

आयकर अपीलीय अधिकरण “जे” न्यायपीठ मुंबई में।
IN THE INCOME TAX APPELLATE TRIBUNAL
“J” BENCH, MUMBAI

माननीय श्री अमरजीत सिंह, न्यायिक सदस्य एवं
माननीय श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।
BEFORE HON’BLE SHRI AMARJIT SINGH, JM AND
HON’BLE SHRI MANOJ KUMAR AGGARWAL, AM
(Hearing Through Video Conferencing Mode)

आयकरअपील सं./ I.T.A. No.266/Mum/2014
(निर्धारण वर्ष / Assessment Year: 2008-09)

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आयकरअपील सं./ I.T.A. No.1785/Mum/2014
(निर्धारण वर्ष / Assessment Year: 2009-10)

Onward Technologies Limited Sterling Centre, 2 nd Floor Dr. Annie Besant Road Worli, Mumbai-400 018	बनाम/ Vs.	DCIT-7(1) Room No.622, 6 th Floor Aaykar Bhavan, M.K. Marg Mumbai-400 020
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AAACO-3742-J		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

&

आयकरअपील सं./ I.T.A. No.1793/Mum/2014
(निर्धारण वर्ष / Assessment Year: 2009-10)

DCIT-7(1) Room No.622, 6 th Floor Aaykar Bhavan, M.K. Marg Mumbai-400 020	बनाम/ Vs.	Onward Technologies Limited Sterling Centre, 2 nd Floor Dr. Annie Besant Road Worli, Mumbai-400 018
स्थायीलेखासं ./जीआइआरसं ./PAN/GIR No. AAACO-3742-J		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	S/Shri J.P. Bairagra & Ashish Bairagra - Ld. ARs
Revenue by	:	Shri Manpreet S. Duggal- Ld. Sr. DR

सुनवाई की तारीख/ Date of Hearing	:	23/07/2021
घोषणा की तारीख / Date of Pronouncement	:	02/08/2021

आदेश / O R D E R**Manoj Kumar Aggarwal (Accountant Member)**

1.1 The assessee is in further appeal for Assessment Year (AY) 2008-09 whereas there are cross-appeals for AY 2009-10. Facts as well as issues are substantially the same in both the years. Therefore, the appeals were consolidated, heard together and are now being disposed-off by way of this common order for the sake of convenience & brevity. First, we take up assessee's appeal for AY 2008-09 which contest the order of Ld. Commissioner of Income Tax (Appeals)-15, Mumbai {CIT(A)} order dated 17/10/2013 on certain grounds of appeal. However, the only ground urged before us is ground no.2 which read as under: -

2. ADJUSTMENT IN ARMS LENGTH PRICE ("ALP") OF RS.7,33,02,289 TO THE INTERNATIONAL TRANSACTIONS:

- 2.1 On the facts and circumstances of the case and in law, the Ld. CIT (A) erred in confirming the adjustment in ALP of Rs.7,33,02,289 to the value of international transactions.
- 2.2 The Ld. CIT (A) erred in confirming the adjustment to the ALP on account of the following:
- 2.2.1 Transaction towards IT Enabled Services of Rs.2,01,51,590:
- 2.2.1.1 The Ld.CIT(A) erred in confirming ITES companies as comparable companies instead of EDS companies
- 2.2.1.2 The Ld. CIT(A) erred in upholding that the Ao has rightly allocated indirect overheads based on sales ratio
- 2.2.1.3 The Ld. CIT (A) erred in not accepting appellant contention that it is a section 10A unit and that there could not be any intention to shift profits.
- 2.2.1.4 The Ld. CIT(A) failed to appreciate that;
- > Appellant being engaged in the business of rendering EDS/CAD related services, comparables from ITES sector cannot be considered while computing ALP;
 - > Allocation of indirect overheads should be made as per cost accounting principles;
 - > Appellant being 10A unit, there could not be any intension to shift profits,
- 2.2.2 Investment in equity share capital of AE in USA of Rs.93,83,554.
- 2.2.2.1 The Ld. CIT (A) erred in confirming the re-characterization of equity to debt.
- 2.2.2.2 The Ld. CIT (A) erred in confirming the imputed interest on transaction of investment in equity share capital.
- 2.2.2.3 Without prejudice, the Ld CIT (A) erred in confirming the interest rate of Fixed Deposits as against the LIBOR rate.

- 2.2.2.4 The Ld. CIT(A) failed to appreciate that;
- > Capital contribution is different from loans and advances;
 - > Provisions of chapter X cannot create a charge to tax;
 - > Section 92 of the Income Tax Act, 1961 ("the Act") being computational section, provision of the said section can be invoked only when some income arises;
 - > Capital receipt cannot become revenue receipt by virtue of definition of international transaction as provided in section 92B of the Act.
 - > Based on the above, Investment in equity share capital of AE cannot be re-characterized as debt;
 - > Without prejudice to above, Libor should be considered as appropriate rate of interest while computing ALP on the transaction under consideration.

2.2.3 Reimbursement of advance paid by AE in USA for software purchased of Rs.4,37,67,145.

2.2.3.1 The Ld. CIT (A) erred in holding that certain documents furnished before him amounted to additional evidence as these were not produced before TPO and hence same could not be taken cognizance of.

2.2.3.2 The Ld. CIT(A) failed to hold that if additional evidence is vital and essential for the purpose of consideration of the subject matter of appeal and to arrive at a final and ultimate decision in a fair and just manner, he ought to accept the same.

2.2.3.3 The Ld. CIT(A) failed to appreciate and ought to have held that in absence of any claim for expenses, the question of disallowing it or making any addition does not arise.

2.3 The Ld CIT (A) ought not to have confirmed the adjustment in ALP of Rs.7,33,02,289 to the value of international transactions and the adjustment requires to be deleted.

1.2 The assessee, vide letter dated 14/03/2019, has filed an additional ground of appeal which read as under: -

On the facts and in circumstances of the case, expenditure of Rs.13,35,125/- towards discount on Employee Stock Option Plan debited to Profit & Loss Account during the year under consideration be allowed as deductible expenditure u/s 37 of the Income Tax Act, 1961 while computing income under the head profit and gains of business.

We find that similar additional ground has been admitted by the Bench in its order for AY 2007-08, ITA No.7512/Mum/2011 order dated 09/10/2019 in assessee's own case, a copy of which is on record. Therefore, adopting consistent approach in the matter and applying the ratio of decision of Hon'ble Supreme Court in the case of **National**

Thermal Power Co. Ltd. V/s CIT (229 ITR 383), we admit this ground of appeal as ground No.3. At the same time, we find that this issue is squarely covered in assessee's favor by the decision of special bench of Tribunal in the case of **Biocon Limited V/s DCIT (144 ITD 21)** as approved by Hon'ble Karnataka High Court which is reported at 121 Taxmann.com 351. Similar is the decision of Hon'ble Madras High Court in **PVP Ventures Ltd. (211 Taxman 554)** and decision of Mumbai Tribunal in **HDFC Bank Ltd. (155 ITD 765)** where such expenses has been held to be an allowable expenditure. Therefore, we direct Ld. AO to allow the expenditure after due verification. This ground stand allowed for statistical purposes.

1.3 The only ground that remains to be adjudicated is ground no.2 wherein the assessee is aggrieved by confirmation of certain transfer pricing (TP) adjustments.

1.4 We have carefully heard the arguments advanced by both the representatives, oral as well as written. The subsequent written submissions filed by the assessee were confronted to the revenue during clarification. We have also perused relevant material on record including the documents placed in the paper-book as well as the decision rendered by Tribunal in assessee's own case in earlier years. We have also deliberated on various judicial pronouncements as cited by both the representatives during the course of hearing. Our adjudication to the captioned appeal would be as given in succeeding paragraphs.

2.1 The material facts are that the assessee being resident corporate assessee is stated to be parent company of two overseas entities viz. (i) M/s Onward Technologies Inc. USA (OTI-USA) & (ii) M/s Onward Technologies GmbH Germany (OTG-Germany). These two entities act

as marketing arm for the assessee in USA and Germany. The assessee undertakes off-shore mechanical engineering design services (EDC) in India for its clients based in USA and Germany. The two subsidiaries enter into contracts in USA and Germany respectively on behalf of the assessee for providing requisite engineering design services. These two subsidiaries are stated to be merely contracting entities for business exigency purposes. All underlying risks and contractual obligations of servicing the clients are borne by the assessee. The two Associated Enterprises (AE) bills the clients for off-shore EDC work. Against the same, OTI-USA retains marketing fees of 3.5% whereas OTG-Germany retains marketing fees of 3%.

2.2 The onward group is stated to be global provider of engineering software development services and solutions within select application domain and provides end-to-end services, covering every stage of software development life cycle from specification through design and development of software testing and delivery. It also provides software driven solutions and services to the banking industry. The assessee, in particular, is stated to be an ISO 9001:2000 company servicing customers in the areas of Engineering Design Services (EDC) and IT Consultancy Services. It uses tools like computer-aided-manufacturing (CAM) and computer- aided-engineering (CAE) for rendering services to various industries like automobile, semi-conductor, toys and general engineering like sheet metals, castings and plastics. The services being rendered by the assessee has been classified by Ld. Transfer Pricing Officer (TPO) as Information-Technology enabled services (ITeS).

2.3 Since the assessee carried out certain international transactions with two of its Associated Enterprises (AE) as referred to above, the

same were referred to Ld. Transfer Pricing Officer-II(5), Mumbai (TPO) u/s 92CA(1) for determination of Arm's Length Price (ALP). The Transfer Pricing (TP) adjustment as proposed by Ld. TPO, in its order dated 21/10/2011 u/s 92CA(3), were incorporated in draft assessment order dated 28/12/2011. The assessee did not prefer objections before Ld. DRP and accordingly, final assessment order was passed on 04/02/2012 in accordance with TP adjustment as proposed by Ld. TPO. Though the assessee preferred further appeal before Ld. CIT(A), however, the appeal was partly allowed in impugned order dated 17/10/2013. Aggrieved, the assessee is in further appeal before us.

2.4 The nature of international transactions which are the subject matter of appeal before us is as follows: -

No.	Nature	Amount (Rs. In Lacs)	Benchmarking Method adopted by assessee
1.	Provisions for Offshore designing & software related services-OTI-USA	1555.85 Lacs	TNMM
2.	Provisions for Offshore designing & software related services-OTG-Germany	341.96 Lacs	TNMM
3.	Reimbursement to OTI-USA as advance for software purchased from third party	437.67 Lacs	At Cost-CUP
4.	Investment in Equity Shares of OTI-USA	781.96 Lacs	At face value-CUP

Proceedings before Ld. TPO / AO

3. Provision for off-shore designing & software related services

3.1 The assessee received revenue from its two AEs on account of off-shore designing and software related services. In its TP Study Report, taking assessee as the tested party, the assessee computed margin (Operating Profit / Total Cost) of 21.36% & 21.53% against transactions carried out with OTI-USA & OTG-Germany respectively. As against this,

the assessee reflected mean margin of seven comparable entities as 12.77% and accordingly, submitted that these transactions were at Arm's Length Price (ALP) and thus, no TP adjustment would be required. The assessee has reflected revenue (sales & other income) in Profit & Loss Account as Rs.3199.24 Lacs.

3.2 The Ld. TPO disturbed the assessee's own Profit Level Indicator (PLI) by observing that indirect costs were not properly computed on a pro-rata basis with reference to volume of transactions with a particular AE vis-à-vis total sales revenue from services thereby under-stating the relevant expenditure against the service revenue and over-stating the PLI. In other word, as per Ld. TPO, indirect cost such as power, selling and marketing expenses, electricity, compensation for use of premises and other administrative overheads should have been allocated on pro-rata basis in proportion to sales. As against the same, the assessee has allocated these expenses on the basis of number of persons employed which was not correct method. By re-allocating the expenses in the ratio of sales, Ld. TPO revised PLI of transactions with OTI-USA to 17.69% and PLI of transactions with OTH-Germany to 15.19%.

3.3 Proceeding further, Ld. TPO observed that the search was made by the assessee using **Prowess** database and did not explore comparables in other databases like *Capitaline Plus* etc. to broad base the search criteria. Therefore, Ld. TPO proceeded to conduct fresh search after applying certain filters. As a result, all the 7 comparable entities selected by the assessee got rejected on certain filters viz. Related Party Transaction (RPT) filter, export filter, absence of segmental Profit & Loss for ITeS etc. It was also held that assessee's TP

documentation was not correct and reliable and therefore, the same was to be rejected.

3.4 Using Prowess and Capitaline Plus databases, Ld. TPO picked-up 22 comparables entities having mean margin of 27.53% which are tabulated in para-12 of Ld. TPO's order. The assessee opposed the disturbance of its own PLI and relied upon Rule-10D (4) for the submission that the information and documents should be contemporaneous and should exist latest by specified date referred in clause (iv) of Sec.92F which for this year would be 31/10/2008. The data used by the assessee was stated to be as prevailing during September, 2008. The assessee also objected to inclusion of certain comparable entities on various grounds viz. high turnover, ITeS revenue less than 75% of operating revenue, exclusion of entities having export turnover of less than 75% etc.

3.5 However, the same could not find favor with Ld. TPO except to the extent of exclusion of 8 comparable entities. The mean margin of remaining 15 entities was worked out to be 30.65% which is as follows: -

No.	Name of the comparable	PLI (OP/TC) %
1.	Accentia Technologies Ltd. (Seg.)	41.76
2.	Acropetal Technologies (Seg.)	35.30
3.	Aditya Birla Minacs Worldwide Ltd.	2.20
4.	Asit C. Mehta Financial Services Ltd. (Seg.)	9.42
5.	Caliber Point Business Solutions Ltd.	10.97
6.	Coral Hubs Ltd. (Formerly Vishal Information Technologies Ltd.)	50.68
7.	Crossdomain Solutions Ltd.	26.96
8.	E4e Healthcare Solutions Ltd.	16.72
9.	Eclerx Services Ltd.	65.88
10.	Genesys International Corporation Ltd.	47.40
11.	Iservices India Pvt.Ltd.	9.58
12.	Mold-Tek Technologies Ltd.	96.66
13.	R.Systems International (Seg.)	4.30
14.	Spanco Ltd.(Seg.)	11.04

15.	Allsec Technologies Ltd.	0.27
	Average PLI Margin	30.65

Applying the same to assessee's operating cost, ALP revenues were computed by Ld. TPO as follows: -

ALP of Transactions with AE, USA

Operating Cost	Rs.13,47,53,000/-
Arm's Length Mean Margin	130.65% of the operating cost
Arm's Length Price (ALP) @130.65% of operating cost	Rs.17,60,54,794/-
Price Received	Rs.16,85,93,000/-
Shortfall being adjustment u/s. 92CA	Rs.1,74,61,794/-

ALP of Transactions with AE, Germany

Operating Cost	Rs.1,54,61,000/-
Arm's Length Mean Margin	130.65% of the operating cost
Arm's Length Price (ALP) @127.53% of operating cost	Rs.2,01,99,796/-
Price Received	Rs.1,75,10,000/-
Shortfall being adjustment u/s. 92CA	Rs.26,89,798/-

4. TP Adjustment arising out of Equity Investment

4.1 It transpired that the assessee made equity investment Rs.781.96 Lacs in its AE namely OTI-USA. The assessee was show-caused as to why the same be not treated as unsecured loans to AE and ALP be computed for sacrifice of interest by assessee. The assessee, inter-alia, submitted that the subscription in the shares was made under the automatic-route sanctioned by RBI and there was no shifting of profits outside India. The assessee has subscribed to the shares at the face value without any premium and therefore, the transactions were at Arm's Length. It was also submitted that the transactions were not in the nature of loans or advances rather the same were investments made by the

assessee to fund the expansion plan of USA subsidiary and to strengthen its Balance Sheet which had accumulated losses.

4.2 However, the assessee, in the opinion of Ld. TPO, could not demonstrate as to how the share subscription was utilized at the end of AE. The share subscription was in the nature of deficit financing and for the purpose of strengthening the AE's capital position. The subscription was nothing but only a method to extend financial help to the subsidiary by indirect means under the cover of investment in equity. Ultimately, the transactions were held to be nothing but unsecured loans / advances on which interest was to be charged by the assessee. Applying interest rate of 12% on these transactions, Ld. TPO computed TP adjustment of Rs.93.83 Lacs and proposed the same in his order.

5. Reimbursement to OTI-USA for purchase of software from third-party

The assessee reimbursed a sum of Rs.437.67 Lacs to its AE towards purchases of certain software from third-party namely Orasoft. In support, the assessee furnished copies of invoices & debit note issued by the AE. However, the assessee, in the opinion of Ld. TPO, could not furnish any tangible evidence or any satisfactory explanation with respect to receipt of services. The invoice would not carry any evidentiary value since it does not indicate as to for whom the services were rendered by Orasoft and also do not indicate the nature of software for which the payment was made. The debit note similarly does not specify the name and nature of software. Since the assessee was unable to substantiate with acceptable and tangible evidence that the amount represented value of any software which was acquired through AE from a third-party, the ALP of reimbursement thus made by the

assessee was to be taken as nil. Accordingly, Ld. TPO proposed an adjustment of Rs.437.67 Lacs in its order.

Appellate Proceedings

6.1 During appellate proceedings, the assessee submitted that the price of off-shore services was to be established by the assessee. The payment for services rendered was made by customers directly to its AEs. The assessee would raise an invoice on AEs on quarterly basis. The OTI-USA (AE) was entitled to retain marketing fees of 3.5% whereas OTG-Germany was entitled to retain marketing fees of 3%. On the other hand, the assessee was eligible for entire revenue. In other words, the AEs only retained lump sum marketing fees and all the remaining revenue belonged to the assessee. The assessee also assailed the rejection of basis of allocation of indirect expenditure and submitted that allocation method adopted by the assessee was most correct and stable method to allocate indirect costs. As per assessee, the allocation of indirect overheads was to be made as per Cost Accounting principles. The methodology of cost allocation as adopted by the assessee was stated to be in accordance with Guidance Note on Cost Accounting Standard on Administrative overheads issue by the Institute of Cost Accountants of India which provided for allocation of cost based on different allocation keys such as floor area, number of employees etc. The assessee also submitted audited segmental profitability statement in support of its own PLI.

Proceeding further, the assessee also assailed the action of Ld. TPO in rejecting assessee's comparable entities by applying the Related Party Filter (RPT) filter and export filter. The assessee also objected to selection of key word (ITeS services) by Ld. TPO by submitting that

assessee was engaged in providing engineering design services and CAM / CAE services which, though may be falling under ITeS sector, however, the said function was completely different involving different skill sets, functions as compared to other ITeS services. The assessee, in the alternative, conducted fresh search taking foreign AEs as the tested party as accepted by revenue in AYs 2003-04 to 2005-06. In this study, the margin of AEs was shown to be lower than mean margin of comparable entities. The assessee pleaded for acceptance of foreign AE as tested party it being the least complex entity. However, it was observed that in AY 2006-07, foreign AE as tested party, was not accepted by revenue and the same was confirmed by Tribunal.

The assessee also conducted fresh search for EDC companies and arrived at average PLI of 9.05%. Another plea raised by the assessee was that it was enjoying exemption u/s 10A benefits in India and there would be no incentive to shift profits outside India.

6.2 Regarding equity investment in OTI-USA, the assessee contended that this transaction was not an international transaction as defined in Sec.92B. Alternatively, majority of the investment was out of interest free funds available with the assessee. As per the credit sanction letter issued by the banker, the loans / credit facilities could not be used to make investment in shares / debentures of subsidiaries. The shares were subscribed at face value without any premium. The Ld. TPO failed to distinguish between loan and capital contribution by way of equity. Merely because the transaction was with AE, the genuineness of the same could not be doubted and also the transactions could not be reclassified / re-characterized as loans & advances. The investment was business decision of the assessee. Had the AE obtained the funds

through loan / debt, it would have to meet interest expenses at regular interval which would have ultimately affected its profitability and would not have provided the requisite cash-flow to carry on its business swiftly. The assessee, as a holding company, had infused funds in its subsidiary with a long-term objective through equity mode so as to enable the AE to carry on its business smoothly and swiftly. Reliance was placed on various judicial pronouncements to strengthen all these arguments.

6.3 Regarding reimbursement of expenses to acquire software from third-party, the assessee submitted that USA-AE made payment on behalf of assessee to Orasoft from time to time. At year-end, a consolidated debit note / invoice was raised by the AE. There was no cash flow from assessee to AE but the expenditure was merely debited under the head work-in-progress. No deduction of the expenditure was claimed and therefore, the adjustment was not justified. These transactions were stated to be purely reimbursement in nature.

7. The Ld. CIT(A) observed that the services rendered by the assessee would fall within the segment of ITeS. The argument on allocation of cost was also rejected. The plea of foreign AE as a tested party was to be rejected in view of Tribunal decision in assessee's own case for AY 2006-07. Further, it was not incumbent on the part of Ld. TPO to prove that there was any manipulation in the prices through which he profits were shifted outside India. Since the transactions were international transactions, the same would necessitate application of TP regulations. Finally, the adjustment proposed by Ld. AO was upheld.

Regarding equity investment, Ld. CIT(A), in the light of explanation (i)(c) of Sec 92B, held that the capital financing would be international transactions and accordingly, the benchmarking of the same was

required as per TP regulations. Regarding submissions that the credit facilities could not be used to advance shares / debentures, it was observed that the accounts of the assessee were mixed one and it could not be proved by the assessee that no such funds were used for making the investments. The RBI rules only determined the outer limits for the payment and do not go into the issue of determination of ALP. Therefore, the action of Ld TPO in benchmarking the same was upheld. The rate of 12% was held to be reasonable.

Regarding software purchase, it was observed that no distinction was carved out under the provisions between capital account transactions or trading transactions. It was nowhere mentioned that if capital account transactions undertaken were not at ALP, then TP provisions would be allocable only to the extent of impairment of corresponding income in the taxpayers' profit & loss account. Therefore, the assessee's reasoning was to be rejected. The assessee filed certificate of Auditor and agreement which were not produced before Ld. TPO and therefore, the same would tantamount to additional evidences which could not be taken cognizance of. Finally, this adjustment was also upheld.

Aggrieved as aforesaid, the assessee is in further appeal before us.

Our findings & Adjudication

8. So far as the material facts are concerned, we find that assessee is engaged in providing Engineering Design Services (EDC) to its various overseas customers through its marketing arm in the form of Associated Enterprises (AE) in USA and Germany. It is evident that the AEs are remunerated at lump sum marketing-fees which were in the range of 3% to 3.5% and rest of the revenue would accrue to the assessee. On the basis of these facts, it has been submitted that foreign-AE being least

complex entity, should be taken as tested party for the purpose of benchmarking. However, we find that this plea has not been accepted by the Tribunal in assessee's own case for AY 2006-07. The Ld. AR has also sought distinction between Engineering Design Services (EDC) and ITeS. The same is also to be rejected in view of the fact that it is admitted position, all along, that EDC services are part of ITeS and not a distinct segment which has to be benchmarked separately particularly in view of the fact that the benchmarking was done by adopting Transactional Net Margin Method (TNMM) which requires fulfilment of only broad parameters. The plea that the assessee was eligible for deduction u/s 10A would also not be much material to the issue of determination of Arm's Length Price of international transactions. The remaining arguments taken by the assessee have been dealt with in the next paragraphs.

9. So far as the computation of assessee's own PLI is concerned (as placed on page no. 316 of the paper-book), we find that the same has been disturbed by Ld. TPO by changing the allocation key in the following manner: -

Cost	Basis of Allocation (As per assessee)	Basis of Allocation (As per TPO)
Indirect Manpower Cost	Sales	Sales
Selling and Marketing expenses	Non-AE sales	Sales
Compensation for use of premises	No. of employees	Sales
Electricity Charges	No. of employees	Sales
Other administrative overheads	Sales	Sales

It could be seen that assessee's AEs were providing marketing services in overseas markets against lump-sum fees. Therefore, the selling and

marketing expenses incurred in domestic segment were rightly allocated to non-AE sales by the assessee. There was no justification to allocate the same to AE segment. So far as the compensation for use of premises is concerned, we are of the opinion that this expenditure would mostly be fixed in nature and would bear no relation with the turnover. The same has to be incurred irrespective of quantum of turnover. On the other hand, if the number of employees were more, the assessee would require larger premises and the expenditure would be more. Thus, allocating the same on the basis of number of employees would be more scientific method of allocating these costs. Similar is with electricity cost. More the employees more would be such cost. Therefore, we do not concur with Ld. TPO's approach in allocating the same on the basis of sales. The method adopted by the assessee was more scientific and supported by guidance note issued by the Institute of Cost Accountants of India for allocating administrative overheads which provide for number of employees as one of valid allocation key. Therefore, the assessee's PLI of 21.36% & 21.53% with respect to OTI-USA & OTG-Germany was to be accepted. We order so.

10. Proceeding further, Ld. AR has sought exclusion of certain comparable entities as finally accepted by Ld. TPO. The same is on the premises that entities were functionally different or had a corporate action (merger, demerger etc.) during the year or they reflected abnormally high margins. To support exclusion of these entities, Ld. AR has relied upon various decision of the Tribunal for this very assessment year rendered on similar factual matrix for ITeS segment. The copies of the same have been placed on record. The entities, the exclusion of which has been sought by the assessee, are as follows: -

No.	Name of the comparable	PLI (OP/TC) %
1.	Accentia Technologies Ltd. (Seg.)	41.76%
2.	Acropetal Technologies (Seg.)	35.30%
3.	Coral Hubs Ltd.	50.68%
4.	Eclerx Services Ltd.	65.88%
5.	Genesys International Corporation Ltd.	47.40%
6.	Mold-Tek Technologies Ltd.	96.66%

After going through the cited decisions, our adjudication would be as follows: -

(i) Accentia Technologies Ltd.

This entity has been excluded by Mumbai Tribunal in the case of **Deutche CIB Centre Private Limited V/s ACIT (ITA No.134/Mum/2013; 09/11/2020)** wherein the bench has directed for exclusion of this entity by observing that there was extraordinary event of amalgamation during the year which had resulted into enormous growth of the company and had impacted its profitability, Therefore this entity was held to be not comparable for benchmarking the international transactions of the assessee for the year under consideration. This entity was also found to be functionally dis-similar. Further, this entity owned intangible property and had low employee cost which rendered it to be uncomparable entity.

Similar is the decision of this Tribunal in **WNS Global Services (P.) Ltd. V/s ITO (103 Taxmann.com 75)** wherein this entity was found to be engaged in software development / software product development. The segmental details were not available and there were event of merger /acquisitions during the year. Therefore, this entity was held to be non-comparable entity.

Following the above decisions, we direct for exclusion of this entity.

(ii) Acropetal Technologies Ltd.

This entity has been excluded by Tribunal in **WNS Global Services (P.) Ltd. V/s ITO (103 Taxmann.com 75)** wherein it was held that this entity was non-comparable entity for ITeS segment. The reason being that the nature of services being provided by this entity would require application of knowledge and advanced analytical and technical skill. This entity had provided on-site services as compared to assessee and therefore, could not be accepted as valid comparable.

Considering the same, we direct for exclusion of this entity.

(iii) Coral Hubs Ltd.

This entity has been excluded by Tribunal in **WNS Global Services (P.) Ltd. V/s ITO (103 Taxmann.com 75)** on the ground that this entity had outsourced most of its work to third-party vendors. The business model of this entity was found to be totally different from assessee's business model.

Since similar are the fact in this case, we direct for exclusion of this entity.

(iv) Eclerx Services Ltd.

This entity has been excluded by Mumbai Tribunal in the case of **Deutche CIB Centre Private Limited Vs. ACIT, (ITA No.134/Mum/2013; 09/11/2020)** wherein the bench directed for exclusion of this entity by observing that this entity acquired a UK based company viz. Igentica Travel Solutions Ltd during the year. As a result, 28 large customers got introduced to this entity which resulted into abnormal profit of 65.88% during the year under consideration. Further, this entity was found to have outsourced services to third-parties to the

extent of 20.39% of its total expenses. Thus, this entity was held to be functionally different.

Similar is the decision of this Tribunal in **WNS Global Services (P.) Ltd. V/s ITO (103 Taxmann.com 75)** wherein this entity is found to be non-comparable entity for ITeS segment for the reason that this entity provided data analytics and data processing solutions which was more in the nature of KPO services. As per its annual report, this entity provided services to the banking, finance, manufacturing, retail, travel and hospitality verticals using a mix of custom, design, process and delivery teams. This entity was found to have intangibles also.

Following the above decisions, we direct for exclusion of this entity.

(v) Genesys International Corporation Ltd.

This entity has been excluded by Tribunal in **WNS Global Services (P.) Ltd. V/s ITO (103 Taxmann.com 75)** on the ground that this entity was engaged in rendering GIS services and it catered to the needs of consumer mapping, navigation etc. It provides geographical information service, photogrammetry, remote sensing, cartography, data conversion related computer-based services and other related services. Thus, it was held that this entity provided KPO services which could not be compared to routine IT enabled services as provided by the assessee.

Respectfully following the same, we direct for exclusion of this entity.

(vi) Mold-Tek Technologies Ltd.

This entity has been excluded by Mumbai Tribunal in the case of **Deutche CIB Centre Private Limited Vs. ACIT, (ITA No.134/Mum/2013; 09/11/2020)** wherein the bench directed for exclusion of this entity by observing that this entity had acquired Crossroads Detailing Inc.(USA) which enabled this entity to enter into

business of high rise buildings and commercial building space which had high growth potential. As a result of this, this entity reflected growth of 56.49%. For the same reason, this entity was excluded by Delhi Tribunal in the case of **M/s H & S Software Development and Knowledge Management Centre Pvt. Ltd. V/s DCIT (ITA No. 436/Del/2013, dated 20/03/2018]**. Further, this entity was found to have undergone restructuring and therefore, held to be non-comparable. Similar was the view of Mumbai Tribunal in **Dialogic Networks (I) P. Ltd. Vs. ACIT, (ITA No. 7280/Mum/2012, dated 27/07/2018)**.

This entity has also been excluded by Tribunal in **WNS Global Services (P.) Ltd. V/s ITO (103 Taxmann.com 75)** on the ground of functional dis-similarity.

Respectfully following the same, we direct for exclusion of this entity.

11. The following decisions, as cited by Ld. AR, also support the exclusion of all these entities: -

- ITA No. 483/Mum/2013 – Teleperformance Global Services Private Limited vs. ACIT, Circle 1(2), Mumbai – Hon. ITAT, Mumbai Bench
- ITA No. 7498/Mum/2012 – Lionbridge Technologies Private Limited vs. ITO – 8(2)(2), Mumbai – Hon. ITAT, Mumbai Bench
- ITA No. 1144/Hyd/2014 and 1145/Hyd/2014 – BA Continuum India Private Limited – Hon. ITAT, Hyderabad Bench
- ITA No. 46/Del/2013 – NTT Data Global Delivery Services Ltd. vs. ITO Ward – 5(2), New Delhi – Hon. ITAT, Delhi Bench
- ITA No. 436/Del/2013 and 496/Del/2013 – H & S Software Development and Knowledge Management Centre Pvt. Ltd vs. DCIT, Circle 10(1), New Delhi – Hon. ITAT, Delhi Bench
- ITA No. 6008/Del/2012 – GE India Business Services Pvt. Ltd. vs. The A.C.I.T Circle – 10(1), New Delhi – Hon. ITAT, Delhi Bench
- ITA No. 6328/Del/2012 – Corporate Executive Board India Pvt. Ltd. vs. Asst. Commissioner of Income Tax, Circle – 1(1), Gurgaon – Hon. ITAT, Delhi Bench
- ITA No. 6381/Del/2012 – IHG IT Services (India) Pvt. Ltd. vs. DCIT, Circle 11(1), New Delhi – Hon. ITAT, Delhi Bench.
- ITA No. 6408/Del/2012 – Blackrock Services India Pvt. Ltd vs. ACIT, Circle – 1(1), Gurgaon – Hon. ITAT, Delhi Bench.

12. We find that after exclusion of the above-mentioned comparables, the Profit Level Indicator (PLI) of remaining comparable entities as finally taken by Ld. TPO, would be as follows:

No.	Name of the comparable	PLI (OP/TC) %
1.	Aditya Birla Minacs Worldwide Ltd.	2.20%
2.	Asit C Mehta Financial Services Ltd. (Seg.)	9.42%
3.	Caliber Point Business Solutions Ltd.	10.97%
4.	Cross domain Solutions Ltd.	26.96%
5.	e4e Healthcare Solutions Ltd.	16.72%
6.	Iservices India Pvt. Ltd.	9.58%
7.	R Systems International (Seg.)	4.30%
8.	Spanco Ltd. (Seg.)	11.04%
9.	Allsec Technologies Ltd.	0.27%
	AVERAGE PLI MARGIN	10.16%

Since the assessee's PLI is much better than average PLI of remaining comparable entities, the transactions under consideration are to be considered at Arm's Length Price. We order so. The impugned TP adjustments, as confirmed in the impugned order, stands deleted.

13. Coming to the issue of equity investments, it could be seen that the assessee was operating in USA markets through its AE i.e. OTI-USA. It has made investment in share capital in its subsidiary which is evident from foreign remittance certification, annual report and financial statement of the subsidiary. The shares have been subscribed at face value in accordance with RBI's guidelines. The subsidiary has issued share-certificate to the assessee within a period of 60 days as mandated by RBI. The investment was made to fund the expansion plan of USA subsidiary and to strengthen its Balance Sheet which had accumulated losses. This being so, the action of lower authorities to re-characterize these transactions, in our opinion, was based more on mere allegations rather than being based on any tangible evidence on record. The assessee was holding company of its AE and any adverse working of AE

would directly impact assessee's interest. It was true that had the AE obtained the funds through loan / debt, it would have to meet interest expenses at regular interval which would have ultimately affected its profitability and would not have provided the requisite cash-flow to carry on its business swiftly. The assessee, as a holding company, had infused funds in its subsidiary with a long-term objective through equity mode so as to enable the AE to carry on its business smoothly and swiftly. The Ld. TPO failed to distinguish between loan and capital contribution by way of equity. Therefore, we do not concur with the approach / action of lower authorities in re-characterizing the transactions as loans / advances and make TP adjustment based on notional interest computation. Our view is duly supported by the decision of this Tribunal in **Voltas Limited V/s DCIT (116 Taxmann.com 324)** which held as under: -

3.5.7 Upon careful consideration of factual matrix as enumerated by us in the preceding paragraphs, the undisputed position that emerges is the fact that the assessee has advanced Share Application Money to one of its AE situated in Saudi Arabia with a view to acquire further stake in that entity. The entity has become wholly owned subsidiary of the assessee company during the month of January, 2009. The financial health of its AE was not good and the money was advanced with a view to infuse further capital in the AE and with a view to acquire controlling stake in its AE. The money has been utilized by its AE to pay-off business debts and to meet working capital requirements. Another undisputed fact is that ultimately the shares have been allotted to the assessee during December, 2015 after getting the desired regulatory approvals from concerned authority i.e. SAGIA. It is also undisputed fact that there was delay in the legal process which has been substantiated by the assessee, *inter-alia*, by furnishing email correspondences etc. The entirety of the facts and circumstances would demonstrate that the investment made by the assessee was for genuine business purpose and the stated transaction was not found to be a sham transaction, in any manner. Another fact is that whatever benefit would accrue to assessee's AE, they would indirectly accrue to the assessee since AE ultimately became wholly owned subsidiary of the assessee company. No doubt, there was inordinate delay in allotment of shares, nevertheless, the assessee was successful in explaining the delay in allotment of share and was able to demonstrate with evidences the circumstances which led to delay in allotment of shares. Therefore, re-characterization of this transaction as advance / loan by revenue authorities, in our considered opinion, was not correct approach and this transaction could not be equated with loan transactions. The Ld. DR has contended that the transactions have not been re-characterized as loan but the same has been benchmarked since certain benefits have accrued to AE by infusion of fund which must be shared with the assessee. However, we find that ALP of the transaction has been computed in similar manner as it would be computed for a loan transaction. Further as already noted,

assessee's AE ultimately became wholly owned subsidiary of the assessee and therefore, whatever benefit would accrue to AE, the same would indirectly accrue to the assessee. Therefore, not convinced with the approach of lower authorities, we hold that no addition would be warranted on this account. To arrive at aforesaid conclusion, we draw strength from the observation of Hon'ble Bombay High Court in **Pr. CIT V/s Aegis Limited (ITA No. 1248 of 2016 dated 28/01/2019)** wherein Hon'ble court has observed that in the absence of finding that the transaction was sham, the TPO could not have treated such transaction as a loan and charge interest thereon on notional basis.

The aforesaid decision of Tribunal has placed reliance on the decision of Hon'ble Bombay High Court in **Pr. CIT V/s Aegis Limited (ITA No. 1248 of 2016 dated 28/01/2019)**. Therefore, considering the factual matrix, we direct Ld. AO to delete this adjustment. The ground, to that extent, stands allowed.

14. Coming to Transfer Pricing (TP) adjustment arising out of reimbursement of software expenses to OTI-USA, it could be seen that the assessee has reimbursed a sum of Rs.437.67 Lacs towards purchase of certain software from third-party namely Orasoft. The AE made payment on behalf of the assessee from time to time and raised consolidated debit note / invoice at year-end against the assessee. The amount so paid was duly reflected by the assessee as advance for software in the Balance Sheet. The copies of the invoice raised by Orasoft and copies of invoice raised by overseas-AE have been placed on record (page 492 & 496 of paper-book). It could be seen that M/s Orasoft has invoiced assessee's AE on various dates from time to time. M/s OTI-USA has charged the assessee by way of debit note at year-end. The overseas-AE has entered into software development agreement with Orasoft on 01/04/2007. Upon perusal of the terms, it could be seen that this agreement has been entered on behalf of assessee wherein the assessee as a software-developer has engaged the services of Orasoft for developing software tools, utilities and

modules for onsite and off-shore business and other project management requirements. In terms of clause-5 of the agreement, M/s Orasoft has assigned all intellectual property rights created into relation to the services in favor of the assessee. Thus, it could be seen that the services of M/s Orasoft has been availed by the assessee only. The AE has merely carried out the transactions on behalf of the assessee. The payment made by the assessee was in the nature of reimbursement of third-party payments. There is nothing on record which would show that AE has been paid extra remuneration, in any way, for the said purpose. To summarize, the transactions are duly evidenced by agreement, invoices raised by M/s Orasoft and consequent debit note raised by AE on the assessee. The only doubt raised by Ld. TPO is tangible evidence with respect to receipt of services. The Ld. TPO has also doubted the genuineness of the invoices. However, there are no concrete findings or material which would justify rejection of assessee's explanation and documentary evidences. The Ld. CIT(A) also erred in rejecting these documentary evidences without any sound basis. Therefore, not concurring with the approach of lower authorities, we direct for deletion of this adjustment. The ground stand allowed to that extent.

15. In the result, Ground No.1 stand dismissed as being not pressed. Ground No.2 stand partly allowed to the extent indicated in the order. Ground No.3 stand allowed for statistical purposes. The appeal stands partly allowed.

16. Cross-Appeals for Assessment Year 2009-10

16.1 In this year, a draft assessment order was issued by Ld. AO u/s 143(3) r.w.s. 144C(3) of the Act on 28/03/2013 pursuant to the directions of Ld. TPO order dated 29/01/2013. The assessee preferred objections

before Ld. DRP which were disposed-off vide directions dated 23/12/2013. Following the same, an assessment order has been passed by Ld. AO u/s 143(3) r.w.s. 144C(13) on 22/01/2014. The adjudication by Ld. DRP has given rise to cross-appeals before us.

16.2 The ground raised by the revenue read as under: -

- (i) The Learned DRP has erred on facts and in law in deleting the transfer pricing adjustment of Rs.17,49,13,053/- made on account of provision of IT enabled services and Engineering Design Services without properly appreciating the factual and legal matrix of the case as clearly brought out by the TPO and Assessing Officer in the Draft Assessment Order.
- (ii) The Learned DRP has erred on facts and in law deleting the transfer pricing adjustment of Rs.17,49,13,053/- on basis of additional evidences which were opposed by the TPO in his remand report.
- (iii) The Learned DRP has erred on facts and in law in deleting the transfer pricing adjustment of Rs.34,66,793/- on account of interest imputed on refund of share application money without properly appreciating the fact that the assessee has transferred the benefit of fund to A.E. in the name of Share Application Money.

16.3 The assessee has raised 4 grounds out of which ground no.3 has not been pressed whereas ground no.4 is related to initiation of penalty which is pre-mature. Therefore, ground nos. 3 & 4 stand dismissed. The assessee has raised additional ground of appeal which is similar to additional ground raised in AY 2008-09. Since this ground has been admitted in AY 2008-09, the same is admitted in this year also as Ground No.5. The grounds to be adjudicated are Ground Nos. 1, 2 & 5 which read as under: -

1. Adjustment in ALP of Rs.15,59,397/- to the value of International Transactions
2. Non grant of claim made for Late Employees Contribution to PF & ESIC of Rs.81,30,617/-
5. Allowability of expenditure of Rs.23,83,807/- towards discount on Employee Stock Option Plan (ESOP) debited to the Profit & Loss Account

It is evident that the appeal of the revenue arises out of deletion of TP adjustment. The assessee is similarly aggrieved by confirmation of

certain TP adjustments. The assessee is also seeking deduction of late payment of PF & ESIC.

16.5 In Ground No.5, the assessee is seeking deduction of expenditure on Employee Stock Option Plan debited to Profit & Loss Account during the year. As per our adjudication in AY 2008-09, this issue is allowed in assessee's favor subject to verification of relevant details by Ld. AO. Accordingly, this ground stand allowed for statistical purposes.

17. TP Adjustments

17.1 In this year, the assessee benchmarked the transaction using foreign AEs as the tested party. It arrived at mean margin of 8.89% (entity level) reflected by 7 entities as against margin of 4.43% charged by assessee's AEs. Therefore, it was pleaded that the transactions were at Arm's Length Price. However, rejecting the same and taking assessee as the tested party, Ld. TPO computed mean margin of 29.77% with respect to 24 entities.

17.2 The assessee drawing distinction between Engineering Design Services and Information-Technology enabled services (ITeS), assailed the comparable entities selected by the Ld. TPO and offered new set of 15 entities having margin of 8.67% as against assessee's segmental margins of 45.57%. However, the same also could not convince Ld. TPO. After considering assessee's submissions, Ld. TPO finally chose to adopt assessee's entity level margin of -19.95%. The mean margin of final set of 14 entities was determined as 28.58% as follows: -

No.	Name of the comparable	PLI (OP/TC) %
1.	Cethar Consulting Engineers Ltd.	28.76%
2.	Chemtax Global Engineers Pvt. Ltd.	1.20%
3.	Corrtech Energy Ltd.	20.63%
4.	IOT Design & Engg. Ltd.	4.77%
5.	L&T Sargent & Lundy Ltd.	42.19%

6.	Mahindra Consulting Engineers Ltd.	43.49%
7.	Mahindra Engineering Services Ltd.	39.25%
8.	Michigan Engineers Pvt. Ltd.	12.16%
9.	Oil field Instrumentation India Pvt. Ltd.	39.84%
10.	Simon India Ltd.	6.88%
11.	Acropetal Technologies Ltd.	21.30%
12.	HDO Technologies Ltd.	13.94%
13.	Mold-Tek Technologies Ltd.	60.92%
14.	Bodhtree Ltd.	64.82%
	Average PLI Margin	28.58%

Applying the same, the TP adjustment was thus computed at Rs.1749.13 Lacs in the following manner: -

Operational Cost	36,04,55,105/-
128.58% of operation cost (1)	46,34,73,174/-
Sales / Operational Income (2)	28,85,60,121/-
Difference (1)-(2)	17,49,13,053/-
105% of Sales / Operational Income (A)	30,29,88,127/-
95% of Sales / Operational Income (B)	27,41,32,115/-

It could be seen that the adjustment has been proposed by applying entity level TNMM against the entire turnover including domestic turnover as against the fact that the quantum of AE sales was approx. 42% of total turnover (1220.36 Lacs / 2885.60 Lacs x 100).

17.3 The second adjustment was on account of share application money advanced by the assessee to its AE. Applying borrowing rate of 14.05% to the Share Application money, Ld. TPO proposed an adjustment of Rs.34.66 Lacs.

17.4 Before Ld. DRP, the assessee, inter-alia, submitted that billings done by OTI-USA to end customers was recovered by the assessee in its entirety and therefore, these transactions stand the test of ALP under CUP method. The attention was drawn to the fact that OTI-USA did not charge any marketing fees during the year. The other AE OTG-Germany

retained marketing fees of 5% only. In support, the assessee furnished additional evidences in the shape of invoices raised by OTI-USA to end-customers and invoices raised by the assessee on OTI-USA. The Ld. TPO, in the remand proceedings, tabulated the invoices. Upon perusal of the same, it was noted that OTI-USA invoices an amount of 117.09 million USD to end-customers and the same amount was billed by the assessee to its AE. This being the case, the adjustment was deleted by Ld. DRP observing as under: -

The adjustment of the assessee and remand report of TPO has been considered. In view of the fact that entire amount billed by AE to its customers have been recovered by the assessee the pricing of the assessee is to be treated as arm's length. The adjustment made is deleted. This objection is hence allowed.

The TP adjustment on account of Share Application Money was confirmed with certain directions which reduced the TP adjustment to Rs.15.59 Lacs. Aggrieved the revenue as well as assessee is in further appeal before us.

18. Our findings & Adjudication

18. After going through factual matrix and after consideration of remand report, it could be seen that there was end-to-end billing by OTI-USA to assessee's customers vis-à-vis amount billed by assessee to OTI-USA. The aforesaid fact remains uncontroverted before us also. This being the case, no benefit arose to assessee's AE and therefore, there would be no question of computing ALP of the same. Concurring with the conclusion of Ld. DRP, we dismiss Ground Nos. 1 & 2 of revenue's appeal.

So far as the margin of 5% as retained by OTG-Germany is concerned, we find that percentage of revenue earned from this entity is merely 1.71% of total revenue earned by the assessee. The margin retained by

this entity was quite less than mean margin of 8.89% reflected by comparable entities as selected by the assessee in its TP study report (though we do not accept foreign AE as tested party as held in AY 2008-09). Nevertheless, the assessee's segmental PLI of 45.57% was much above the mean margin of comparable entities selected by Ld. TPO. Therefore, no fault could be found in the approach of Ld. DRP.

19. So far as the computation of notional interest on Share Application money is concerned, we find that factual matrix is similar as in AY 2008-09. Therefore, our adjudication as for AY 2008-09 would apply here also. Taking the same view, we would hold that re-characterization of these transactions as loans / advances was not justified and accordingly, we delete the adjustment as made by lower authorities. Ground No.3 of revenue's appeal stand dismissed whereas Ground No.1 of assessee's appeal stands allowed.

20. In ground No.2, the assessee is seeking deduction of late payment of employees' PF and ESIC in terms of decision of this Tribunal in assessee's own case for AY 2006-07 which has been rendered after considering the decision of Hon'ble Supreme Court in the case of **CIT V/s Alom Extrusions Ltd. (2009; 319 ITR 306)** and the decision of Hon'ble Delhi High Court in the case of **CIT V/s Aimil Ltd. (2010; 321 ITR 508)**. The Ld. AR has also relied on the decision of Hon'ble Supreme Court in **CIT V/s Rajasthan State Beverages Corp. Ltd. (84 Taxmann.com 185)**; **CIT V/s Vinay Cement Ltd. (213 CTR 268)** as well as the decision of Hon'ble Bombay High Court in **CIT V/s Ghatge Patil Transport Ltd. (53 Taxmann.com 141)**.

21. We find that the assessee has deposited an amount of Rs.81.21 Lacs as employee's contribution to PF and ESIC of Rs.0.08 Lacs. The

payment was made after due date as specified under the respective acts but before the due date of filing of return of income. The assessee disallowed the same in the computation of income but claimed the deduction of the same during assessment proceedings. The Ld. AO denied the same since similar claim was denied in earlier years. The Ld. DRP confirmed the action of Ld. AO. Aggrieved, the assessee is in further appeal before us.

22. We find that this issue is covered in assessee's favor by the decision of this Tribunal in assessee's own case for AY 2006-07, ITA No.7985/Mum/2010 order dated 30/04/2013. Therefore, respectfully following the same, we direct Ld.AO to allow the deduction of the same to the assessee. This ground stand allowed.

23. In the result, the assessee' appeal stand partly allowed whereas the revenue's appeal stands dismissed.

Conclusion

24. The assessee' appeals for both the years stand partly allowed whereas the revenue's appeal stands dismissed.

Order pronounced on 2nd August, 2021.

Sd/-

(Amarjit Singh)

न्यायिक सदस्य / **Judicial Member**

Sd/-

(Manoj Kumar Aggarwal)

लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 02/08/2021
Sr.PS, Jaisy Varghese

आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt.Registrar)
आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai.