

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

BEFORE

**SHRI R.K. PANDA, VICE PRESIDENT
AND
SHRI LALIET KUMAR, JUDICIAL MEMBER**

आ.अपी.सं / **ITA No.178/Hyd/2021**
(निर्धारण वर्ष / Assessment Year: 2016-17)

TechAspect Solutions Private Limited, Hyderabad. [PAN No.AABCT3783F]	Vs.	Deputy Commissioner of Income Tax, Circle-2(1), Hyderabad.
अपीलार्थी / Assessee		प्रत्यर्थी / Respondent

निर्धारिती द्वारा/Assessee by:	Shri Alisagar Rampurwala, C.A
राजस्व द्वारा/Revenue by:	Shri CH V Gopinath, CIT-DR

सुनवाई की तारीख/Date of hearing: 09.11.2023
घोषणा की तारीख/Pronouncement on: 14.11.2023

ORDER

PER LALIET KUMAR, J.M.

This appeal is filed by the assessee, feeling aggrieved by the order of Commissioner of Income Tax (Appeals), National Faceless Assessment Centre, Delhi dt. 26.03.2021 invoking proceedings under section 143(3) r.w.s. 144C(13) r.w.s. 143(3A) & 143(3B) of the Income Tax Act, 1961 for the assessment year 2016-17.

2. The ld. AR for the assessee has submitted that assessee has entered into Mutual Agreement Procedure with US Competent Authorities with respect to transfer pricing adjustments done with respect to the international transactions pertaining to the assessee with US entities. Hence, he wishes to withdraw the transfer pricing grounds pertaining to the international transactions entered between TechAspect Solution Inc., and TechAspect Solution Private Limited which were resolved under MAP and further he wants to continue the appeal in relation to TP adjustment u/s 92CA towards software development services rendered to TechAspect Solutions UK Limited.

3. In this regard, the ld. AR had drawn our attention to the communication of resolution dt.20.07.2023 / closure of dispute under MAP with the USA in the case of TechAspect Solution Inc and M/s. TechAspect Solution Private Limited for A.Y. 2016-17 as per Rule 44G(6) of IT. Rules, 1962. The relevant portion of the communication of resolution dt.20.07.2023 reads as follows :

“2. In accordance with Rule 44G(6) of the Income Tax Rules, 1962 (‘Rules’), I am directed to state that the Indian and USA Competent Authorities (Cas) have agreed to resolve the MAP in your case for AY 2016-17 for the transaction of provision of Software Development services by TechAspect Solution Private Limited to TechAspect Inc. by taking the Indian taxpayer as the tested party, TNMM as the most appropriate method and OP/OC as the PLI. Further, the transaction of interest on delayed receivables has been resolved using Other Method.

3. As per the MAP resolution agreed upon by the two CAs, the computation of MAP relief and the retained TP adjustment is as follows :

Indian Taxpayer	AY	SWD Services						
		Determined Margin	TOTAL		US RELATED		NON-US RELATED	
			ALP	Adjustments	ALP	Adjustments	ALP	Adjustments
Tech Aspect Solutions Private Limited	2016-17	26.36	30,99,18,633	5,46,36,038	28,83,14,825	5,08,27,469	2,16,03,808	38,08,569

Indian CA

Indian Taxpayer	AY	SWD Services				
		US RELATED TRANSACTIONS				
		Operating Revenue	Operating Cost	Determined Margin	Arm's Length Price	Adjustments
Tech Aspect Solutions Private Limited	2016-17	23,74,87,356	22,807,558	18.06	26,91,85,722	3,16,98,367

“3.1. Further for the adjustment on the transaction of interest on delayed receivables made in AY 2016-17, the entire adjustments of Rs.2,59,890/- would be withdrawn.

4. As per rule 44G(7) of the Rules, you are requested to communicate your acceptance or non-acceptance of the above resolution in writing to the Competent Authority in India. Further, the said acceptance shall be communicated within thirty days of receipt of this communication under sub-rule (6) of Rule 44-G.

5. In case of acceptance of the above resolution, you are also requested to enclose with it the proof of withdrawal of appeal, if any, pending on the transaction that is the subject matter of this resolution, in accordance with sub-rule (8) of rule 44G. You may also email your response on the following email id: dcit.apa-1@gov.in.

6. Notwithstanding above, it may be noted that the MAP resolution would not result in income lower than the filed / returned income and further, the implementation of this MAP would be subject to the fact that ITAT has not passed ruling on the issues under MAP as on the date of implementation.

Yours faithfully,
Sd/-
(Dr. Vijit Patel)
Under Secretary, APA-1,
FT&TR-1, CBDT,
Email: dcit.apa-1@gov.in

4. In view of the above, it was submitted that the transfer pricing grounds pertaining to TP adjustments related to the US Entities may be permitted to be withdrawn.

5. On the date of hearing, ld. AR for the assessee orally submitted that along with the grounds of appeal pertaining to the international transactions with its Associated Enterprise (hereinafter called as "AE") situated in US, he also wants to withdraw the international transactions with its AE situated in UK for which the Assessing Officer made certain additions in the hands of the assessee, which are also mentioned in the order dt.20.07.2023, due to the smallness of the amount. Hence, he requested that he may be permitted to withdraw the grounds with respect to transactions related to UK entities also.

6. The ld. AR for the assessee further submitted that the withdrawal of grounds pertaining to UK entities may not be considered as an admission of any of his liability and should not be treated as precedent.

7. On the other hand, ld. DR submitted that he has no objection for withdrawal of grounds pertaining to US related AE due to the closure of dispute under MAP with the USA.

8. Having considered the parties and the perusal of material available on record, we grant the permission for withdrawal of transfer pricing grounds pertaining to the determination of ALP of transactions of the AE situated in UK due to the smallness of the amount also along with the grounds pertaining to transactions of the AE situated in US.

9. We further make it clear that as the assessee is withdrawing the grounds pertaining to the determination of ALP of transactions of the AE situated in UK due to smallness of amounts, withdrawal of the grounds may not be treated as precedent in the subsequent or previous assessment years having identical facts. Thus, all the grounds of appeal of the assessee are dismissed as withdrawn. Accordingly, the appeal of the assessee is dismissed as withdrawn.

10. In the result, the appeal of the assessee is dismissed as withdrawn.

Order pronounced in the Open Court on 14th November, 2023.

Sd/- (R.K. PANDA) VICE PRESIDENT	Sd/- (LALIET KUMAR) JUDICIAL MEMBER
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Hyderabad, dated 14th November, 2023.

TYNM/sps

Copy to:

S.No	Addresses
1	TechAspect Solutions Private Limited, 3 rd Floor, Plot No.38, N Heights, Hitech City Phase II, Madhapur, Serilingampally, Ranga Reddy, Hyderabad – 500082, Telangana.
2	Deputy Commissioner of Income Tax, Circle 2(1), Hyderabad.
3	Dispute Resolution Panel (DRP), Bengaluru.
4	Director of Income Tax (IT & TP), Hyderabad.
5	Addl. Commissioner of Income Tax (Transfer Pricing), Hyderabad.
6	DR, ITAT Hyderabad Benches
7	Guard File

By Order