

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

**BEFORE
SHRI SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER
AND
SHRI O.P.KANT, ACCOUNTANT MEMBER**

**ITA No.1911/Del/2016
(ASSESSMENT YEAR-2011-12)**

Dassault Systems India Private Ltd. M-13 LGF, South Extension-II, New Delhi-110049 PAN –AACCD 7672A (Appellant)	Vs.	Dy. CIT, Circle-7(1), New Delhi. (Respondent)
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Appellant By	Sh. Vishal Kalra Adv. Sh. S.S. Tomer, Adv. Sh. Ankit Sahni, Adv.
Respondent by	Sh. Surendra Pal, CIT-DR

ORDER

PER SUDHANSHU SRIVASTAVA, JUDICIAL MEMBER:

This appeal has been preferred by the assessee against the final assessment order dated 29.01.2016 passed u/s 143(3) read with section 144C of the Income Tax Act, 1961 (hereinafter called as 'the Act') passed subsequent to the directions of the Dispute Resolution Panel-1, New Delhi (DRP) vide directions dated 23.12.2015. The assessment year under consideration is 2011-12.

2.0 The brief facts of the case are that the assessee is a company incorporated on September 12, 2007, is a wholly owned subsidiary of Dassault Systemes SA (“DSSA”). The Appellant is engaged in distribution of the software products developed by its associated enterprises (“AEs”), viz. DSSA and Dassault Systemes Delmia Corp (“Dassault Delmia”), as per the terms of the Intercompany Distribution and License Agreement (“IDLA”). During AY 2011-12, the Appellant was engaged in distribution of software products, provision of marketing services, and provision of software related professional services to its AEs.

2.1 For the Financial Year (“FY”) 2010-11, relevant to AY 2011-12, the Appellant filed its return of income on November 29, 2011 declaring taxable income of INR 16,43,22,980. Assessment proceedings were initiated under section 143(2) of Income Tax Act, 1961 (“Act”). Reference was made to the Transfer Pricing Officer (“TPO”) under section 92CA(1) of the Act, for the determination of the arm’s length price of the international transactions of the Appellant under section 92CA(3) of the Act. Based on the information and explanations filed during the assessment proceedings before the Assessing Officer (“AO”) and the TPO, the AO issued a draft assessment order dated March 27, 2015 as per the provisions of section

144C read with section 143(3) of the Act, wherein the total income of the Appellant was proposed to be assessed at INR 22,09,47,700 under the normal provisions of the Act, after making following additions to the returned income:

Particulars	Amount
Returned income under the normal provisions of the Act	16,43,22,980
Add:	
Adjustment following the order under section 92CA(3) of the Act passed by the TPO*	5,66,24,722
Total assessed income (rounded off)	22,09,47,700

The said adjustment was made in relation to the international transaction pertaining to - “Payment of royalty” as under:

Nature of transaction	As per Audited Financial Statements (in INR)	As computed by TPO	Addition
Payment of Royalty	42,55,81,564 ¹	37,72,31,327	5,66,24,721

In Form 3CEB & TP Study, amount of INR 43,38,56,048 was disclosed as payment of royalty. This was on account of certain reversals during the year. Further the Appellant had also received credit of INR 82,74,484 from its AE which was also disclosed in Form 3CEB.

2.2 The Assessee filed objections before the Hon’ble Dispute Resolution Panel (“DRP”) against the said draft assessment order of the Assessing Officer. The DRP upheld the order of the Assessing Officer/TPO with certain directions to revise the computation of margins in line with the safe harbor rules.

2.3 Now the assessee is in appeal before this Tribunal and has raised the following grounds of appeal.

1. *That on the facts and circumstances of the case and in law, the AO/DRP/TPO have erred in assessing the total income of the Appellant for the relevant AY at INR 22,09,47,700 as against the returned income of INR 16,43,22,980.*

Transfer Pricing Grounds

2. *That on the facts and circumstances of the case and in law, the AO/DRP/TPO erred in making an adjustment of INR 5,66,24,721 to the arm's length price ("ALP") of the international transaction pertaining to payment of royalty made by the Appellant to its Associated Enterprise ("AE").*

3. *That on the facts and circumstances of the case and in law the Assessing Officer/DRP/TPO erred in disregarding the functional, asset and risk ("FAR") profile of the Appellant and rejecting the TP documentation maintained by the Appellant in an arbitrary manner, disregarding that the Appellant is a software distributor and assuming no or negligible risks.*

4. *That on the facts and circumstances of the case and in law, the AO/DRP/ TPO erred in rejecting certain companies and adding certain other companies to the final set of comparables based on incorrect appreciation of FAR profile, and using arbitrary / subjective search filters on an ad-hoc basis, resorting to cherry picking of comparable for benchmarking.*

5. *That on the facts and circumstances of the case and in law, the AO/ DRP/ TPO erred in arbitrarily rejecting one of the comparable company, i.e., Fintec Communications Limited, alleging the same to be functionally not comparable.*

6. *Notwithstanding and without prejudice, the AO/ DRP/ TPO erred in law and on facts of the case, by picking up and*

questioning the comparable companies and / or economic analysis conducted by Appellant for software service segment, which is an independent and separate business segment and was never disputed by the TPO.

7. *Without prejudice to the above, the AO/TPO erred in not complying with the directions of the/DRP to compute comparables' operating margins following the guidelines of Safe Harbour Rules, and exceeding their authority in incorrectly computing the operating margins of the comparable companies.*

8. *That on the facts and circumstances of the case and in law, the AO/TPO erred in questioning the commercial expediency of the licensing arrangement entered into by the Appellant with the AE.*

9. *That on the facts and circumstances of the case and in law, the AO/ DRP/ TPO erred in not providing appropriate economic adjustments, viz. in working capital adjustment and on account of difference in risk profile of the Appellant, as required under Rule 10B(1)(e)(iii) of the Income Tax Rules, 1962 ("Rules").*

10. *That on the facts and circumstances of the case and in law, the AO/ DRP/ TPO erred in treating forex gain / loss as non-operative for computing ALP margins.*

11. *That on the facts and circumstances of the case and in law, the AO/ DRP/ TPO erred in ignoring the provisions of Rule 10B(4) of the Rules and judicial pronouncements, which advocates the usage of multiple year data of comparable companies for the purpose of determination of the arm's length price as defined under section 92F of the Act.*

12. *That on the facts and circumstances of the case and in law, the AO/ DRP/ TPO erred in not applying the 'range concept' as notified by the Central Board of Direct Taxes ("CBDT") vide S.O. No. 2860 (E) dated October 19, 2015 and not determining the ALP of*

the international transaction in accordance with Rule 10CA of the Rules.

13. That on the facts and circumstances of the case and in law, the AO/ DRP/ TPO erred in not providing the Appellant the benefit of (+/-) 5% range as provided by the proviso to section 92C(2) of the Act.

Other Grounds

14. That on the facts and circumstances of the case and in law, the AO has erred in not granting Kr®¹¹ ^ benefit of tax credit as per the provisions of section 90 of the Act read with Article 23 of the v Double Taxation Avoidance Agreement between India and Japan (“DTAA”).

15. That on the facts and circumstances of the case and in law, the AO has erred in granting short credit of tax deducted at source to the extent of INR 7,87,286.

16. That on the facts and circumstances of the case and in law, the AO has erred in levying interest under section 234B of the Act amounting to INR 1,50,85,294.

17. That on the facts and circumstances of the case and in law, the AO has erred in initiating penalty proceedings under section 271(1)(c) of the Act.

Each of the grounds of independent and without prejudice to the other grounds of appeal preferred by the Appellant.

The Appellant prays for leave to add, alter vary omit, substitute or amend the above grounds of appeal, at any time before or at, the time of hearing, of the appeal.”

3.0 The Ld. AR submitted that as far as Ground No.1 of the appeal was not concerned, the same was general in nature not requiring any separate adjudication.

3.1 Regarding Ground No.2 which challenged the action of the lower authorities in making the adjustment of Rs.5,66,24,721/- to the Arms Length Price in respect of the international transaction pertaining to payment of royalty by the assessee to its associated enterprises, it was submitted that this payment had been made under the software trading segment. It was submitted that the payment of royalty was duly reported in Form 3CEB transfer pricing study at Rs.43,38,56,048/- wherein it was also mentioned that the assessee had receive credit of Rs.82,74,484/- from its associate enterprise and thus the actual payment of royalty was only Rs.42,55,81,564/- i.e., after deducting the said credit note. It was submitted that however the lower authorities have considered the amount of Rs.43,38,56,048/- as the payment of royalty instead of the net actual payment of Rs.44,55,81,564/-. It was further submitted that therefore, the adjustment to the Arms Length Price should have been made after considering correct amount of payment of royalty as aforesaid.

3.2 With respect Ground Nos.3 & 8 challenging the rejection of the transfer pricing study and questioning the commercial expediency of the licensing agreement entered into by the assessee with the associated enterprises respectively, the Ld. Authorized Representative submitted that these grounds were not being pressed.

3.3 With respect to Ground Nos.4 & 6 challenging the certain comparables by specific challenging rejection of some of the assessee's comparables and also challenging introducing new comparables by the Ld. TPO/AO, the Ld. Authorized Representative submitted that amongst the 6 comparables selected by the assessee's, five comparables had been accepted by the Ld. TPO/AO but while rejecting one comparables selected by the assessee company, AO/ Ld. TPO picked up five additional comparables and included them in the final set off comparables. It was submitted that the five comparables included by the Ld. TPO/AO were not comparable to the assessee's software trading scheme on account of various reasons. The Ld. Authorized Representative advanced his arguments against the inclusion of the five comparables by the Ld. TPO/Assessing Officer as under:

(i) Acropetal Technologies:- The Ld. Authorized Representative submitted that this company required to be excluded from the list of comparables as this company was functionally different from the assessee company as this company was engaged in providing Engineering Design Services, Healthcare and Information Technology Services. It was also submitted that apart from this in IT Services, the company was engaged in the development which (production) of computer software and its sales. Our attention was drawn to the annual report to the company as mentioned in the balance sheet abstract wherein software development was mentioned as the principal product/service of this company. It was also submitted that 59% of the total expenditure of this company pertained to 'software development expenses, and onsite software development expenses approximately 80% of the total software development expenses which was evident from annual report of the company. The Ld. Authorized Representative submitted that in contrast the company is engaged only in distribution of software products and development of software product is carried out by the associated enterprises. The Ld. Authorized Representative submitted that the assessee company purchases the products from its AE and distributes the same without any value addition.

The assessee also argued by the Ld. AR that another reason for non comparability of this company was the reason that on perusal of the segmental data of this company, it is seen that allocated expenses are not allocated to any segment. Thus, the segmental were incomplete. The Ld. Authorized Representative also argued that this company has extensive involvement in Research Development (“R&D”) activities-Company has created an incubation Business Unit to invest in new product ideas/initiative. It was also argued that this company has its art development centre, whereas the assessee company did not have any research and development activities and therefore company was not a comparable company. Apart from this it was also argued that the total employee costs of the company to turnover in the case of this company was only 1.5% whereas in the case of the assessee the employee costs to the turnover was 22.46% and therefore, on this count also, this company was not comparable company. The Ld. AR also placed reliance on numerous judicial precedents/case laws wherein this company had been excluded from the list of comparables.

(ii) Nucleus Software Exports Ltd.- With respect of this, the Ld. Authorized Representative submitted that this company was also to be

excluded for the reason of being functionally different as this company was engaged in the business of software product developments. The Ld. Authorized Representative submitted that this company has even developed its own software namely –“FinnOne” and “Cash @ Will. The Ld. Authorized Representative also submitted project development expenses amounted to 66.73% of the total Revenue from the operations. The Ld. Authorized Representative also submitted that the Revenue recognition of this company has been categorized under software development services and projects while no segmental information was available specifically to the trading activities. The Authorized Representative also submitted that this company is in the process of having its own development centre and technology incubation unit and the expenditure in research and development constituted approximately 10.83% of the total revenue and the research and development expenses constituted almost 12% of the operating a costs of the company whereas the assessee company was involved only in the trading of software products purchased from its AEs when any value addition.

(iii) Kals Information Systems Limited:- It was submitted that this company was also functionally different as well company was engaged in

the development of software and software products. It was also submitted that this company had a trading centre engaged in training of software professionals online projects. The Ld. Authorized Representative further submitted that this company had earned revenue from two segments namely (a) Applications Software and Training and translation & Interpretation Income whereas the annual report of the company for the year under consideration did not disclosed any segment information for any software sales made them (if any). It was also argued that the Ld. TPO should have adopted the segmental margin for Application software segment which amounted to Rs.8.15% whereas the Ld. TPO/AO have considered 20.78% entity level margin while praying for exclusion, Authorized Representative also placed reliance on numerous judicial precedents wherein this company had been excluded.

(iv) Polaris Software Lab Limited:- With respect to this company, the Ld. Authorized Representative submitted that this company was also liable to be excluded as this company was functionally different as compared to the assessee company because this company was engaged in the business of IT services and IT enabled services delivering customized software solutions and products in the domain of contemporary services which

include banking and financial services. It was also submitted that this company earned its revenue from “Software development services” and business process management. The Ld. Authorized Representative also submitted that as per profit and loss account the revenue from ‘Software Development Services’ amounted to approximately 95% of the total revenue and software project development expenses amount to 67.60% of the total revenue from operations. While arguing for exclusion of the Ld. Authorized Representative also submitted that this company had significant research and development related activities and the company was associated with the global leaders in Banking, Financial Service & Insurance etc. through and there was continuous research and development in all pervasive areas of information technology like User Interface & Business Analysis, etc. The Ld. Authorized Representative also submitted that this company had also acquired a company ‘Indigo TX Software Pvt. Ltd.’ during the year.

(v) Sankhya Infotech Limited:- It was submitted that this company was also functionally different as this company provides simulation and training solutions customized for end user which was functionally different from the assessee’s software distributions segment. It was further

submitted that even otherwise this company could not be considered as a comparable since the segmental were incomplete. The Ld. Authorized Representative submitted that depreciation and interest had not been located to any segment. The Ld. Authorized Representative also argued that the another ground for exclusion of this company was that this company was having segment research and development activities and creation of niche solutions for designing and installation of simulation technologies and the company had its research and development center. The Ld. Authorized Representative also submitted that this company had intangible assets amounting to Rs.3378.61 lacs whereas the assessee company had no intangible assets.

3.4 The Ld. Authorized Representative submitted that the final set of comparables after the directions of the DRP had 10 comparables and the assessee was not contesting the other five comparables viz.

- (vi) Advance Technology Ltd. (TP Study)
- (vii) Softcell Technologies Ltd.(TP Study)
- (viii) Sonata Information
- (ix) Technology Limited (TP Study)
- (x) Empower India Limited (TP Study)

3.5 The Ld. AR further submitted that in Ground No.9, the assessee was contesting the action of the lower authorities in not providing appropriate working capital adjustment on account of difference in the risk profile of the assessee but if the assessee's arguments against the five comparables are accepted then this ground will become academic in nature.

3.6 With respect to Ground No.5 challenging the rejection of assessee's one of the comparables by the lower authorities i.e., Fintec Communications Ltd. as being functionally not comparable, the Ld. Authorized Representative submitted that this ground was not being pressed.

3.7 With respect to ground No.7, it was submitted that the Ld. TPO/AO had erred in not complying with the directions of the DRP to compute the operating margins of the comparables by following the guidelines provided by the Safe Harbour Rules, and had thus incorrectly compute the operating margin of the comparables companies. It was submitted that the Ld. DRP had given directions to the Assessing Officer in Para 4.3 of the directions but the same were not followed. The Ld.

Authorized Representative prayed that suitable directions may be given to the Assessing Officer/Ld. TPO in this regard following directions of the Ld. DRP it was also submitted that in such a situation Ground No.10 challenging the action of the lower authorities in treating foreign exchange gain/loss as non-operative would become academic in nature.

3.8 The Ld. Authorized Representative also submitted that Ground No.11,12 and 13 were not being pressed.

3.9 With respect to Ground No.14 challenging the action of the Ld. Lower Authorities in not granting the benefit of tax credit, the Ld. Authorized Representative submitted that suitable directions may be given to the lower authorities in this regard.

3.10 With respect to Ground No.15 regarding erred in granting short credit of tax deducted at source. The Ld. Authorized Representative prayed for similar directions.

3.11 With respect to Ground No.16 regarding levy of penalty of interest u/s 234B of the Act, the Ld. Authorized Representative fairly accepted that this ground was consequential and that ground No.17

regarding initiation of penalty proceedings u/s 271(1)(c) of the Act was premature.

4.0 In response to the arguments of the Ld. Authorized Representative, the Ld. CIT-DR submitted that the observations of both the TPO as well as the Ld. DRP should be given due consideration. The Ld. CIT-DR submitted that Ld. DRP has upheld the comparables finally selected by the Ld. TPO and therefore, it cannot be said that comparables selected by the Ld. TPO were incorrect. The Ld. CIT-DR read out the comments of the Ld. TPO in respect of each of the comparables selected by the TPO has contained in the order passed by him and placed heavy reliance on the same. The Ld. CIT-DR vehemently argued that all the issues raised by the assessee had duly considered by the Ld. DRP and appropriate relief had been given wherever it was required and now the assessee's appeal was liable to be dismissed.

5.0 We have heard the rival submissions and have also perused the material on record. We have also considered the Paper Book (PB) filed by the assessee. Our adjudication on the various comparables challenged by the assessee is as under:

- (i) Acropetal Technologies:-The Ld. AR has objected to the inclusion of this company on the ground that this company is functionally different. We have perused the annual report of this company placed at page-97 of Volume-2 of the PB and it is seen that the function of this company is described as 'software development'. Further the annual report at page-95 states that this company is engaged in Engineering Design Services, Healthcare and Information Technologies Services. On the other hand, the assessee is only engaged in the distribution of software products and as per the records, it has not engaged in any product development. The Hon'ble Delhi High Court in the case of *Rampgreen Solution (Pvt.) Ltd. vs. CIT reported in [2015] 377 ITR 533 (Delhi)* has held that the comparables should be functionally comparable. Therefore, this company is liable to be excluded on the basis of functional dissimilarity. The Assessing Officer is directed to exclude this company from the final set of comparables.
- (ii) Nucleus Software Exports:- This company has also been objected to by the assessee on the ground functional dissimilarity. It is seen from

the annual report of this company placed at page-245 of Volume-2 of the PB that this company is engaged in the business of software product development. It is also seen from the annual report at pages 193, 220 & 221 of Volume-2 of the PB that this company has also developed its own software 'FinnOne' and product development expenses amount to 67.73% of the total Revenue from operations. On the other hand the assessee company, admittedly, is only involved in trading of software products purchased from its Associate Enterprise and is not involved in any kind of product development. Therefore, this company is not functionally comparable to the assessee company and relying on the judgment of the Hon'ble Delhi High Court in the case of *Rampgreen Solution (Pvt.) Ltd Vs. CIT (supra)* we direct the AO to delete this company from the final set of comparables.

- (iii) KALS Information Systems Ltd. :- This company has been objected to on the ground of functional dissimilarity. On perusal of page-151 of Volume-2 of the PB, it is seen that this company is engaged in the development of software products. It also has a training center engaged in training of software professionals on online projects and

the Revenue is earned from two streams viz. Applications software and Training and translations & interpretation income. On the other hand, the assessee company is admittedly only doing distribution of software products. Thus, this company cannot be said to be functionally comparable with the assessee company. We also note that this company was excluded as a comparable by the Hon'ble Bombay High Court in the *CIT vs. Pr. Global Services Pvt. Ltd. reported in [2018] 257 taxman 244 (Bombay)* on the ground of functional dissimilarity. Even the Hon'ble Delhi High Court in the case of *Rampgreen Solution Pvt. Ltd. vs. CIT (supra)* has held that comparables should be functionally comparable. Respectfully following these judicial precedents, we direct the AO to exclude this company from the final set of comparables.

- (iv) Polaris Software Lab Limited:- It has been argued that this company is also functionally different from the assessee company. We have gone through pages 403 and 405 of Volume-2 of PB which contains the profile of this company and it is seen that this company is engaged in the business of delivering customized software solutions and products to sectors like banking and financial services. Page-351

and page 457 of Volume-2 of the PB also shows that this company earns its revenue from 'software development services' and business process management. It is also seen from pages 390 & 454 of Volume-2 of PB that this company earns revenue from software development services which accounts for approximately 95% of the total revenue. On the other hand, the assessee company is only engaged in the distribution of software products. Therefore, this company also cannot be said to be functionally comparable and, therefore, placing reliance on the judgment of Hon'ble Delhi High Court in the case of *Rampgreen Solution Pvt. Ltd. (supra)* we direct that this company also to be excluded from the final set of comparables.

- (v) Sankhya Infotech Limited:- This company has also been objected to on the ground on functional dissimilarity. We have gone through the annual report of the company placed at page 501 of Volume-2 of the PB wherein it has mentioned that this company is a simulation and training solution provider and providing end to end simulation solutions customized for the end-user. On the other hand, the assessee is only into software distribution. Accordingly, we have no

hesitation in holding that this company is also functionally dissimilar to the assessee company and placing reliance on the judgment of the Hon'ble Delhi High Court in the case of *Rampgreen Solution Pvt. Ltd. vs. CIT (supra)*, we direct the AO to exclude this company from the final set of comparables.

5.1 In ground No.2, the assessee has challenged the computation error in making the transfer pricing adjustment with respect to royalty wherein it has been stated that while making the adjustment, the TPO has not considered the credit of Rs.82,74,484/- received from its associated enterprises. The TPO is directed to consider the same after making due verification.

5.2 Ground Nos.3 & 4 have not been pressed and the same are, therefore, dismissed as not pressed.

5.3 In ground No.7, the assessee has stated that the margins have been incorrectly computed by the TPO and are not in compliance with the directions of the Ld. DRP. The Ld. AR has submitted a chart which as per the assessee is the correct computation of margins based on safe harbor rules. This chart is being reproduced here in under for a ready reference:

Name of Company	As per TPO/AO in original TP order & TP order giving effect to DRP directions	As per safe harbor rules as directed by DRP
Soft Technologies Limited	6.37	2.81
Sonata Information Technology Limited	2.22	2.19
Nucleus Software Exports	11.4	11.15
Polaris Software Lab Limited	13.1	11.60
Sankhya Infotech (Segment)	28.19	22.37
KALS Information Systems Ltd.	20.78	11.17
Empower India Limited (Empower Industries India Limited)	-0.19	-0.45

5.3.1 The assessee has also submitted revised margins of comparables for benchmarking the transactions of payment of royalties. The relevant chart is as under:

S.No.	Company Name	OP/OR (%)
1	Acropetal Technologies	24.98
2	Avance Technologies Limited	0.17
3	Softcell Technologies Limited	2.81
4	Sonata Information Technology Limited	2.19
5	Svam Softwares Limited	-0.54
6	Nucleus Software exports	11.15
7	Polaris Software Lab Limited	11.60
8	Sankhya Infotech (Segment)	22.37
9	KALS Information Systems Ltd	11.17
10	Empower India Limited (Empower Industries India Limited)	-0.45
Average		8.55

5.3.2 The TPO is directed to consider the above two charts submitted by the assessee and thereafter pass the order computing the correct

margins as per the directions of the Ld. DRP. Thus ground No.7 stands allowed for statistical purposes.

5.4 With respect to ground No.9 requesting grant of adequate working capital adjustment and risk adjustment, it has been submitted by the Ld. AR that if the assessee's arguments against the five comparables are accepted, then this ground will become academic in nature. As we have already directed for exclusion of the five comparables objected to by the assessee, this ground is dismissed as not pressed.

5.5 Ground Nos.11 & 12 are also dismissed as not pressed.

5.6 Ground No.13 is consequential not requiring any separate adjudication.

5.7 Ground No.14 is regarding non-granting of benefit of tax credit and ground No.15 is regarding erroneous granting of short credit of tax deducted at source. The AO is directed to grant proper credit as per the provisions of the Act after due verification. Thus, ground Nos.14 &15 are allowed for statistical purposes.

5.8 Ground No.16 challenging the levy of interest u/s 234B is consequential and requires no separate adjudication.

5.9 Ground No.17 challenging the initiation of penalty proceedings is premature as is dismissed.

6.0 In the final result, the appeal of the assessee stands partly allowed.

Order pronounced on 01/05/2020.

Sd/-
(O.P.KANT)
ACCOUNTANT MEMBER

Sd/-
(SUDHANSHU SRIVASTAVA)
JUDICIAL MEMBER

Dated: 01/05/2020

PK/Ps

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI