

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A", HYDERABAD

BEFORE
SHRI RAMA KANTA PANDA, ACCOUNTANT MEMBER
&
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER

आ.अपी.सं / ITA-TP No. 479/Hyd/2022
(निर्धारण वर्ष / Assessment Year: 2018-19)

Mane India Private Limited, Vs. The Dy. Commissioner of
Dundigal Village, Income Tax,
Qutbullapur Mandal, Circle-5(1),
Ranga Reddy District Hyderabad
[PAN No. AACCM1243J]

अपीलार्थी / Appellant

प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by: Shri Suryanarayana, AR

राजस्व द्वारा/Revenue by: Shri Rajendra Kumar, CIT-DR

सुनवाई की तारीख/Date of hearing: 03/04/2023

घोषणा की तारीख/Pronouncement on: 12/04/2023

आदेश / ORDER

PER K. NARASIMHA CHARY, JM:

Aggrieved by the final assessment order passed consequent to the directions of Hon'ble Dispute Resolution Panel, Bengaluru ("DRP"), in the case of Mane India Private Limited ("the assessee") for the assessment year 2018-19, under section 143(3) r.w.s. 144C(13) & r.w.s. 144B of the Income Tax Act, 1961 (for short "the Act"), assessee filed this appeal.

2. Briefly stated relevant facts are that the assessee is engaged in the business of research production, processing and distribution of flavours and fragrance productions. It filed its return of income for the assessment year 2018-19 and in view of certain international transactions, the determination of Arm's Length Price (ALP) thereof was referred to the

learned Transfer Pricing Officer (TPO). Learned TPO suggested an upward adjustment to the tune of Rs. 3,84,65,678/- by order dated 30/07/2021. Draft assessment order was passed on 28/09/2021. Assessee preferred objections before the learned DRP. Learned DRP issued directions on 20/06/2022. Consequently, final assessment order was passed by learned Assessing Officer on 17/08/2022.

3. Assessee preferred this appeal. Though the final assessment order was challenged on several grounds, main plank of argument of the learned AR is that the final assessment order dated 17/08/2022 passed under section 143(3) r.w.s. 144C(13) and r.w.s. 144B of the Act is barred by limitation since it is passed beyond the maximum time limit prescribed under section 144C(13) of the Act.

4. Learned DR submitted that the learned DRP's directions were issued on 20/06/2022, but the same were served on the learned Assessing Officer on 27/06/2022.

5. We have gone through the record in the light of the submissions made on either side. There is no dispute that the learned DRP's directions were issued on 20/06/2022. Assessee requested the department by way of letter dated 26/08/2022 through e-mail to furnish the date of despatch of learned DRP's directions. By letter dated 01/09/2022, the ITO (OSD) & Secretary (DRP-1), Bengaluru stated that the order was despatched on 20/06/2022 and simultaneously it was delivered to the learned Assessing Officer at the same time. Even otherwise, in the final assessment order, it is stated that the directions of the learned DRP were received by the learned TPO on 27/06/2022.

6. Section 144C(13) of the Act states that,-

“Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in section 153, the assessment without providing any further opportunity of being

heard to the assessee, within one month from the end of the month in which such direction is received”.

7. This provision is mandatory. The admitted facts clearly establish that the directions of the learned DRP were received by the learned Assessing Officer/learned TPO at the latest by 27/06/2022. The last date of such month was 30/06/2022 and the period under section 144C(13) expires by 31st July, 2022 whereas the final assessment order in this case was passed on 17/08/2022 clearly beyond limitation.

8. In M/s. Dentsply India (P) Ltd Vs. ITO in ITA No. 4387/Del/2010, dated 24/05/2019, Altran Technologies India Pvt. Ltd. Vs. DCIT in IT(TP)A No. 977/Bang/2022, dated 05/12/2022 and IPG DXTRA India Pvt. Ltd. Vs. DCIT in IT(TP)A No. 967/Bang/2022, dated 19/12/2022 the Co-ordinate Benches of this Tribunal have taken a consistent view that the order passed beyond the limitation prescribed under section 144C(13) is nonest in the eye of law and consequently liable to be quashed.

9. Since on the admitted facts, the final assessment order dated 17/08/2022 is barred by limitation, while respectfully following the consistent view taken by the Co-ordinate Benches of this Tribunal in M/s. Dentsply India (P) Ltd Vs. ITO in ITA No. 4387/Del/2010, dated 24/05/2019, Altran Technologies India Pvt. Ltd. Vs. DCIT in IT(TP)A No. 977/Bang/2022, dated 05/12/2022 and IPG DXTRA India Pvt. Ltd. Vs. DCIT in IT(TP)A No. 967/Bang/2022, dated 19/12/2022 (supra), we hold that such an order is nonest in the eye of law and the same is liable to be quashed. We hold and direct so.

10. In the result, appeal of the assessee is allowed.

Order pronounced in the open court on this the 12th day of April, 2023.

Sd/-

(RAMA KANTA PANDA)
ACCOUNTANT MEMBER

Hyderabad, Dated: 12/04/2023

TNMM

Sd/-

(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Copy forwarded to:

1. Mane India Private Limited, Survey Nos. 586-587, Beside BHEL – GE, Dundigal Village, Qutbullapur Mandal, Ranga Reddy District.
2. Deputy Commissioner of Income Tax, Circle-5(1), Hyderabad.
3. The Dispute Resolution Panel (DRP), Bengaluru.
4. The Director of Income Tax (IT & TP), Hyderabad.
5. The Addl. Commissioner of Income Tax (Transfer Pricing), Hyderabad.
6. DR, ITAT, Hyderabad.
7. GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD