आयकर अपीलीय अधिकरण, हैदराबाद पीठ

IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad

Before Shri R.K. Panda, Accountant Member
AND
Shri Laliet Kumar, Judicial Member

ITA No.428/Hyd/2022		
Assessment Year: 2018-19		
M/s. Vivimed Labs Ltd Hyderabad PAN:AAACV6060A	Vs.	A.C.I.T. Central Circle 8(1) Hyderabad
(Appellant)		(Respondent)
Assessee by:	Shri P. Murali Mohan Rao, CA	
Revenue by:	Smt. K. Haritha, DR	
Date of hearing:	18/01/2023	
Date of pronouncement:	30/01/2023	

ORDER

Per R.K. Panda, A.M

This appeal filed by the assessee is directed against the order dated 30.07.2022 passed by the Assessing Officer u/s 143(3) r.w.s. 144C(13) of the I.T. Act relating to A.Y.2018-19.

2. Facts of the case, in brief, are that the assessee is a company engaged in the business of manufacturing of specialties and medicines. It filed its return of income for the impugned A.Y on 31.3.2019 admitting total income of Rs.17,04,19,502/- under the normal provisions of the I.T. Act and book profit of Rs.8,85,19,711/- under MAT provisions. The case of the assessee was selected for scrutiny under CASS. Accordingly statutory notices u/s 143(2) and 142(1) were issued and served on the

assessee along with a questionnaire calling for certain information. The AR of the assessee appeared before the Assessing Officer from time to time and filed the requisite details.

3. Since the assessee had entered into certain international transactions, the Assessing Officer referred the matter to the TPO u/s 92CA (1) of the Act for determination of the Arms' Length Price in respect of the international transactions reported by the taxpayer company. Accordingly, the TPO in his order passed on 31.7.2021 u/s 92CA(1) of the Act suggested upward adjustment of Rs.1,92,40,584/- on account of the following:

a) Corporate Guarantee – Rs.1,34,01,000/-

b) Interest on a Receivables - Rs. 58,39,584/-

4. The Assessing Officer thereafter passed the draft assessment order making the following two adjustments. Apart from the above two additions, he also made addition of Rs.1,49,18,829/- on account of disallowance u/s 14A and addition of Rs.67,46,635/- on a/c of duty drawback received. Accordingly, the Assessing Officer determined the total income of the assessee at Rs.23,59,83,602/- in the draft assessment order passed.

5. The assessee filed objections before the DRP and the DRP vide order dated 28.6.2022 gave partial relief to the assessee wherein the DRP reduced the corporate guarantee to Rs.74,35,000/- and interest receivable on outstanding to Rs.55,03,931/-. However, the DRP upheld the addition of Rs.1,49,18,829/- being disallowance u/s 14A and the addition of Rs.67,46,635/- being duty drawback received. The Assessing

Officer in the final order passed on 30.07.2022 made the above additions as sustained by the DRP and determined the total income at Rs.20,50,33,895/-.

6. Aggrieved with such order of the Assessing Officer/TPO & DRP, the assessee is in appeal before the Tribunal by raising the following grounds:

> *"1. On the facts and circumstances of the case, the Final assessment order ('FAO") dated 30.07.2022 passed by the Asst. Commissioner of Income Tax and the Ld. TPO order dated 31.07.2021 passed u/s 1. 92CA(3) of the Act by Deputy Commissioner of Income Tax (herein after referred to as TPO) are bad both in the eve of law and on facts.*
>
> *2. Erred in making the adjustment of Arm's Length Price for Rs.74,45,000/ towards Corporate Guarantee relating to transaction which assessee entered with its Associated Enterprise.*
>
> *2.1 The Ld. AO/TPO erred in treating the transaction relating to corporate guarantee as international transaction u/s.92B of the Act without appreciating that such an assistance or 2.1 2. its accommodation do not have any bearing on assessee's profits, income, losses or assets, and, therefore, will be outside the ambit of 'international transaction' under section 92B(1).*
>
> *2.2 The AO/TPO ought to have appreciated the fact that the 2.2 Corporate guarantee issued to the AEs is in the nature of providing financial assistance and also to discharge the functions as a shareholder.*
>
> *2.3 The AO/TPO erred in not appreciating the fact that the 2.3 Corporate Guarantee is on account of Commercial expediency and it does not have any bearing on the profits/income of the Appellant/ AE.*
>
> *2.4 The AO/TPO ought to have appreciated the fact that the issuance of Corporate Guarantee to banks on behalf of AE does not involve any cost to the assessee.*
>
> *2.5 The AO/TPO erred in confirming the action of the AO/TPO and in not appreciating the fact that the AE has not received any benefit in the form of lower interest rate by Virtue of the corporate guarantee given by the taxpayer.*
>
> *2.6 The AO/TPO erred in not appreciating the fact that the credit rating of the AE's and country of incorporation is much higher than the credit rating of the assessee and Country of incorporation; the credit facilities are sanctioned Oy the banker based on the financial stability and credit rating of the associated enterprise,*

2.7 The AO/TPO erred in calculating the ALP of the corporate guarantee fee using 'CUP' as the most appropriate method and by applying the rates of SBI without any basis and without complying with the procedure la down for computation of arm's length price as given in the provisions of section 92C of the Act.

2.8 The AO erred in not appreciating the fact that the TPO has erred in comparing the domestic bank rate with the international transaction which is not in accordance with Rule10B(1) of the Income Tax Rules, 1962.

2.9 The AO/TPO erred in not appreciating the fact that no comparison can be made between guarantee issued by commercial bank and the corporate guarantee issued by the holding company for the benefit of AE.

2.10 The AO/TPO erred in not appreciating the tact that the comparison should be based on real transactions of similar nature and it cannot be based on the hypothesis as to what would have happened if the assessee was to have similar transactions with Non-AEs.

2.11 The AO/TPO erred in not appreciating the fact that when | two divergent views are possible, the view which is favorable to assessee should be adopted.

2.12 Without prejudice to above, the AO/TPO erred in calculating the guarantee fee on the entire amount of the guarantee instead of restricting to the extent of fresh guarantee provided during the year under consideration.

2.13 Without prejudice to above, the AO/TPO erred in calculating the guarantee fee on the entire amount of the guarantee instead of restricting the amount to the extent of the withdrawal of guaranteed amount by the AEs.

2.14 Without prejudice to the above, even if it is proposed to make an adjustment towards fee on corporate guarantee, it has to be restricted to reasonable rate.

3. Erred in making adjustment of Arm's Length Price for Rs.55,03,931/- towards international transaction of Interest on Receivables from the AE:-

3.1 The AO/TPO erred in not following the procedure laid down under the provisions of Section 92C of the Act relating to the 'Computation of Arm's Length Price'.

3.2 The Ld AO/TPO ought to have appreciated the fact that the amendment in the 2012 Finance Act does not cover outstanding receivables arising out of assessee's sale transaction as the word 'capital financing' used there is particularly refers to loans or advances during the normal course of business, whereas in Assessee's case, these

are outstanding receivables arising out of Services rendered but not capital financing.

3. 3. The Id AO/TPO ought to have appreciated the fact that the outstanding receivables relate to sale and not in the nature of any advance/loans and therefore it cannot come under the purview of 'International Transaction' as defined u/s 92B of the Act.

3.4 The AO/TPO erred in re-characterizing the nature of the transaction from 'Receivable' to 'loan' which is not permissible u/s. 145 of the Act. A

3.5 The AO/TPO Ought to have appreciated the fact outstanding receivables are that the consequential/closely linked to the sale of products to the AE during the normal course of business and the same has been held by TPO to be within arm's length and making secondary TP adjustment by way of imputing interest on outstanding receivables is unwarranted.

3.6 The AO/TPO ought to have appreciated the fact that, the assessee has adopted TNMM method for ALP of determining the its transactions and the assessee is much operating margin of the higher than its comparables, hence adjustment with any regard to ALP affecting the margin would be operating unjustifiable and against the of Section 92C of provisions the Act.

3.7 The Ld. AO/TPO ought to have appreciated the fact that sales to AE includes a substantial interest profit element with aspect being embedded in it and on receivables therefore, interest cannot be coined as a transaction separate international as envisaged u/s 92B of the Act.

3.8 The AO/TPO ought to have appreciated assessee the fact that the is following a policy of not charging interest on receivables irrespective of the fact that whether the sales 3.6 3.7 A 3.8 As are made to AE or Non-AE.

3.9 The AO/TPO ought to have appreciated that assessee did not charge any interest on advances given to AE's and Non-AE.

3.10. AO/TPO erred in not considering the fact that working capital adjustment itself takes the impact of interest receivables & accordingly no separate adjustment can be made for the receivables.

3.11 The AO/TPO ought to have appreciated the ALP fact that no adjustment is required to be made in a case where after reducing the amount of notional interest charged on outstanding receivables from of operating profit, the margin comparable is less than the margin of the assessee.

3.12 The AO/TPO ought to have appreciated the fact that allowing of extended credit period to the associated enterprises is closely linked to the determination of sale price, which is in-turn base to arrive at the margins of the assessee.

3.13 Without appreciating the fact that the outstanding receivables are foreign currency receivable and same has to be benchmark with the LIBOR rate and not SBI rate.

3.14 The learned Assessing Officer has erred in not following the directions of the Disputed Resolution Panel (DRP) while passing the final assessment order; is a clear violation of provisions of section 144C(10) and (13) of the Income Tax Act, 1961(Act').

3.15 The Ld. AO ought to have appreciated the fact that the directions issued by the DRP are binding on AO, irrespective of fact whether the same are acceptable or not to the Department.

4. Erred in upheld the addition of Rs.1,49,18,829/- towards disallowance u/s 14A:

6.1 The Ld. AO erred in making the disallowance u/s 14A for an amount of Rs. 1,49,18,829/- based on suspicions and surmises without having any cogent reasoning.

6.2 The AO erred in making the disallowed u/s 14A read with rule 8D of Income Tax Act on the alleged reason that borrowed funds were used for Investments in subsidiaries.

6.3 The AO erred in making the disallowance u/s.14A read with rule 8D of Income Tax Act without considering the explanation of the appellant.

6.4 The AO erred in not recording the satisfaction as required under the Act for invoking rule 8D in respect of disallowance of expenditure which is not justifiable and bad in law.

6.5 The AO ought to have appreciated the fact that the investments made by the assessee in its The subsidiaries is out of its own funds.

6.6 The AO ought to have appreciated the fact that the provisions u/s 14A r.w.r. 8D cannot be invoked when there is no exempt and dividend income earned by the assessee during the year.

6.7 The AO ought to have appreciated the fact that the investments made by the assessee in its subsidiaries is for business expediency.

6.8 The AO erred in disallowing certain expenditure u/s.14A, without giving a finding that the expenditure by way of interest booked is not genuine and or a part of the expenditure is relatable to the investment in non-taxable income generating asset.

6.9 The AO ought to have appreciated the fact of case that Investment made in foreign subsidiary cannot be taxable under consideration of Income Tax Act 1961.

6.10 Without prejudice to above, the AO ought to have appreciated the fact that only the value of investment on which dividend income was earned should be taken as average value of investment for the purpose of calculation of disallowance u/s 14A of the Act and further the AO ought to have appreciated the fact the Assessee not have any dividend income during the year.

5. Erred in upheld the addition of Rs. 67,46,635/- towards duty drawback:

5.1 The Ld AO erred in making the addition of duty drawback of Rs. 67.46,635/- based on suspicions and surmises without having any cogent reasoning.

5.2 The Ld AO erred in making the addition without giving the assessee any reasonable opportunity of being heard which is against the principles of natural justice.
5.3 The Ld AO ought to have appreciated the fact that the assessee company has already offered the income of duty drawback to tax under the head business income in profit and loss account and further addition leads to double taxation.

5.4 The Ld AO erred in appreciating the fact that the duty drawback is on the exports made during the year under consideration.

5.5 The Ld AO ought to have appreciated the fact that the 5.5 assessee has maintained all the documents and Books of As stat Account as per provisions of Income Tax Act.

6. The appellant may add, alter or modify any other point to the Grounds of appeal at any time before or at the time of hearing of the appeal".

7. Grounds of appeal No.1 & 6 being general in nature are dismissed.

8. Grounds of appeal No.2 to 2.1.4 relate to the adjustment of ALP of Rs.74,45,000/- towards Corporate Guarantee.

8.1 Facts of the case, in brief, are that the TPO during the course of T.P. proceedings noted that the assessee has extended corporate guarantee to its AE but no fee has been charged on such guarantee. Since according to the TPO, providing corporate

guarantee involves services, he asked the assessee to explain as to why the average bank guarantee rate should not be charged on the corporate guarantee extended. The assessee submitted the following details with respect to the corporate guarantee issued by it:

S.No	Name of the company	Amount (Rs.)
1	Vivimed Labs Europe Ltd UK	19,38,20,000
2	Vivimed Labs UDA Inc.	13,24,80,000
3	Vivimed Labs Mauritius Ltd	41,82,00,000

8.2 It was submitted that these corporate guarantees are provided to various subsidiaries engaged in the business of construction activity. The business activity and the corporate guarantees furnished are intrinsically related to each other. The fund raised by the subsidiary from the Banks by providing the corporate guarantee of the parent company is utilized as part of working capital for the construction business of the company. Corporate guarantees are in the form of letters of comfort to the lenders and the lending capacity of the assessee company was not adversely affected by such letters of comfort. Further assessee submitted that section 92B does not cover corporate guarantee. The assessee objected for charging fee on corporate guarantee provided by it to its foreign AEs. It was submitted that the terms & conditions of corporate guarantee and normal bank guarantee are not similar and that the bank guarantee has direct impact on the assets of the assessee, since bank will not issue the same without any security. Accordingly, it was argued that normal bank guarantee cannot be adopted as comparable for determining the arm's length price of corporate guarantee.

8.3 However, the TPO was not satisfied with the arguments advanced by the assessee. Relying on the provisions of section 92B inserted retrospectively by the Finance Act 2012, information from the websites of various banks and and OECD guidelines, the TPO determined the ALP of corporate guarantee fees at Rs.1,34,01,000/- by adopting the PLI rate of corporate guarantee @ 1.80% per annum. The Assessing Officer accordingly made addition of the same in the draft assessment order. When the assessee objected, the DRP reduced the corporate guarantee charges to 1%. The Assessing Officer in the final assessment order made addition accordingly. Aggrieved with such order of the Assessing Officer/TPO/DRP, the assessee is in appeal before the Tribunal.

8.4 The learned Counsel for the assessee at the outset drew the attention of the Bench to the order of the Tribunal in assessee's own case vide ITA Nos.186 to 189/Hyd/2021 dated 12.04.2022 and submitted that the Tribunal in assessee's own case for the A.Y 2014-15 to 2017-18 has directed the Assessing Officer to adopt lumpsum commission rate of .5%. He accordingly submitted that the corporate guarantee commission be reduced to .5%.

8.5 The learned DR, on the other hand, heavily relied on the order of the Assessing Officer/TPO and submitted that the TPO has given justifiable reasons while adopting the rate of 1.8% and the DRP after thoroughly discussing the issue has reduced such guarantee commission to 1%. Therefore, the assessee should not have any grievance and therefore, the final order of the Assessing Officer be upheld and the grounds raised by the assessee on this issue should be dismissed.

8.6 We have heard the rival arguments made by both sides and perused the record. We find the TPO in the instant case has adopted the corporate guarantee commission rate of 1.80% on account of the corporate guarantee provided by the assessee to its AE and accordingly suggested upward adjustment of Rs.1,34,01,000/-. We find the DRP directed the Assessing Officer to reduce such corporate guarantee commission to 1%. We find the Tribunal in assessee's own case for the immediately preceding 4 AYs has directed the Assessing Officer/TPO to adopt a lumpsum commission rate of .5% by observing as under:

> *"6. Next comes the issue of quantification of the impugned corporate guarantee commission adjustments. Both parties have quoted a catena of case law wherein various learned co-ordinate benches have adopted different rates. Faced with this situation, we deem it appropriate in these peculiar facts and circumstances that a lumpsum commission rate of 0.5% qua the extent of amount of assessee's corporate guarantee(s) actually utilized only in all these four assessment years; would be just and proper. This second substantive ground is partly allowed in very terms.*

8.7 Respectfully following the decision of the Tribunal in assessee's own case in the preceding 4 A.Ys and in absence of any distinguishable features brought to our notice against the order of the Tribunal in assessee's own case, we direct the Assessing Officer/TPO to adopt the corporate guarantee commission rate of .5% qua the extent of amount of assessee's corporate guarantee actually utilized. The grounds raised by the assessee on this issue are accordingly allowed for statistical purposes.

9. In Ground of appeal No.3 to 3.1.5 the assessee has challenged the order of the Assessing Officer in making addition of Rs.55,03,931/- on account of interest on outstanding receivables.

9.1 The learned Counsel for the assessee at the outset drew the attention of the Bench to the order of the DRP at Para 2.3.22 wherein it has been held as under:

> *"2.3.22 In view of the above, considering the objections of the assessee, the TPO is directed to impute interest on receivables after netting off payables following credit period mentioned in the intercompany agreement with AEs or as per the invoice period date applying the SBI short term deposit rate".*

9.2 He submitted that since the Assessing Officer in the final order has not followed the directions of the DRP, therefore, he has no objection if the matter is restored to the file of the Assessing Officer with a direction to compute the interest on receivables after netting off payables.

9.3 The learned DR has no objection for the same.

9.4 Since the AO in the instant case has not followed the direction of the ld.DRP, therefore, the grounds on this issue are restored to the file of the Assessing Officer with a direction to follow the directions of the DRP at Para 2.3.22 of its order and make appropriate addition. Needless to say, while deciding the issue the Assessing Officer shall give due opportunity of being heard to the assessee and decide the issue as per fact and law. While doing so, he shall keep in mind the order of the Tribunal for the preceding years. We hold and direct accordingly. Grounds of appeal No. 3 to 3.1.5 are accordingly allowed for statistical purposes.

10. In Ground of appeal No.4 to 4.10 the assessee has challenged the order of the Assessing Officer in making addition of Rs.1,49,18,829/- towards disallowance u/s 14A.

10.1 Facts of the case, in brief, are that the Assessing Officer, during the course of assessment proceedings, noted from the balance sheet for the year ended on 31.3.2018 that the investment was shown at Rs.151,86,60,000/-. He observed that such investments were shown at Rs.87,60,10,000/- for the year ended on 31.3.2017. Thus there is an increase of investment to the tune of Rs.64,26,50,000/-. According to the Assessing Officer as per the provisions of section 14A r.w.r 8D, an amount equal to 1% of annual average of monthly average of opening and closing balance of the value of investment, whose income is or shall be exempt is disallowable from A.Y 2017-18 even when the assessee claims no expenditure has been incurred by the assessee in relation to income which does not form part of total income. He accordingly made disallowance of Rs.1,49,18,829/- being 1% of the annual average of monthly average of opening and closing balances of the value of investment.

10.2 The DRP upheld the action of the Assessing Officer. While holding so, the DRP noted that the disallowance under rule 8D(2)(iii) is mandatory in nature. However, the Hon'ble Supreme Court in the case of Max Opp Investments Ltd vs. CIT has held that section 14A would be applicable in case where the shares are not held with the intention of earning dividend, but for retaining control over the subsidiaries or as stock in trade and whether the intention or dominant purpose of holding shares would be relevant in determining applicability of section 14A has marked an end to this controversy by holding that the dominant purpose for which the investment into shares is made is not relevant. Since the dividend earned on such shares is not taxable, it would trigger applicability of section 14A and consequently, the expenditure must be disallowed. The AO

therefore held that whether the exempt income is materialized or not is not a relevant factor for invoking provisions of section 14A. He accordingly made disallowance of Rs. 1,49,18,829/- which was upheld by the DRP. The Assessing Officer in the final order accordingly made addition of the same.

10.3 Aggrieved with such order of the Assessing Officer/DRP, the assessee is in appeal before the Tribunal.

10.4 The learned Counsel for the assessee made two fold arguments. He submitted that there is no exempt income and therefore, no disallowance could have been made. In his second plank of arguments, he submitted that the investments are made outside the Country in assessee's own subsidiary company. He submitted that any income from assessee's subsidiary from the foreign country is taxable in India. Therefore, no disallowance u/s 14A is called for. He accordingly submitted that no disallowance u/s 14A r.w.r 8D be made.

10.5 The learned DR, on the other hand, while supporting the order of the Assessing Officer and the DRP submitted that the arguments now advanced by the learned Counsel for the assessee were never advanced before the lower authorities. Therefore, she has no objection, if the matter is restored to the file of the Assessing Officer for verification of the facts.

10.6 We have heard the rival arguments made by both the sides, perused the orders of the Assessing Officer and the DRP and the Paper Book filed on behalf of the assessee. We have also considered the various decisions cited before us. We find the Assessing Officer in the instant case invoked the provisions of

section 14A r.w.r 8D and computed the disallowance u/s 14A at Rs.1,49,18,829/- being 1% of the annual average of monthly average of opening and closing of the value of investment whose income is or shall be exempt. We find the learned DRP upheld the action of the Assessing Officer in the draft assessment order holding that the disallowance under section 14A r.w.Rule 8D is mandatory in nature irrespective of earning or not earning any exempt income. It is the submission of the learned Counsel for the assessee that he has not earned any exempt income during the year. Further, all these investments are made outside India in assessee's subsidiary companies, the income of which when received is taxable in India. A perusal of the order of the Assessing Officer & DRP shows that the same is very cryptic on this issue. Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the Assessing Officer with a direction to adjudicate the issue afresh. Needless to say, the AO shall decide the issue as per fact and law after giving due opportunity of being heard to the assessee, we hold and direct accordingly. Grounds raised by the assessee on this issue are accordingly allowed for statistical purposes.

11. Grounds of appeal No.5 to 5.5 relate to the order of the Assessing Officer in making addition of Rs.67,46,635/- towards duty drawback.

11.1 Facts of the case, in brief, are that the Assessing Officer on the basis of ITS information available with him with regard to export import duty from the CBEC noticed that the assessee has received duty drawback to the tune of Rs.67,46,635/-. In absence of any details furnished by the assessee, the Assessing

Officer inferred that the assessee has not offered the same to tax and therefore, brought the same to tax by making addition of the same.

11.2 Before the DRP, the assessee submitted that the company has already offered the income of duty drawback under the head business income which are as under:

Revenue from operations	Amount (in Rs.)
Other operating revenue	1,92,93,630.11
(a) Job works	67,46,635.00
(b) Duty drawback	1,87,22,31.43
(c) Other Operating Revenues	4,47,62,396.54
Total	2,61,38,58,572.57

11.3 Based on the arguments advanced by the assessee, the DRP directed the Assessing Officer to verify the claim of the assessee from the books of account and if the claim is found to be correct, proposed addition be deleted. Assessing Officer thereafter in the final order made the addition.

11.4 Aggrieved with such order of the Assessing Officer, the assessee is in appeal before the Tribunal.

11.5 The learned Counsel for the assessee submitted that despite the direction given by the DRP, the Assessing Officer in the final order made the addition. He submitted that since the assessee has already declared the duty drawback under the head business income, the same should be deleted.

11.6 The learned DR, on the other hand, referring to the order of the Assessing Officer submitted that when the assessee has not properly submitted evidences to support his claim against the addition, the Assessing Officer had no other option but to

make the addition. She accordingly submitted that the ground raised by the assessee should be dismissed.

11.7 We have heard the rival arguments made by both the sides. We find the Assessing Officer while making the addition has observed as under:

> *"With regard to addition of duty drawback received, the Hon'ble DRP vide their order has directed the Assessing Officer to verify the claim of the assessee from the books of account and give an effect accordingly. However, the assessee has not provided necessary evidences to support his claim against the proposed addition. Hence the same is added to income of the assessee".*

11.8 As per provisions of section 144C(8), the DRP may confirm, reduce or enhance the variations proposed in the draft assessment order so, however, that it shall not set aside any proposed variation or issue any direction under sub section (5) for further enquiry and passing of the assessment order. However, the Tribunal may set aside an issue to the file of the AO for making any further enquiry.

11.9 Since the assessee had not provided the necessary details with supporting evidence, the Assessing Officer in the instant case made the addition. Since it is the contention of the learned Counsel for the assessee that given an opportunity, the assessee is in a position to substantiate that the duty drawback has already been offered to tax as business income, therefore, considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the Assessing Officer with a direction to grant one last opportunity to the assessee to substantiate its case and decide the issue as per fact and law. The assessee is hereby directed to appear before the

Assessing Officer and substantiate that the duty drawback has already been offered to tax under the head business income by furnishing the relevant details. We hold and direct accordingly. Ground raised by the assessee on this issue are accordingly allowed for statistical purposes.

12. Ground of appeal No.6 general in nature is dismissed.

13. In the result, appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the Open Court on 30th January, 2023.

Sd/-	**Sd/-**
(LALIET KUMAR) **JUDICIAL MEMBER**	**(R.K. PANDA)** **ACCOUNTANT MEMBER**

Hyderabad, dated 30th January, 2023.
Vinodan/sps

Copy to:

S.No	Addresses
1	M/s. Vivimed Labs Ltd C/o P Murali & Co. CA, 6-3-655/2/3 Somajiguda, Hyderabad 500082
2	ACIT, Central Circle- (8)-1 Hyderabad
3	Dy.CIT (TPO)-3 ,Hyderabad
4	Dispute Resolution Panel -1 Bengaluru
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order