed by Ld.TPO.

Ld.AR submitted that this *Tribunal* in assessee's own case for assessment year 2007-08, remanded the issue back to Ld.TPO with direction to examine the issue afresh by considering details/evidences submitted by assessee and other submissions, which were already on record. He thus submitted that issue may be set-aside to Ld. TPO for reconsidering the issue afresh on the basis of detailed submissions filed by assessee which is already placed on record.

4. Ld. CIT DR did not object for issue being set aside to Ld.TPO as ALP has not been computed by following the procedure laid down in law.

5. We have perused submissions advanced by both sides in light of records placed before us.

It is observed that DRP followed their predecessor observation for assessment year 2007-08, which already stand *set aside* by order dated 28/08/19 passed by this *Tribunal* in assessee's own case in ITA (TP) A No.173 and 174/Bang/2014. We therefore set aside present appeal back to Ld.TPO to consider the issue afresh. Needless to say that assessee shall be granted adequate and reasonable opportunity of being heard and assessee shall file all relevant details required to substantiate its claim. It is further directed that Ld.TPO shall determined ALP of international transaction on the basis of documents filed by assessee and following method in accordance with law, by "determining most appropriate" and "comparability analysis".

Accordingly, grounds raised by assessee stands allowed for statistical purposes.

In the result, appeal filed by assessee stands allowed for statistical purposes.

Order pronounced in open court on 13-12-2019.

Sd/-

(B.R.BASKARAN)
ACCOUNTANT MEMBER

Dated: 13-12-2019

***am**

Copy of the Order forwarded to:

- 1.Appellant;
- 2.Respondent;
- 3.CIT;
- 4.CIT(A);
5. DR
6. ITO (TDS)
- 7.Guard File

Sd/-

(BEENA PILLAI)
JUDICIAL MEMBER

By Order
Asst. Registrar