

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.3129/Bang/2018
Assessment year : 2014-15

Micro Focus Software India Pvt. Ltd., [formerly Novell Software Development (India) Pvt. Ltd.], Bagmane Tech Park, Block D, 'LAUREL' 65/2, C V Raman Nagar, Byrasandra, Bengaluru – 560 093. PAN: AAACN 6992K	Vs.	The Deputy Commissioner of Income Tax, Circle 4(1)(2), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri T. Suryanarayana, Advocate
Respondent by	:	Ms. Neera Malhotra, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	10.08.2021
Date of Pronouncement	:	10.08.2021

ORDER

Per Chandra Poojari, Accountant Member

This appeal by the assessee is directed against the order of the Assessing Officer dated 24.09.2018 passed u/s. 143(3) r.w.s. 144C of the Income-tax Act, 1961 [the Act] for the assessment year 2014-15.

2. At the time of hearing, the ld. counsel for the assessee submitted that ground Nos.2 to 10 relating to Transfer Pricing adjustment have been settled under the Advanced Pricing Agreement u/s. 92CC of the Act dated

20.08.2020 and in view of the same these grounds are not pressed. Accordingly, the same are dismissed as not pressed.

3. The assessee has raised the following additional grounds:-

“14A. That the AO/DRP grossly erred in upholding the disallowance made by the Assessing Officer of a sum of Rs.9,16,902 being expenditure incurred on repairs and maintenance, without appreciating that the same was incurred by the Appellant and was therefore eligible to be allowed as a deduction.

14B. That the DRP erred in not considering the evidence produced by the Appellant before it.”

4. The Id. counsel for the assessee submitted that the additional grounds go to the root of the issue and the same may be admitted in view of the judgment of Hon'ble Supreme Court in the case of *National Thermal Power Company Ltd. v. CIT, 229 ITR 283 (SC)*. Relying on this judgment of the Hon'ble Supreme the additional grounds raised are admitted.

5. The additional ground filed by the assessee requires examination by the AO. Hence the orders of lower authorities on the issue of expenditure on repairs and maintenance is set aside and is remitted to the file of Assessing Officer for fresh consideration and decision in accordance with law, after affording opportunity of being heard to the assessee.

6. In the result, the appeal of the assessee is partly allowed.

Pronounced in the open court on this 10th day of August, 2021.

Sd/-
(N V VASUDEVAN)
VICE PRESIDENT

Sd/-
(CHANDRA POOJARI)
ACCOUNTANT MEMBER

Bangalore,
Dated, the 10th August, 2021.

/Desai S Murthy/

Copy to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.