

**IN THE INCOME TAX APPELLATE TRIBUNAL
“A” BENCH: BANGALORE**

**BEFORE SHRI N.V. VASUDEVAN, VICE PRESIDENT AND
SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER**

IT(TP)A No.232/Bang/2015
Assessment Year: 2010-11

Omega Healthcare Management Services Pvt. Ltd. No.33, NAL Wind Tunnel Road Murugeshpalya Bengaluru-560 017 PAN NO : AADCM7259F	Vs.	Deputy Commissioner of Income-tax Circle-5(1)(2) Bengaluru
APPELLANT		RESPONDENT

IT(TP)A No.144/Bang/2015
Assessment Year: 2010-11

Deputy Commissioner of Income-tax Circle-5(1)(2) Bengaluru	Vs.	Omega Healthcare Management Services Pvt. Ltd. No.33, NAL Wind Tunnel Road Murugeshpalya Bengaluru-560 017
APPELLANT		RESPONDENT

Appellant by	:	Shri Chavali Narayanan, A.R.
Respondent by	:	Ms. Neera Malhotra, D.R.

Date of Hearing	:	11.11.2020
Date of Pronouncement	:	11.11.2020

O R D E R

PER N.V. VASUDEVAN, VICE PRESIDENT:

IT(TP)A No.232/Bang/2015 is an appeal by the assessee, while IT(TP)A No.144/Bang/2015 is an appeal by the revenue. Both these appeals are directed against the final order of assessment dated 29.12.2014 of DCIT Circle-5(1)(2), Bengaluru passed u/s 143(3) r.w.s. 144C of the Income-tax Act,1961 ['the Act' for short] in relation to assessment year 2010-11. The ground of challenge in both the appeals of the assessee and that the department is with regard to the determination of Arm's length price (ALP) in respect of an international transaction of rendering Information Technology Enabled Services (ITES) between the assessee and its Associate Enterprise (A.E.). The disputed addition in the appeal by the revenue is also with regard to the determination of ALP of the aforesaid international transaction u/s 92 of the Act.

2. At the time of hearing, Ld. Counsel for the assessee filed before us a letter dated 29.10.2020, wherein it has been mentioned that the assessee had filed a request with United States of America (USA) competent authority to initiate a Mutual Agreement Procedure (MAP) u/s 27 of the Double Taxation Avoidance Agreement between the Government of USA and the Republic of India for avoidance of double taxation for prevention of fiscal evasion. In the application so made, relief was sought with regard to the Transfer Pricing adjustment in respect of the international transaction that is in dispute in these appeals. The competent authorities of India and USA have resolved the case and accordingly, the assessee seeks to withdraw the appeal filed by it.

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In terms of Rule 44G of the Income Tax Rules, 1962 (Rules), the Assessee is required to furnish proof of withdrawal of appeal pending on the issues that were the subject matter of MAP at the time of communication of acceptance of MAP resolution. The learned counsel for the Assessee has accordingly sought leave to withdraw the appeal of the Assessee.

3. We accordingly accept the prayer for withdrawal of the appeal of the Assessee. The appeal of the department also being an appeal in respect of the international transaction and determination of ALP is also liable to be dismissed in view of the settlement of the dispute through MAP. Accordingly, both these appeals are dismissed.

4. In the result, both the appeals of assessee as well as revenue are dismissed.

Order pronounced in the open court on 11th Nov, 2020.

Sd/-
(Chandra Poojari)
Accountant Member

Sd/-
(N.V. Vasudevan)
Vice President

Bangalore,
Dated 11th Nov, 2020.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The CIT(A)
5. The DR, ITAT, Bangalore.
6. Guard file

By order

Asst. Registrar, ITAT, Bangalore