

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI “K” BENCH, MUMBAI**

**[Coram: Pramod Kumar (Vice President)
and Ravish Sood (Judicial Member)]**

ITA No. 6379/Mum/2018
Assessment Year: 2013-14

GIA India Laboratory P. Ltd.Appellant
*10th Floor, Trade Centre, Bandra Kurla Complex,
Bandra, Mumbai-400 051 [PAN: AACCG 9457 G]*

Vs

Income Tax Officer
Circle--14(1)(3), MumbaiRespondent

Appearances by

Ketan Ved *for the appellant*
Sushil Kumar Mishra & Ms. Shreekala Pardeshi *for the respondent*

Date of concluding the hearing : October 8, 2021
Date of pronouncement : October 8, 2021

ORAL ORDER
(Dictated in the open court)

Per Pramod Kumar, VP:

By way of this appeal, the assessee-appellant has challenged the correctness of the Assessing Officer's order dated 25.10.2017, in the matter of assessment under section 143(3) r.w.s. 144C(1) of the Income Tax Act, 1961, for the assessment year 2013-14.

2. Grievance raised by the assessee appellant are as follows:

1 : 0 Re.: Non-consideration of the 'Unilateral Advance Pricing Agreement' ["APA"] entered into by the Appellant and the 'Central Board of Direct Taxes' ["CBDT"] vis-a-vis the transfer pricing adjustment of Rs.12,50,43,955/- in relation to international transaction of availing of management services:-

1 : 1 The Assessing Officer has erred in holding that the management fees paid by the Appellant during the year to its Associated Enterprise were not at an arm's length and in

thereby making an adjustment of Rs.12,50,43,955/- in respect thereof while computing the total income of the Appellant.

1 : 2 The Appellant submits that considering the facts and circumstances of its case, the law prevailing on the subject and, in particular, the APA entered into by the Appellant with the CBDT, the international transaction relating to availing of management services was at an arm's length and the stand taken by the Assessing Officer in this regard is misconceived, erroneous, incorrect and illegal.

1 : 3 The Appellant submits that the Assessing Officer be directed to delete the adjustment of Rs.12,50,43,955/- made by him to the Appellant's total income and to recompute its taxable income and tax liability accordingly.

2 : 0 Re.: Short grant of tax deducted at source of Rs. 8,74,036/- :-

2 : 1 The Assessing Officer has erred in granting the Appellant credit for tax deducted at source short by Rs.8,74,036/- while computing its tax liability for the year under consideration.

2 : 2 The Appellant submits that considering the facts and circumstances of its case and the law prevailing on the subject it is entitled to full credit of tax deducted at source from its income.

2 : 3 The Appellant submits that the Assessing Officer be directed to grant full credit for tax deducted at source and to re-compute its tax liability accordingly.

3 : 0 Re.; Non-grant of credit of tax paid on self-assessment on 30 July 2018 of Rs. 2,40,55,982/- :-

3:1 The Assessing Officer has erred in not granting the Appellant credit for tax of Rs.2,40,55,982/- paid on self-assessment while computing its tax liability for the under consideration.

3:2 The Appellant submits that considering the facts and circumstances of its case and the law prevailing on the subject it is entitled to full credit of tax paid on self-assessment from its income.

3 : 3 The Appellant submits that the Assessing Officer be directed to grant full credit of tax paid on self-assessment and to re-compute its tax liability accordingly.

3. When this appeal came up for hearing, Shri Ketan Ved, learned counsel for the assessee fairly submitted that the matter is required to be sent back to the Assessing Officer so as to examine the compliance report and modified income tax return, pursuant to the Advanced Pricing Agreement (APA) that the assessee has entered into with the Government of India, which was submitted a day after the impugned assessment order was passed. He submits that the assessee has already filed a rectification petition u/s.154, which is also pending before the Assessing Officer. Learned counsel for the assessee submits that so far as

ground no. 1 is concerned that is the only prayer he has to make, and once again urges us to remit the matter to the file of the Assessing Officer for fresh adjudication in the light of the compliance report, modified income tax return pursuant to the APA and such further clarification the Assessing Officer may seek.

4. Coming to the second and third grounds of appeal, all that the learned counsel for the assessee prays is the direction for the Assessing Officer to examine the assessee's plea regarding the short credit for tax deducted at source and non-credit for tax paid on self assessment. It is, thus, prayed that the matter is also sent back to the Assessing Officer and he may also be directed to look into the two above issues raised by the assessee.

5. Ms. Shreekala Pardeshi, learned senior Departmental Representative does not object to the prayer so made by the assessee.

6. In view of the above discussions, as also bearing in mind in entirety of the case, we deem it fit and proper to remit the matter to the file of the Assessing Officer for adjudication *de novo* in the light of our above observations and in terms of the prayers of the assessee as above. Ordered, accordingly.

7. In the result, the appeal is allowed for statistical purpose. Dictated and pronounced in the open court on 8th day of October, 2021.

Sd/-
Ravish Sood
(Judicial Member)

Sd/-
Pramod Kumar
(Vice President)

Mumbai, dated the 8th day of October, 2021
Roshani, Sr. PS

Copies to:

(1)	<i>The Applicant</i>	(2)	<i>The respondent</i>
(3)	<i>CIT</i>	(4)	<i>CIT(A)</i>
(5)	<i>DR</i>	(6)	<i>Guard File</i>

By order

Assistant Registrar/Sr. PS
Income Tax Appellate Tribunal
Mumbai benches, Mumbai