

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“D” BENCH, AHMEDABAD**

**BEFORE MS. SUCHITRA KAMBLE, JUDICIAL MEMBER &  
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

I.T.A. No. 434/Ahd/2018  
(Assessment Year: 2012-13)

The Assistant Commissioner of Income Tax, Circle-2(1)(1), Ahmedabad	Vs.	Intas Pharma Limited 203, Chinubhai Centre, Ashram Road, Ahmedabad- 380009
[PAN No.AABCI0331E]		
(Appellant)	..	(Respondent)

<b>Appellant by :</b>	Shri Purushottam Kumar, Sr. D.R.
<b>Respondent by :</b>	Shri Vartik Choksi, A.R. & Shri Dhrunal Bhatt, A.R.

<b>Date of Hearing</b>	07.09.2022
<b>Date of Pronouncement</b>	14.10.2022

ORDER

**PER Ms. SUCHITRA KAMBLE - JM:**

This appeal is filed by the Revenue against the order dated 21.11.2017 passed by the Ld. CIT(Appeals)-2, Ahmedabad for A.Y. 2012-13.

2. The grounds of appeal raised by the Revenue read as under:

“1. The Ld. CIT(A) has erred in law in deleting the upward adjustment of Rs. 1,50,75,015/- towards notional interest made in respect of outstanding receivables.

2. The Ld. CIT(A) has erred in law in deleting the upward adjustment of Rs. 24,00,000/- towards notional mark up on a transaction in respect of the Liason Support services.”

3. The assessee company is engaged in the business of manufacturing pharmaceuticals products. The return of income was filed on 28.11.2012

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declaring loss of Rs. (-)7,06,88,805/-. The AO made adjustments in respect of international transactions to the extent of Rs. 1,80,49,011/-.

4. Being aggrieved by the Assessment Order the assessee filed appeal before the CIT(A). The CIT(A) partly allowed the appeal of the assessee.

5. The Ld. D.R. submitted that the CIT(A) erred in deleting the upward adjustment of Rs. 1,50,75,015/- towards notional interest made in respect of the outstanding receivables. The Ld. D.R. submitted that the ALP interest that was required to be charged by the assessee company from the AEs in view of delay in realization of sale invoices issued beyond the credit period extended by the assessee company. The Ld. D.R. pointed out Page 35 of the Assessment Order wherein the duration was for 335 days. As regards, upward adjustment to the extent of Rs. 24,00,000/- towards notional mark up on transaction in respect of Liason Support services the Ld. D.R. submitted that the CIT(A) totally ignored the fact that certain amount of estimation and approximation is necessary while dealing with transfer pricing adjustment. The Ld. D.R. relied upon the assessment order.

6. The Ld. A.R. relied upon the order of CIT(A) and submitted that approximately 179 days delay was incurred in realization of sale invoices beyond the credit period extended by the assessee company and therefore, the CIT(A) has rightly deleted the upward adjustment.

7. We have heard both the parties and perused all the relevant material available on record. It is pertinent to note that the CIT(A) has given a detail finding that the copy of invoices clearly shows that terms of delivery and

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payment is 180 days from the date of appeal of lading. Therefore, interest is not to be charged up to outstanding period less than 180 days. The CIT(A) has further observed that the TPO has charged interest for 335 days which is not correct but at the same time the TPO has rightly applied the rate at 3.05% which is LIBOR + Foreign Fluctuation Adjustment (FFA) and accordingly the adjustment was confirmed to the extent of Rs. 5,73,996/-. As per RBI policy credit of 180 to 360 days the assessee has to be granted the upward adjustment. Thus, there is no fault pointed out by the Ld. D.R. in respect of delay period which is less than 180 days. There is no need to interfere with the findings of the CIT(A). The appeal of the Revenue is dismissed.

8. In the result, the appeal of the Revenue is dismissed.

<b>This Order pronounced in Open Court on</b>	<b>14/10/2022</b>
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Sd/-  
**(WASEEM AHMED)**  
**ACCOUNTANT MEMBER**

Ahmedabad; Dated 14/10/2022

TANMAY, Sr. PS

**TRUE COPY**

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

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

Sd/-  
**(Ms. SUCHITRA KAMBLE)**  
**JUDICIAL MEMBER**

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)

आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad