

आयकर अपीलीय अधिकरण “सी” न्यायपीठ पुणे में ।
IN THE INCOME TAX APPELLATE TRIBUNAL “C” BENCH, PUNE

BEFORE SHRI S.S.GODARA, JM
AND SHRI G.D. PADMAHSHALI, AM

आयकर अपील सं. / ITA No.204/PUN/2018 & ITA No. 1882/PUN/2018
निर्धारण वर्ष / Assessment Year : 2013-14 & 2014 -15

Eaton Fluid Power Ltd.,
145, Off Mumbai- Pune Road,
Pimpri,
Pune – 411 018.

PAN : AAACV8426E

.....अपीलार्थी / Appellant

बनाम / V/s.

DCIT, Circle -8, Pune

.....प्रत्यर्थी / Respondent

Assessee by : Shri Vishal Karla
Revenue by : Shri Prashant Gadekar

सुनवाई की तारीख / Date of Hearing : 26.08.2022
घोषणा की तारीख / Date of Pronouncement : 16.09.2022

आदेश / ORDER

PER S. S. GODARA, JM :

1. These assessee’s twin appeals arise against the DCIT, Cir-8, Pune’s as many assessments; dated 29.11.2017 & 10.10.2018, framed in furtherance to the Dispute Resolution Panel -3, Mumbai (DRP)’s directions dated 27.09.2017 & 24.08.2018 passed in Objection Nos. 20 & 10; in assessment years 2013-14 & 2014-15, respectively, involving proceedings u/s.143(3) r.w.s. 144C (13) of the the Income Tax Act, 1961; in short "the Act".

Heard both the parties. Case files perused.

AY 2013-14 Assessee's appeal ITA No. 204/PUN/2018

2. Learned counsel submits during the course of hearing that the assessee's ground nos. 1 to 3 and 8 are general /consequential in nature. Rejected accordingly.

3. The assessee's substantive grounds nos. 4 to 4.5 challenge correctness of the learned lower authorities action making arm's length price "ALP" adjustment of Rs.13,16,72,743/- pertaining to its receipts of corporate support services thereby placing reliance on their respective orders in preceding assessment years right from 2008-09 onwards. The same admittedly appears a recurring issue between the parties therefore. This tribunal's learned co-ordinate benches have been reversing the department's view questioning the impugned corporate support services received from the overseas associate enterprises "AE" namely M/s. Eaton (China) Investments Co. Ltd. at cost + mark up of 9% and from Eaton Hydraulics LLC on cost to cost basis ; respectively. The Revenue could not pin-point any distinction on facts or law in all these assessment years; as the case may be.

3. We next note that the tribunal's co-ordinate bench in assessee's appeal 804/PUN/17 for A.Y.2012-13 dated 19.02.2020 has decided the instant issue against the department as under:-

“7. Ground Nos. 5, 6 and 7 raised by the assessee challenging the action of AO/DRP in making the upward TP adjustment relating to international transaction in respect of payment made to AEs for corporate support services.

8. Brief facts relating to the issue on hand, during the year, the assessee paid an amount of Rs.7,39,03,220/- towards Corporate Service Charges. A show cause notice issued to the assessee asking as to why value of these services received should not be considered as Nil. The AO was of the opinion that the similar issue was under discussion in previous year also and the contention raised by the assessee was not accepted therein and the value of services as received by the assessee was considered as Nil. As per the clauses to the agreement the cost of service is the cost and expenses actually incurred by ECICL in performance of the services, as demonstrated to participant. Merely allocation of the cost on the basis of turnover does not justify the event either of availing the services or the arm's length price of the transaction. The Taxpayer to establish that the payments were made commensurate to the volume and quality of services and such costs are comparable. Further, the AO held that the assessee has not submitted any details of the expenses incurred by the associated enterprises and failed to establish that fees charged are commensurate benefits against the payment of service fees to the AE. That the expenses were apportioned by the AE among different country-centres on the basis of their own agreements and it has no direct relation with the actual services rendered to individual units. It was duty of the assessee to provide the complete details of the transaction so that the comparable transactions can be identified and not been able to demonstrate expertise of ECICL, the cost actually incurred by ECICL in providing such services to AE, there was necessity to identify procurement of services with reference to tangible benefits derived, arm's length price of the transaction is determined as NIL. Aggrieved by the order of AO, the assessee is before us.

9. Heard both parties and perused the material available on record. The ld. AR drew our attention the page 256 of paper book, submitted that the Tribunal in assessee's own case for A.Y. 2010-11, dealt the issue and decide the same in favour of assessee and referred to para Nos. 18 to 21. On perusal of the same, we note that this Tribunal decided the similar issue in its consolidated order for A.Ys. 2010-11 and 2011-12. We find the Tribunal decided the issue in detail in para 13 of paper book at page 267 for A.Y. 2010-11, by placing reliance on the order of Tribunal for A.Y. 2008-09 held in favour of assessee. Further, the same has been held to be applicable to A.Y. 2011-12 vide para 21 at page 278. We find the facts relating to the issue on hand for the year under consideration are identical, and there is no dispute in this regard. Having no contrary order against the findings of this Tribunal, we hold that the finding rendered by this Tribunal in assessee's own case for A.Ys. 2010-11 and 2011-12 is applicable to the issue raised in ground Nos. 5, 6 and 7. Thus, ground Nos. 5, 6 and 7 raised by the assessee are allowed."

4. The very factual position continues regarding the next twin issues of "ALP" adjustments of Rs.6,26,38,000/- and 3,85,97,146/- inter alia pertaining to manufacturing segment and disallowance of corporate cost allocation; respectively wherein the department once again has lost in its arguments in all the preceding assessment years. Learned co-ordinate bench hereinabove has dealt with the instant issue(s) as follows:-

"4. The brief facts of the case as emanating from the record are that the assessee company is engaged in the manufacture and distribution of fluid power equipment such as pumps, gear pumps, valves, cylinders an

related components for mobile and industrial markets. The assessee company is a joint venture of Mahindra & Mahindra Ltd. Presently, the assessee has become a wholly owned subsidiary of Eaton Corporation. During the year under consideration, the assessee reported international transactions with its AE pertaining to import of raw materials, trading goods and components. In manufacturing activity, the assessee submitted segmental profitability of accounts of AE transactions and Non-AE transactions and applied internal TNMM comparing loss incurred with Non-AE segment with profit that arrived in AE segment. The TPO noticed certain errors and after detailed discussion he rejected the internal TNMM. Before the DRP, the assessee submitted that the ITAT, Pune Benches in assessee's own case for A.Y. 2007-08 upheld the use of internal TNMM for demonstrating arm's length price of its international transactions pertaining to manufacturing segment. Further, it was submitted that the DRP for A.Y. 2011-12 upheld the applicability of internal TNMM but however the DRP upheld the action of TPO in rejecting the internal TNMM selected by the assessee as most appropriate method for determining ALP of its international transactions vide para 3.2.4.

5. *Before us, the ld. AR submitted that the TPO accepted the ALP demonstrated by the assessee in respect of AE and Non-AE segments relating to trading segments. Further, the ITAT, Pune Benches in assessee's own case reported in (2015) 56 taxmann.com 135 for A.Y. 2007-08 held that the internal TNMM is the most appropriate method and referred to page 236 of the paper book and do our attention to para 17 wherein this Tribunal upheld internal TNMM is the most appropriate method to compute arm's length price for the international transactions of purchase of raw material and components from associated enterprises. The ld. AR brought to our notice the ITAT, Pune Benches upheld the same internal TNMM for A.Ys. 2008-09, 2010-11 and 2011-12. There is no contrary order brought on record by the respondent-revenue in this regard. Therefore, we uphold the internal TNMM adopted by the*

assessee in determining ALP of its international transactions in purchase of raw material, components and finished goods. Accordingly, ground No. 2 raised by the assessee is allowed.”

5. The Revenue is fair enough during the course of hearing that this tribunals yet another coordinate bench's common order in its cross appeals with the assessee involving assessment years 2010-11 and 2011-12 dated 15.10.2018 (pages 6 to 36 in paper book) has also declined the very arguments regarding all these three issues. We thus adopt judicial consistency in absence of any distinction in all these assessment years and decide the instant three issues in assessee's favour and against the department. The former's instant substantive grounds 4 to 7.5 stand accepted in very terms. Necessary computation shall follow as per law.

The assessee's former appeal ITA No. 204/Pun/2018 is allowed in above terms.

6. Same order to follow in assessee's latter appeal ITA NO. 1882/PUN/2018 raising as many issues of TP adjustments amounting to Rs.11,20,79,272/- and Rs. 4,07,27,000/- regarding corporate support services, manufacturing segments followed by corporate cost allocation disallowance of Rs.4,51,07,206/-; respectively in absence of any distinguishing features throughout.

7. These assessee's twin appeals are allowed in above terms. A Copy of this common order be placed in the respective files.

Order pronounced in the Open Court on this 16th day of September, 2022.

Sd/-

(G.D. PADMAHSHALI)
लेखा सदस्य/ **ACCOUNTANT MEMBER**

Sd/-

(S.S. GODARA)
न्यायिक सदस्य/**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 16th September, 2022.

Ashwini

आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The DRP -3, Mumbai
4. The CIT-3, Pune.
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, "सी" बेंच, पुणे / DR, ITAT, "C" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

आदेशानुसार / BY ORDER,

// True Copy //

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

ITA No.204/PUN/2018 &
ITA No. 1882/PUN/2018

A.Y. : 2013-14 & 2014-15
Eaton Fluid Power Ltd.,

S.No.	Details	Date	Initials
1	Draft dictated on	02.09.2022	
2	Draft placed before author	14.09.2022	
3	Draft proposed & placed before the Second Member		
4	Draft discussed/approved by Second Member		
5	Approved Draft comes to the Sr. PS/PS		
6	Kept for pronouncement on		
7	Date of uploading of Order		
8	File sent to Bench Clerk		
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R.		
11	Date of Dispatch of order		