

THE INCOME TAX APPELLATE TRIBUNAL
"K" Bench, Mumbai
Shri B.R. Baskaran (AM) & Shri Rahul Chaudhary (JM)

I.T.A. No. 2488/Mum/2021 (A.Y. 2012-13)

DCIT, Central Circle-8(1) Room No. 656, 6 th Floor Aayakar Bhavan M.K. Road Mumbai-400 020.	Vs.	M/s.Allcargo Logistics Ltd. 6 th Floor, Avvashya House CST Road, Kalina Santacruz-E, Mumbai-98 PAN : AACCA2894D
(Appellant)		(Respondent)

Assessee by	Shri Madhur Agrawal
Department by	Shri Smrudhi D. Hande
Date of Hearing	21.06.2022
Date of Pronouncement	22.06.2022

ORDER

Per B.R.Baskaran (AM) :-

The Revenue has filed this appeal challenging the order dated 13.10.2021 passed by learned CIT(A)-55, Mumbai and it relates to A.Y. 2012-13. The Revenue is aggrieved by the decision of learned CIT(A) in restricting the transfer pricing adjustment in respect of corporate guarantee to 0.5% of the guaranteed amount as against 2% determined by the TPO.

2. Learned AR submitted that the assessee had provided corporate guarantee of Rs. 115.43 crores to Allcargo Belgium NV. The TPO adopted rate of 2% as guarantee commission and accordingly proposed transfer pricing adjustment of Rs. 2.09 crores. The Learned AR submitted that the assessee challenged the same by filing the appeal before learned CIT(A). He submitted that learned CIT(A) noticed that guarantee commission was adopted at 0.50% in the assessee's own case for A.Y. 2010-11 and the same was also supported by the decision rendered by Hon'ble Bombay High Court in the case of Everest Kanto Cylinders Ltd. (378 ITR 57). Accordingly learned CIT(A) directed the Assessing Officer/TPO to re-compute transfer pricing adjustment on account

of corporate guarantee given to AE at 0.50% of the guaranteed amount. The Learned AR submitted that the order so passed by learned CIT(A) does not call for any interference, since learned CIT(A) has followed the decision rendered by Hon'ble Bombay High Court as well as decision rendered by the Coordinate Bench in assessee's own case for A.Y. 2010-11 in ITA No. 4786/Mum/2015.

3. On the contrary, learned Departmental Representative supported the order passed by Assessing Officer/TPO.

4. Having heard the rival submissions, we are of the view that the decision rendered by learned CIT(A) does not call for any interference as the learned CIT(A) has rendered his decision by following decision rendered by Hon'ble Bombay High Court as well as the Coordinate Bench of the Tribunal in the cases referred above. Accordingly, we confirm the order passed by learned CIT(A) on this issue.

5. In the result, appeal filed by the Revenue is dismissed.

Order pronounced in the open court on 22.06.2022.

Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER

Sd/-
(B.R. BASKARAN)
ACCOUNTANT MEMBER

Mumbai; Dated : 22/06/2022

Copy of the Order forwarded to :

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

6. Guard File.

//True Copy//

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BY ORDER,

(Assistant Registrar)
ITAT, Mumbai