

IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH, 'C' PUNE

BEFORE SHRI R.S. SYAL, VICE PRESIDENT AND
SHRI S.S. VISWANETHRA RAVI, JUDICIAL MEMBER

आयकर अपील सं. / ITA No.1219/PUN/2017
निर्धारण वर्ष / Assessment Year : 2010-11

ACIT, Circle-2, Pune	Vs.	M/s.Nalco Water India Limited, S.No.238/239, 3 rd Floor, Quadra-1, Panchshil, Magarpatta Road, Sade Satra Nali, Pune 411 028 PAN : AAACO4994N
Appellant		Respondent

Assessee by Shri Ketan Ved
Revenue by Shri Jagdish P. Chandraker
Date of hearing 29-09-2021
Date of pronouncement 30-09-2021

आदेश / ORDER

PER R.S.SYAL, VP :

This appeal by the Revenue is directed against the order passed by the CIT(A) on 08-02-2017 in relation to the assessment year 2010-11.

2. The only ground effective raised by the Revenue in the appeal is as under :

“On the facts and circumstances of the case, the CIT(A) has erred in holding that intra groups activities performed by Nalco US under SA and by Nalco Pacific under the RMASA constitute intra group services and the said activities are not in the nature of stewardship activity”.

3. Briefly stated, the facts of the case are that the assessee filed its return declaring total income of Rs.9,78,44,129/-. The international

transactions of receipt of Headquarter services from Nalco, USA and Management Assistance services from Nalco Pacific Pte Ltd., Singapore totaling worth Rs.17,21,93,000/- were reported. The Assessing Officer (AO) made a reference to the Transfer Pricing Officer (TPO) for determining the Arm's Length Price (ALP) of the international transactions. The TPO took note of the relevant clauses of the agreements entered into by the assessee with Nalco, USA and Nalco Pacific Pte Ltd., Singapore. After considering entire gamut of the relevant facts, the TPO held that the services availed by the assessee were in the nature of stewardship activity and not intra group services. This is how, he determined Nil ALP of the international transactions and proposed transfer pricing adjustment of Rs.17,21,93,000/-. The AO made such an addition. The Id. CIT(A) deleted the addition by holding that the services availed by the assessee were in the nature of intra group services and not stewardship activity. He further held the international transaction to be at ALP, resulting into the deletion of the addition. Aggrieved thereby, the Revenue has come up in appeal before the Tribunal in the terms indicated above.

4. We have heard the rival submissions and gone through the relevant material on record. It is common submission by both the

sides that the issue raised in this appeal is similar to the one raised in the Revenue's appeal for the immediately preceding assessment year, 2009-10. Except for increase in mark-up rate under the two agreements, both the sides fairly conceded, that nature of the services is unchanged. The appeal for the assessment year 2009-10 was fixed simultaneously with the extant appeal. During the course of hearing of the appeal for the immediately preceding year, both the sides made elaborate submissions. In fact, the parties adopted their submissions made for the earlier year insofar as the instant appeal is concerned. This shows that the nature of services availed by the assessee from Nalco, USA and Nalco Pacific Pte Ltd., Singapore is similar to that of the preceding assessment year. We have passed separate order for the assessment year 2009-10 approving the view taken by the Id. CIT(A) to the effect that the services received by the assessee were in the nature of intra group services and not stewardship activity. Since the dispute in the instant appeal, as appearing from the ground extracted above, is only on the nature of the services, following our view taken for the immediately preceding year, we countenance the impugned order on this score.

5. It is made clear that the Revenue has challenged only the ascertainment of the nature of services by the Id. first appellate

authority and not the ALP determination of the international transaction by the Id. CIT(A).

6. In the result, the appeal is dismissed.

Order pronounced in the Open Court on 30th September, 2021.

Sd/-
(S.S. VISWANETHRA RAVI)
JUDICIAL MEMBER

Sd/-
(R.S.SYAL)
VICE PRESIDENT

पुणे Pune; दिनांक Dated : 30th September, 2021
सतीश

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order is forwarded to:

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The CIT(A)-22, Kolkata
3. The Pr.CIT-4, Kolkata
4. DR, ITAT, 'C' Bench, Pune
5. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

// True Copy //

Senior Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

		Date	
1.	Draft dictated on	29-09-2021	Sr.PS
2.	Draft placed before author	30-09-2021	Sr.PS
3.	Draft proposed & placed before the second member		JM
4.	Draft discussed/approved by Second Member.		JM
5.	Approved Draft comes to the Sr.PS/PS		Sr.PS
6.	Kept for pronouncement on		Sr.PS
7.	Date of uploading order		Sr.PS
8.	File sent to the Bench Clerk		Sr.PS
9.	Date on which file goes to the Head Clerk		
10.	Date on which file goes to the A.R.		
11.	Date of dispatch of Order.		

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