

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

Before Sh. Kul Bharat, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

(Through Video Conferencing)

ITA No. 1159/Del/2017 : Asstt. Year : 2006-07

ITA No. 2051/Del/2017 : Asstt. Year : 2007-08

Addl. CIT, Special Range-4, New Delhi	Vs	M/s Giesecke & Devrient Pvt. Ltd., 5 th Floor, Tower-D, Global Business Park, M.G. Road, Gurgaon-122022
(APPELLANT)		(RESPONDENT)
PAN No. AACBG4223D		

Assessee by : Sh. Harpreet Singh Ajmani, Adv.

Revenue by : Sh. Surender Pal, CIT DR &

Sh. F. R. Meena, Sr. DR

Date of Hearing: 05.07.2021

Date of Pronouncement: 08.07.2021
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ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeals have been filed by the revenue against the orders of the Id. CIT(A)-19, New Delhi dated 15.12.2016 and 09.01.2017.

2. Since, the issues involved in both the appeals are identical, they were heard together.

3. In ITA No. 2051/Del/2017, following grounds have been raised by the revenue:

" 2. On facts and circumstances of the case, the Ld. CIT(A) erred in deleting the addition on account of transfer pricing adjustments ignoring the fact that

during the remand proceedings, the TPO only verified the genuineness of the documents and did not benchmarked the transaction or determined the ALP.”

4. The relevant facts and adjudication is as under:
 1. The assessment order in this case has been passed on 30.09.2010 for the assessment year 2006-07 and on 24.10.2011 for the assessment year 2007-08
 2. This is a second round of appeal before the Tribunal.
 3. The Co-ordinate Bench of ITAT vide order dated 15.03.2013 in ITA No. 5735/Del/2011 restored the issue of adjustment of management & consultancy fee, purchase of finished goods to the file of the AO.
 4. The AO referred the matter to the TPO.
 5. TPO refused to entertain the request of the AO stating that the TPO has no jurisdiction over the directions given by the ITAT.
 6. The Assessing Officer held that the **“TPO is himself confused about the jurisdiction over the TP matter”** and ‘wisely’ repeated the addition made in the original order in the set aside proceedings.(Para 3.3 of the AO)
 7. The Id. CIT (A), however, called for a remand report from the TPO-2(1)(1) and received reply on 19.12.2016.
 8. Having gone through the remand report, the Id. CIT (A) has deleted the addition.
 9. Aggrieved with the order of the Id. CIT (A), the Id. PCIT has approved filing of further appeal before the Tribunal.

10. On merits of the subject, we find that the issue involves further adjustment on account of management & consultancy fee for which no separate addition is required for mark up when the TPO has already adopted TNMM. To that extent, the merit of the addition has been rightly dealt by the Id. CIT(A).
5. In the result, both the appeals of the revenue are dismissed.
- Order Pronounced in the Open Court on 08/07/2021.

Sd/-

(Kul Bharat)
Judicial Member

Dated: 08/07/2021

Subodh

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR