

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH : BANGALORE**

**BEFORE SHRI GEORGE GEORGE K., JUDICIAL MEMBER  
AND  
Ms. PADMAVATHY S, ACCOUNTANT MEMBER**

ITA No.297/Bang/2022
Assessment year : 2017-18

Safran Engineering Services India Private Limited, Property No.8/2 & 9, The Hub, Ambalipura Village, Sarjapur Road, Bangalore East Taluk, Sarjapur Main Road, Bengaluru. <b>PAN: AAFCS 9003D</b>	Vs.	The Deputy Commissioner of Income Tax, Circle 6(1)(1), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri K.R. Vasudevan, Advocate
Respondent by	:	Shri Bijoy Kumar Panda, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	23.08.2022
Date of Pronouncement	:	24.08.2022

**ORDER**

*Per Padmavathy S., Accountant Member*

This appeal is against the order of the National Faceless Assessment Centre, Delhi passed u/s. 143(3) r.w.s. 144C(13) of the Income-tax Act, 1961 [the Act] dated 21.2.2022 for the assessment year 2017-18.

2. The assessee is a private limited company engaged in the business of providing software development services to its AE. The assessee filed return of income on 30.11.2017 declaring total income of Rs.19,73,96,620. The case was selected for scrutiny under CASS and notice u/s. 143(2) was served on the assessee. A reference u/s. 92CA of the Act for computation of the ALP in relation to the international transaction was made to the Transfer Pricing Officer (TPO). The TPO made an adjustment of Rs.9,07,71,600 in the software development services segment and also made an adjustment towards interest on delayed receivables for an amount of Rs.47,86,977. Aggrieved, the assessee filed its objections before the DRP.

3. The assessee submitted before the DRP that payables to the AE is more than the receivable and therefore there cannot be any adjustment towards delayed receivables. Factually the assessee submitted before that DRP the number of delays while computing the interest on delayed receivables has been wrongly taken at 256 days whereas the average delay is actually 51 days and prayed for a direction to be issued to the TPO in this regard. The DRP gave relief to the assessee deleting the TP adjustment made in the software development services segment. With regard to interest on delayed receivables, the DRP upheld that the interest on receivable is a separate international transaction and upheld the interest levy on the delayed receivables. The DRP gave directions to the TPO to recompute that interest adjustment after verifying the computational mistakes pointed out by the assessee. The TPO while passing the order giving effect to

the directions of the DRP did not consider the computational mistakes. Further the TPO has erroneously considered the payable to the AE as receivable due to which the TP adjustment was enhanced to Rs.69,07,390 towards interest on delayed receivables. The AO passed the final assessment order accordingly. Aggrieved, the assessee is in appeal before the Tribunal.

4. The assessee has raised 18 grounds with regard to the ALP adjustment in respect of "Interest on Outstanding Receivables". Ground Nos. 1 & 2 are general not warranting separate adjudication. Ground Nos.6 to 10 are not pressed by the Id. AR during the course of hearing and therefore dismissed as not pressed. Ground Nos.15 to 18 are consequential. The effective grounds considered for adjudication are as follows -

- (i) No Benchmarking analysis was done and an arbitrary interest rate of 6 months LIBOR plus 400 points (4.485%) was adopted without any basis - **Gr. No. 14**
- (ii) No adjustment for interest on receivables if the company is debt-free company - **Gr. No 11**
- (iii) No adjustment for interest on receivables from AE if the assessee has not charged such interest on receivables from third party - **Gr. No. 12**
- (iv) The TPO has not considered the fact that the appellant has Payables due to the AEs, which are substantially higher than the Receivables due from the AEs and no interest has been charged on the Payables due to the AEs - **Gr. No. 13**
- (v) The closing balance of receivables as on 31 March,2016 is negative in value which indicates that there is no receivables due from the AEs.
- (vi) There are mistakes in the computation of the adjustments - **Gr. No. 3 to 5:**

- (a) Payables has been erroneously taken as Receivables and adjustment computed on the same - **Gr. 3.1**
- (b) Payables are more than the Receivables - **Gr. No. 3.2**
- (c) The correct period of receipt of invoice from AE is 51 days as against erroneously taken by TPO as 256 days - **Gr No. 3.3 & 3.4**
- (d) The TPO failed to give effect to the order of the DRP to rectify the computational error in the adjustment proposed - **Gr. No. 4**
- (e) The adjustment of Rs 47,86,977 shown in the draft assessment order has been enhanced to Rs 69,01,390 without any basis - **Gr. No. 5.**

5. The Id. AR submitted that the assessee is not disputing the view taken by the AO/TPO that the delayed receivable is an international transaction. He submitted that once it is considered to be international transaction, then it is imperative for the TPO to determine the ALP under one of the prescribed methods. The Id. AR further submitted that the TPO has not carried out any benchmarking analysis as per rules, but simply adopted 6 months LIBOR + 400 basis points which is against the TP provision. He also highlighted that the AO has committed computational errors where he has taken the payable figure taken as receivable for computing interest on delayed receivable and has wrongly considered the weighted average period of receipt of payments as 256 whereas the actual is 51 days. The Id AR further submitted that the assessee has filed a petition u/s. 154 [pg. 496 & 497 of PB] for rectification these mistakes apparent on record but the AO has not still passed any order in this regard. The Id. AR submitted that the TPO ignored the fact that the assessee did not charge interest

on delayed receivables from non-AEs. The assessee has receivables as on 31<sup>st</sup> March for an amount of Rs.24.35 crores whereas the receivable is Rs.14.96 crores and if the same are netted off, it would result in a negative receivables position, thereby not warranting levy of any interest on delayed receivables. The Id AR also brought to our attention that the assessee is a debt-free company and it is a settled principle that no adjustment for interest on delayed receivables is warranted for debt free companies since such companies are not required to pay any interest on borrowings. The Id AR relied on the decision of the Delhi Tribunal in the case of *Bechtel India Pvt Ltd (ITA No.1478/Del/2015)* and this order of the Tribunal is accepted by the Hon'ble Delhi High Court and the SLP filed in this regard before the Supreme Court is dismissed. It is therefore the prayer of the Id AR that the issue requires fresh examination at the end of AO/TPO.

6. Having heard the rival submissions of the parties, we are of the considered view that there is merit in the contentions raised by the Id. AR. As rightly submitted by the Id. AR, the ALP of the international transactions have to be determined by following one of the prescribed methods under the I.T. Rules. Admittedly, the TPO/DRP in the instant case has not followed the same. Accordingly, we deem it proper to remit the issue to the file of AO/TPO for determining the ALP with regard to interest on delayed receivables by following the Rules with a proper benchmarking study. The AO/TPO is also directed to rectify the mistakes done in computation of interest raised by the assessee. Needless to say that the assessee may be given a reasonable

opportunity of being heard. The assessee is free to raise all the contentions before the AO/TPO.

7. In the result, the appeal by the assessee is allowed for statistical purposes.

Pronounced in the open court on this 24<sup>th</sup> day of August, 2022.

Sd/-

Sd/-

( GEORGE GEORGE K. )  
JUDICIAL MEMBER

( PADMAVATHY S. )  
ACCOUNTANT MEMBER

Bangalore,  
Dated, the 24<sup>th</sup> August, 2022.

*/Desai S Murthy/*

Copy to:

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

By order

Assistant Registrar  
ITAT, Bangalore.