

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'I', NEW DELHI**

**Before Dr. B. R. R. Kumar, Accountant Member Sh.  
Yogesh Kumar, Judicial Member**

**ITA No. 3003/Del/2019 : Asstt. Year : 2014-15**

DCIT, Circle-1(1)(1), International Taxation, New Delhi	Vs	AT Kearney Ltd, 7 <sup>th</sup> Floor, Tower-D, Global Business Park, Mehrauli Gurgaon Road, Hayana
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AADCA0861H</b>		

**Assessee by : Sh. Ved Jain & Aman Garg, CA  
Revenue by : Sh. Shri Rajesh Kumar, CIT(DR)**

<b>Date of Hearing: 17.11.2022</b>	<b>Date of Pronouncement: 18.11.2022</b>
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**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

1. The present appeal has been filed by the Revenue against the order of the ld. CIT(A)-42, New Delhi dated 22.01.2019.

2. The assessee has raised the following grounds of appeal:-

*“1. Whether in the facts and circumstances of the case the Hon’ble CIT(A) was justified in law to delete the addition made by the TPO and hold that the payment made for Intra group services was for commercial expediency?*

*2. Whether in the facts and circumstances of the case Hon’ble CIT(A) was right in holding that the TPO has re-characterized the intra group services transaction?*

*3. Whether in the facts and circumstances of the case the Hon’ble CIT(A) was right in not appreciating that TPO has not disallowed the intra group services merely*

*on the issue of non-substantiation of commercial expediency by the assessee but on several factors?*

*4. Whether in the facts and circumstances of the case the Hon'ble CIT(A) was justified in law to delete the adjustment towards the interest on receivables without considering the fact that deferred payment or receivable or any other debt arising during the course of business money is held to be an "International Transaction" within the meaning of section 92B(1) of the Act?"*

3. The appeal relates to the following Transfer Pricing ('TP') issues:-

1. Interest on outstanding receivables ('Receivables')
2. Receipt of support services ('Intra-group services' or 'IGS')

4. The Ld. CIT(A) vide the order adjudicated on the additions on account of Receivables and IGS. Out of these two issues, the Ld. CIT(A) deleted the addition on account of Receivables. With regard IGS. the Ld. CIT(A) partly allowed the international transaction, thereby reducing the adjustment under Section 92CA of the Income Tax Act, 1961 to 11,22,46,547/- as against INR 18,27,21,720/-.

5. The Assessee and the revenue are in appeal before Tribunal.

6. The Id AR submitted that both issues are subject matter of a Bilateral Advance Pricing Agreement ('APA') between India and USA with Profit Split method ('PSM') being selected as the most appropriate method where AY 2014-15 is the first year of APA roll back. The bilateral APA dated 24 March 2022 has been signed and executed by all the parties.

7. Further, in relation to IGS, all the services forming part of the pool of IGS are covered as per Form No. 3CEF filed after the execution of the bilateral APA. It is submitted that with regard to receivables, the interest on the outstanding receivables has been considered while filing the Form 3CEF per the bilateral APA.

8. As per Rule 10RA(5) of Income Tax Rules, 1962 when an APA has been signed and executed, all the appeals pertaining to the decided

years should be withdrawn as no further adjudication is required. The said rule is reproduced below for ready reference -

*"Rule 10RA. Procedure for giving effect to rollback provision of an Agreement*

*...(5) If any appeal filed by the Assessing Officer or the Principal Commissioner or Commissioner is pending before the Appellate Tribunal or the High Court for a rollback year, on the issue which is subject matter of the rollback provision for that year, the said appeal to the extent of the subject covered under the agreement shall be withdrawn by the Assessing Officer or the Principal Commissioner or the Commissioner, as the case may be, within three months of filing of modified return by the applicant."*

9. The Assessee's appeal (ITA no. 2956/Del/2019) pertaining to AY 2014-15 has already been adjudicated by the coordinate bench of ITAT wherein the appeal has been dismissed as withdrawn based on the fact that the transactions are covered by the Bilateral APA.

10. In view of these facts the appeal of the revenue is also liable to dismissed.

Order Pronounced in the Open Court on 18/11/2022.

Sd/-

**(Yogesh Kumar)**  
**Judicial Member**

**Dated: 18/11/2022**

**\*Ajay Kumar Keot, Sr. PS\***  
Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**