

**IN THE INCOME TAX APPELLATE TRIBUNAL  
HYDERABAD BENCHES "A": HYDERABAD  
(THROUGH VIRTUAL CONFERENCE)**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER  
AND  
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

ITA-TP No. 480 /H/2021 Assessment Year: 2017-18		
Harsco India Pvt. Ltd., Hyderabad.  PAN - AACCH0555L  (Appellant)	Vs.	Dy. Commissioner of Income-tax, Circle - 2(1), Hyderabad.   (Respondent)
Assessee by:	Shri Suvibha Nolkha	
Revenue by:	Shri Rajendra Kumar	
Date of hearing:	05/04/2022	
Date of pronouncement:	06/04/2022	

**ORDER**

**PER L.P. SAHU, A.M.:**

This appeal of the assessee is directed against the order dated 21/09/2021 passed u/s 143(3) rws 144C(13) read with section 144B of the Income-tax Act, 1961 (in short 'the Act') for the AY 2017-18.

2. Briefly the facts of the case are that the assessee M/s Harsco India Pvt. Ltd., incorporated in 2008 and is mainly engaged in providing full range of services to the metallurgical industries which involve metal recovery through various processes like slag processing, skull and

tundish processing, drop balling, briquetting and micro palletization etc. The assessee e-filed the original return of income for AY 2017-18 on 30/11/2017 showing total income of Rs. 11,31,22,700/-. Later, it filed the revised return declaring total income of Rs. 11,08,83,260/-.

2.1 During the previous year relevant to AY 2017-18, the assessee company had entered into various international transactions with its AEs and, hence, a reference was made to the Transfer Pricing Officer TPO after obtaining prior approval of Pr. CIT for determining Arm's Length Price u/s 92CA of IT Act. Vide his order dated 28/01/2021, the TPO proposed an adjustment of Rs. 12,54,421/- u/s 92CA of the Act, towards interest on trade receivables. In view of the above, an amount of Rs. 12,54,421/- being the quantum of adjustment made by the TPO, the same was added to the total income of the assessee in the draft assessment order passed on 07/04/2021 by FAO, National e-Assessment Centre, Delhi.

2.2 Against the addition made in the draft assessment order, the assessee raised objections before the Dispute Resolution Panel (DRP). As per the DRP-1, Bengaluru vide its order dated 19/08/2021, the TPO/AO revised the TP adjustment to Rs. 12,81,871/- in place of Rs. 12,54,421/-.

2.3 Accordingly, the addition of Rs. 12,54,421/- which was made in the draft assessment order was enhanced to Rs. 12,81,871/- pursuant upon the directions of the DRP, in the final assessment order.

3. Aggrieved, the assessee is in appeal before the ITAT.

4. In the grounds of appeal 1 to 6, the assessee has challenged notional interest on outstanding receivables from AE.

5. Before us, the ld. AR of the assessee filed a paper book containing case law from pages 305 to 419 pages of the paper book, which are as under:

S. No.	Particulars	Page No.	
<b>I. Outstanding receivable from AE not an international transaction</b>			
1.	Pegasystems Worldwide India Private Limited Vs ACIT, AY 2010-11 (TS-488-ITAT-2015(HYD)-TP)	305	327
<b>II. Outstanding receivable from AE not a separate international transaction</b>			
2.	Tally Solutions Pvt. Ltd- I.T. (T.P) A.No.1364/Bang/2011 (TS-620-ITAT-2016(Bang)-TP)	328	375
<b>III. Primary transaction held to be at arm's length</b>			
3.	Kusum Healthcare Pvt Ltd. Vs ACIT, Ranga 5 (TS-129-ITAT-2015(DEL)-TP)	376	388
4.	DCIT Vs Indo American Jewellery Limited (TS-107-ITAT-2012(Mum))	389	394
<b>IV. Non-charging of interest from Non-AE</b>			
5.	DCIT Vs Indo American Jewellery Limited (TS-107-ITAT-2012(Mum))	389	394
6.	Lintas India Pvt. Ltd Vs ACIT-3(2), Mumbai (ITAT No. 2024/Mum/2007)	395	409
<b>V. Interest on foreign currency Loans cannot be benchmarked with SBI deposit rate</b>			
6.	IVY Comptech Private Limited (ITA No 31/HYD/2019)	410	412
7.	Progress Software Services Private Limited (ITA No 347/H/2015) & (ITA No 391/H/2015)	413	419

6. On the other hand, the ld. DR relied on the orders of revenue authorities and submitted that the AO/TPO had rightly applied the SBI's interest rate on outstanding receivables.

7. We have considered the rival submissions and perused the material on record as well as gone through the orders of revenue authorities. The issue is squarely covered by various decisions of the coordinate bench of this Tribunal, as quoted supra by the ld. AR. Following the same, we direct the AO/TPO to delete the impugned adjustment on account of interest on outstanding receivables.

8. As regards ground Nos. 7 regarding considering the income of Rs. 12,39,28,948/- in the computation sheet as against Rs. 11,21,65,131/- as provided in the assessment order and ground no. 8 regarding short grant of TDS and TCS, we remit these two grounds to the file of the AO with a direction to take correct figure of income and grant correct grant of TDS and TCS on examination of the records. Thus, these two grounds are allowed for statistical purposes.

9. As regards ground Nos. 9 to 11 regarding charging of interest u/s 234B and 234C, charging interest under these sections consequential in nature and, therefore, the AO is directed accordingly.

10. Ground No. 10 is regarding initiating penalty proceedings. This ground is premature, in nature, hence, need no adjudication.

11. In the result, appeal of the assessee is partly allowed for statistical purposes.

Pronounced in the open court on 6<sup>th</sup> April, 2022

**Sd/-**  
**(S.S. GODARA)**  
**JUDICIAL MEMBER**

**Sd/-**  
**(L. P. SAHU)**  
**ACCOUNTANT MEMBER**

Hyderabad, Dated: 6<sup>th</sup> April, 2022.

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*Copy to :*

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2	<i>DCIT, Circle - 2(1), Signature Towers, Kondapur, Hyderabad.</i>
3	<i>DRP - 1, Bengaluru</i>
4	<i>DCIT, TPO - 2, Hyderabad</i>
5	<i>ITAT, DR, Hyderabad.</i>
6	<i>Guard File.</i>