IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'I': NEW DELHI

BEFORE,
SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER

ITA No.959/Del/2018, (A.Y.2012-13)

ITA No.960/Del/2018, (A. Y. 2013-14)

AT Kearney Limited- India Branch Office 7th Floor, Tower-D, Global Business Park, Mehrauli Gurgaon Road, Gurgaon-122 002 **PAN-AADCA0861H**	Vs.	Dy. Commissioner of Income Tax, Circle 1(1)(1), International Taxation, New Delhi
(Appellant)		**(Respondent)**

ITA No.1305/Del/2018, (A.Y.2012-13)

ITA No.1306/Del/2018, (A. Y. 2013-14)

Dy. Commissioner of Income Tax, Circle 1(1)(1), International Taxation, New Delhi	Vs.	M/s. AT Kearney Limited-India Branch Office 7th Floor, Tower-D, Global Business Park, Mehrauli Gurgaon Road, Gurgaon-122 002 PAN-AADCA0861H
(Appellant)		**(Respondent)**

Assessee by	Sh. Ajay Vohra, Sr. Adv.
Department of Revenue by	Shri Rajesh Kumar, CIT(DR) & Shri Manu Chaurasia, Sr. DR

Date of Hearing	07/12/2023
Date of Pronouncement	28/02/2024

ORDER

PER YOGESH KUMAR U.S., JM:

These appeals are filed by Assessee and the Revenue against the orders of Learned Commissioner of Income Tax (Appeals)-42, New Delhi ["Ld. CIT(A)", for short], dated 06/11/2017 for Assessment Year 2012-13, 2013-14 respectively.

2. The grounds of appeal raised by the Assessee as well as Revenue are as under:

2.1 The grounds of ITA No. 959/Del/2018, A.Y. 2012-13 (Assessee)

"The following grounds are independent of and without any prejudice to one another:

Availing of lntra group services {adjustment of lNR Rs. 48,262,519)

1. *On the facts and law, the Hon'ble Commissioner of Income Tax (Appeal)-42 ['Hon'ble CIT(A)'] has erred in upholding an adjustment of INR 4,82,62,519 to the taxable income of the Appellant on account of arm's length price of the transaction related to payment of Management fees.*
2. *On the facts and in law, the Hon'ble CIT (A), erred in upholding part of the adjustment relating to payment of management fee and while doing so erred in:*
2.1. *Wrongly alleging that certain services were duplicative in nature, contradicting his own findings at various places in the order.*

2.2. *Ignoring the substantial documentation provided by the Appellant and considering certain portion of the services being of stewardship in nature, while disallowing them on an ad-hoc basis.*

2.3. *Concluding that various services availed are in the nature of stewardship services, thereby ignoring the detailed methodology submitted by the Appellant wherein shareholder services were already excluded.*

2.4. *Disallowing the expense of management fee purely based on surmises and conjectures, thereby questioning the commercial expediency of the Appellant.*

3. *That the learned AO has erred, in law and on facts, in proposing to levy interest under section 234A, 2.34B, 234C and 234D of the Act.*

4. *That the learned AO has erred, in law and on facts, in proposing to initiate penalty under section 27l(l)(c) of the Act.*

The above Grounds of Appeal are without prejudice to each other.

The Appellant craves for leave to amend, vary, omit or substitute any of the aforesaid grounds of appeal or add any further ground of appeal(s) at any time before or at the time of hearing of the appeal."

2.2 The grounds of ITA No. 960/Del/2018, A.Y. 2013-14 (Assessee)

"The following grounds are independent of and without any prejudice to one another:

Availing of lntra group services (adjustment of lNR Rs. 6,21,54,536)

1. *On the facts and law, the Hon'ble Commissioner of Income Tax (Appeal)-42 ['Hon'ble CIT(A)'] has erred in upholding an adjustment of INR 6,21,54,536 to the taxable income of the Appellant on account of arm's length price of the transaction related to payment of management fees.*

2. *On the facts and in law, the Hon'ble CIT (A), erred in upholding part of the adjustment relating to payment of management fee and while doing so erred in:*

2.1. *Wrongly alleging that certain services were duplicative in nature, contradicting his own findings at various places*

in the order.

2.2, *Ignoring the substantial documentation provided by the Appellant and considering certain portion of the services being of stewardship in nature, while disallowing them on an ad-hoc basis.*

2.3. *Concluding that various services availed are in the nature of stewardship services, thereby ignoring the detailed methodology submitted by the Appellant wherein shareholder services were already excluded.*

2.4 Disallowing the expense of management fee purely based on surmises and conjectures, thereby questioning the commercial expediency of the Appellant

3. *That the learned AO has erred, in law and on facts, in proposing to levy interest under section 234A, 234B, 234C and 234D of the Act.*

4. *That the learned AO has erred, in law and on facts, in proposing to initiate penalty under section 271(1)(c) of the Act.*

The above Grounds of Appeal are without prejudice to each other.

The Appellant craves for leave to amend, vary, omit or substitute any of the aforesaid grounds of appeal or add any further ground of appeal(s) at any time before or at the time of hearing of the appeal."

2.3 ITA No. 1305/Del/2018 and ITA No. 1306/Del./2018

(Revenue) are same so reproduced as under:

1. *The Ld. CIT(A) has erred in deleting the entire amount of HRIS, information system and K Net services by merely relying only on the sample email communication submitted by the taxpayer leading to the complete relief on account of these services.*

2. *The Ld. CIT(A) has erred in not considering the fact that the documentary evidences submitted by the assessee that are merely email communication to establish the availing of the services do not substantially prove that the benefit has actually been driven by the taxpayer.*

3. *On the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in restricting the*

addition/disallowance to the tune of 20% of the payments for Global Office Services without substantial methodology and evidences, since no independent party would make payment to a third party on estimated basis.

4. *The Ld. CIT(A) has also erred in not considering the fact that the assessee is performing the operations in India for about 20 years and paying the remunerations here for HR services and still rely on AE for managing the HR services which prima facie shows that there is duplication of services.*

5. *Whether in the facts and circumstances of the case, the Ld. 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 IT Act, 1961.*

6. *The appellant craves leave, to add, modify, amend or alter any grounds of appeal at the time of, or before, the hearing of appeal."*

3. Since the facts involved in these appeals and the grounds of appeals raised by the parties are common, the Appeals are being disposed off together by this consolidated order.

4. For the sake of convenience, the facts of the case as narrated in the order of the CIT(A) for the assessment year 2012-13 are considered which are as under:-

"4.1 The Appellant, acting as a branch office of A. T. Kearney Limited (ATK UK), is engaged in the business of providing

management consultancy services to its clients. Pursuant to the approval of the Reserve Bank of India, ATK UK had established a branch office in India in 1997.

4.2 The return of income was processed under section 143(1) of the Income Tax Act, 1961 ('the Act') and the case was selected for scrutiny under section 143(3) of the Act by issuance of notice under section 143(2) of the Act by the Learned Deputy Commissioner of Income Tax, Circle-1(1)(1), International Taxation, New Delhi ('Ld. AO') 4.3 During the subject year under appeal, the Appellant had entered into various international transactions with its AEs. Accordingly, the Appellant's case was referred by the Ld. AO to the Learned Deputy Commissioner of Income Tax, Transfer Pricing Officer -I(1)(1) ('Ld. TPO') under section 92CA(3) of the Act for establishing the Arm's length Nature of the Appellant's international transactions. The Ld. TPO initiated the TP assessment proceedings by issuing a notice dated 9 February 2015 under section 92CA(2) and 92D(3) of the Act.

4.4 Thereafter, the Appellant claimed to have filed an accountant's report in Form 3CEB (in accordance with section 92E of the Act) along with the return of income, inter-alla reporting the particulars of its international transactions with AES, along with method(s) used to determine the arm's length price of the international transactions.

4.5 The Appellant also claimed to have maintained necessary transfer pricing ('TP') documentation as prescribed under the Indian Transfer Pricing Regulations contained in sections 92, 92A to 92F of the Act, read with Rules 10A to 10E of the Income Tax Rules, 1962 ('the Rules') to establish the arm's length nature of the international transactions entered with the AEs having regard to the arm's length standard prescribed under the Indian Transfer Pricing Regulations.

4.6 The assessee submitted that a detailed analysis was conducted by the assessee to determine the functions performed, risks assumed and assets utilized by the Appellant and its AEs with respect to various international transactions undertaken during the subject year under appeal in the TP documentation. Further, as per the assessee, the economic analysis for the determination of the arm's length price was undertaken in accordance with the provisions of the Act, read with the Rules. Based on the TP documentation, it was concluded on the part of the assessee that the international transactions of the Appellant with its AEs are at arm's length.

4.7 During the course of TP assessment proceedings under section 92CA (2) of the Act, the Ld. TPO called for various information and explanation from the Appellant to verify the arm's length price so determined by the Appellant in relation to various international transactions undertaken with AES.

4.8 The Ld. TPO didn't concur with the arm's length analysis undertaken by the Appellant for the transactions tabulated below and accordingly, determined the arm's length price for such international transactions to be different from those determined in the TP documentation. TPO held the arm's length price of the management services to be nil on application of CUP method as no uncontrolled enterprise would have paid any amount for services which do not tantamount to intra group services with demonstrable benefits. Based on this, the Ld. TPO proposed the TP addition of INR 15,55,04,398/- to the Ld. AO. Transaction wise break-up of the TP addition proposed by the Ld. TPO has been tabulated below:-

S. No.	*Nature of transaction*	*Actual transaction value (INR)*	*ALP determined by Ld. TPO (INR)*	*TP addition (INR)*

1	*Payment of management fees to A.E*	*126,851,453/-*	*NIL*	*126,851,453*
2	*Imputed interest on outstanding receivables from A.Es*	*NIL*	*28,652,945*	*28,652,945*
Total TP addition				*155,504,398*

3. Now we will consider the common ground in cross appeals in assessment year 2012-13 & 2013-14. The issue in these appeals of the Assessee is with regard to allowability of inter-group payment of management fees.

3.1 Facts of this issue are that in the assessment year 2012-13 that, the assessee claimed payment of Rs.12,68,51,453/- towards payment of availing management services. The ld. AO after considering the TPO's order, disallowed the entire amount. However, on further appeal, ld. CIT(A) has partly allowed the claim of assessee. Against this, both the assessee as well as revenue are in appeal before us in both the assessment years.

4. The ld. D.R. submitted that the contention raised by the assesses has been duly discussed by the TPO in his order and also dealt at length by CIT appeal on some issues. In fact the TPO has disallowed the fees paid for IGS on the ground that the so called

services which have been claimed to have been received from the AE have not been proved by way of evidences and in that respect, the questionnaire and the show cause notice issued by TPO becomes important and for ready reference, the same is reproduced below. In the TP proceedings, the TPO wide Questionnaire/ Show cause notice dated 09.12.2015, asked the assessee to file details, with regard to rendition of services. The details as asked in Para 19 of the TPO order are reproduced below:-

"1. Please furnish all the agreements entered in to by the assessee company, related to the Intra Group Service obtained by the assessee company from the AEs during the year.

*2. Please identify each of the services **actually received** by the assessee company.*

*3. Please specify the amount of payment made for **each of such services.***

*4. Please submit the **comtemporaneous documentary evidence** to show that these services have actually been received by the assessee company.*

5. Please justify the need for the receipt of such services for which payment has been made,

*6. Please state -with documentary evidence as to when and how these services were **requisitioned** from the AEs.*

7. Please state as to how the rate or payment for IGS has been determined at the time of entering in to the agreement? Please also furnish the basis thereof.

8. Please state as to whether any cost benefit analysis was done while entering into the agreement and while requisitioning the services for payment of IGS?

a. If so the details of such cost benefit analysis should be furnished. The cost benefit analysis should include the expected benefit from the IGS vis the payment made for the same.

b. Please specifically state as to whether any benchmarking analysis was done at the time of entering into the agreement so as to compare the

payment of IGS to the AE vis a vis an independent party under similar circumstances. If so, the details thereof.

9. Please show with evidence as to what tangible and direct benefit has been derived by the assessee company from the use of such IGS. JO.

10. Whether the services availed from AEs, have also been performed by the assessee company itself or also availed from independent parties? If yes,

a. The details of such expenditure for each of the services should be furnished.

b. Please state as to why a separate payment has been made for such services to the AE.

11. Please furnish details and documentary evidence of cost incurred by the AE for rendering each type of services purportedly received by the assessee company and the mark up applied, if any by the AE. Please also state as to whether the cost incurred by the AE is audited.

12. Whether AE is rendering such services to any other AEs/independent parties also. If yes the details thereof including the rates/amount charged from such AEs along with mark up if any.

13. If the AE has rendered services to more than one entity including the assessee company, then the basis of allocation amongst various entities may be furnished. Please also furnish the basis of choosing a particular allocation key.

14. If the above information is not furnished, complete in all respects, along with contemporaneous documentary evidences, the arm's length payment for these intra group services would be treated as Nil by applying CUP method."

4.1 The Ld. DR submitted that the assessee has failed to submit the evidences with regard to above i.e. for requisition/ rendition of services and also in case of some services, allocation keys of cost incurred by AE and corresponding benefits. The TPO concluded his findings in Para 8 Page. 91(Appeal set), which is not being repeated for the sake of brevity. However, in brief, it can be

said, that TPO has disallowed the intra group services charges paid on the following grounds:-

> *"1. No evidence of services received/ availed have been filed.*
>
> *2. No evidence of requisition of such services submitted.*
>
> *3. No evidence of cost incurred by AE's in providing such services submitted.*
>
> *4. The TPO also asked the assessee to submit the information about receipt of same services by other AE's of the group also and also the details of allocation of common cost incurred for Rendering of such services, which has not been submitted.*
>
> *5. Benefits received from such services also not filed."*

4.2 Further the Ld. DR submitted that the TPO also relied on the guidelines issued by OECD and also referred to the international practices with regard to intra group services in various countries. The Ld. CIT(A) partly allowed the stand of the assessee and partly confirmed order of the TPO/ AO. The CIT(A) gave findings in Para 5.17/Page40 (appeal set) and the same are not repeated for the sake of brevity. Thus, both at the level of TPO/AO and CIT(A), the assessee has failed to submit concrete evidence with regard to the so called services rendered by AE's and received by the Assessee Company. In the light of the above observations/findings of the TPO/CIT(A), the Ld. DR submitted that the assessee's evidences are examined and found that the Assessee has made

payment of Rs. 12,68,51,453/ - to its AE i.e. M/s AT Kearney Inc. (ATK. US).

4.3 Further, the Ld. DR drew our attention to various evidences furnished by the assessee and commented in writing on it as below:-

Examination and analysis of Assessee's evidence.

(i) Human Resources Services & IT Human Resource Information System ('HRIS'):

With regard to these services, the assessee has submitted sample of email communications as evidence in support of its claim that services were received by it. However, on going through these emails, it appears that most of the mails are either the information provided by parent company to its AE's or general discussion on policy matters of group companies. During the year the assessee has paid Rs. 3.09 crore as IGS under this head, which does not commensurate with the level of so called services provided by parent company to its Indian AE, considering the content of mail and its frequency. In this regard some mails which were highlighted by assessee by submissions are discussed below:

a. page 642 of assessee's paper book *-*

This mail is informative in nature and cannot be classified as services. In this mail the H.R. director of the parent AE has informed to all employees of all AE's about MBA sponsored programme, which cannot be considered as services for which such a huge amount should be paid.

b. Page 646 to 655 assessee's paper book *-*

In this mail Peter Pesce (who is claimed as HR personnel of AE in its submission) has shared with so many employees / personnels of group companies, PPT of Career Development for Management Services employees. From perusal of this document, it is evident that it discusses about general career development of ATK group employees, which cannot said to be receiving services by assessee company from its parent entity. From page 646, it is apparent that this mail was sent to so many individuals and it has no relation with assessee company.

c. Page 656 of assessee's paper book *-*

This mail was sent from John Yoshimura to "global all", which is absolutely informative in nature. In this mail Mr. John Yoshimura informed to a|l about AT Kearney's achievements and activities in relation to their gay, lesbian, bisexual and transgender alliance. Information about some programme cannot be said as receiving services by any stretch of imagination.

***d. Page 764 of assessee's paper book** -*

In this mail, Ms. Randy Robertson (Manager Global Production Service) is discussing about transportation in Gurgaon India. A discussion on transportation issue with someone cannot be considered as services.

***e. Page 993 to 1006 of assessee's paper book** -*

On this page there are two mails, one was sent from Gaurav Gupta to PPS Admin and in response to this Julia Kinney shared some document. If some employee of a group company has shared a document with newly joined partner, that does not mean that services were provided by parent entity to Indian AE and such a huge amount is not justifiable for providing help to some new partner.

***f. Page 659 to 661 of assessee's paper book** -*

These mails were sent from Mr. Peter Pesce and John Yoshimora to Glorjal all. They are sharing motivational information to all group companies and has no relation with receiving services by Indian entity.

***g. Page 662 of assessee's paper book** -*

This mail was also sent by Mr. John Yoshimora to Global employees in relation to work-life balance and flexibility. It is also not clear that the Indian entity has acted on it or not.

***h. Page 657 & 658 of assessee's paper book** -*

This mail was sent by Ms. Shoron to all employee of different country about the data of feedback.

In light of the above email communication which were highlighted by the assessee as evidence, and considering the other emails also, which were submitted by the assessee before AO & CIT(A), it can be concluded that all the mails provided by the assessee are nothing but general discussions about policies and initiatives of group at global level and does not qualify the standard of evidence as such. Hence, paying such a huge amount for this is not justifiable.

(ii). Global CEO Services and Global Business Policy counsel:

On these services, the assessee has paid Rs. 0.21 crores and Rs. 0.90 crore respectively. In this regard the assessee has provided reports

knowledge-papers and emails from global CEO to support its claim. On going through the service agreement on the assessee, provisions in this regard are missing. On page 498 & 499 of paper book, article 1.3 (e), it is apparent that no such services are part of the agreement and from article 1.3(0 a's° it is not clear that how the parent AE has allocated cost for this head to Indian assessee company. Hence, in absence of any cost allocation key this amount cannot be justified as IGS.

(iii). IT -Information Systems and Net Services:

Under this head, the assessee has paid Rs. 2.52 crore to its parent entity. In this regard, assessee has provided only two mails dated 28.03.2012 and 04.04.2012. These emails were sent from knowledge net to global all, which contains information about relocation and up-gradation of global data centre and non - availability of services. These mails cannot be the evidence of rendition of services. From page 16 of CIT(A) order it is evident that assessee has incurred Rs. 1.66 crore locally, under this head. In absence of any evidence of rendition of services, this amount cannot be considered as payment towards availing of services.

(iv). Production Services:

6.10 In this regard, at page 18 para E.4 of CIT(A) order, assessee has himself explained that these services fall under the had 'I'.T.. In para E.5 of same order assessee has further explained that these services are intended to equip the resource to prepare and produce wide range of presentation material etc. From the above it is cleared that these services are duplicated in nature. References of mails in this regard are also general in nature and do not conclusively prove that services were received. Ld. CIT (A) at para 5.17, page 37 also concluded that these services are duplicative in nature.

(v). Accounting treasury, Finance & tax Services:

6.11 Under this head, the assessee has paid Rs. 1.84 crore to parent entity. Assessee has referred page 1007, 1008, 1009 & 1060 of paper book in support of its claim. It is evident that these documents were not placed before TPO or CIT(A). at para F.5, page 20 of CIT(A) order, Ld. CIT(A) mentioned that no such mails submitted by assessee which highlights resolution of any important accounting/flnance/tax matter. Further Indian entity is bound to follow the accounting standards and tax laws in India,

and foreign resource guidance, in this regard, does not arise. At page 21 of same para ld. CIT(A) has highlighted the fact that the evidence regarding accounting services was not submitted during assessment proceedings and considered these services of the nature of stewardship activities.

(vi) Legal Services:

Under this head, assessee has paid Rs. 48.53 lac. In this regard it is important to mention that ATK US develops maintains and owns valuable trade-names and trademarks. As per transfer pricing report, the assessee has entered into an agreement with ATK US for the use of trade-names and trademarks. During the year, ATK Us has received royalty an amount of Rs. 4.75 crores from the assessee company for use of its intellectual property. In the backdrop of payment of royalty, expenditure incurred on account of legal services is not justifiable. Ld. CIT{A) also has highlighted this fact at para 5.11 page 29 of its order and considered these services duplicative in nature (para 5.17, page 37of CIT(A) order).

(vii) Marketing Services:

Under this head, assessee has paid Rs. 47.29 lac. During the appellate proceeding before CIT(A) as well as before Hon'ble ITAT, assessee has provided only one email as evidence. Ld. (CIT(A) as page 24, para H.3 highlighted this fact that the assessee submitted only one email communication on sample basis to demonstrate the fact of rendering of services, which is an email from paul laudicina on launch of new brand tool kit. In light of the fact that assessee has paid Rs. 4.57 crore for the use of intellectual property, sharing of information about launch of toolkit cannot be considered as evidence of rendering of services. Ld. CIT(A) has discussed this issue in details at para 5.11, page 29 of his order and concluded that these services are duplicative in nature.

(viii) Services provided by Global CEO Office:

ATK US claims to provide leadership services to all ATK affiliates to develop and implement new practices on a regular basis with the ever-changing HR environment. Based on CEO's experience and insight, the Appellant has been able to build strong credentials in associations with leading practitioners and clients in the industry. Ld. CIT(A) has discussed this issue at length at para 5.11 page 29 of his order and concluded that these kinds of services are actually duplicative in nature (para 5.17 page 37 of CIT(A) order)

(ix) Global support services.

Ld. CIT (A) at page 31 para 5.12 of his order has discussed about these services. On the basis of analysis of content and intent of these mails, concluded that 20% of these services are of the nature of stewardship activities. However, from perusal of Ld. CIT(A) order at para 5.12, it appears that he has discussed only about, how these activities are actually stewardship activities. He is silent on how these activities are genuine intra group services. Under these circumstances, considering the 80% of total payment on account of intra Group services is not justifiable and without any basis. In this regard, observation of Ld. CIT(A) are highlighted below:-

a. Para 5.12.1 page 31 of CIT(A) order:

The approval is nothing but a control and supervisory function is respect of commercial terms & conditions of the contract.

There is no value added service delivered through the process of approval except the control function of the parent entity on Indian entity.

b. para 5.12.2 page 32 of CIT(A) order:

The coordinated and global approach is for the direct benefit of the parent. India entity would not have approached third party for such services of coordinated planning. These services ate in the nature of stewardship activities.

c. para 5.12.3 page 3.3 of CIT(A) order:

The reporting has been forced on the India entity by the parent entity to have effective control. Indian entity would not have approached third party for such feedback based on their own report. These services are in the nature of stewardship activities.

d. para 5.12.5 page 34 & 35 of CIT(A) order:

By enforcing the process of approval on the commercial terms & conditions by the Indian entity as depicted by the emails discussed above (refer para 5.12.1), the parent entity is performing supervisory and control function.

In view of the above discussion, service (refer para 5.12.2 and 5.12.3) in the nature of coordinated planning and feedback on reports are found to be in the nature of supervisory and control functions because the larger purpose is only to align the policies across the group.

e. para 5.14 page 35 of CIT(A) order:

In conclusion, the US courts have applied a broad definition to the concept of 'stewardship function' so as to include control activities, duplicative activities, reporting activities of a parent company, and financing activities of a parent company. The principle behind the same is that the reporting requirements, reviewing contracts and providing for consistency of accounting systems are supervisory functions that benefited the parent company and are not management services. The stewardship activity is basically to protect the interest of the parent entity.

e. para 5.15 page 35 of CIT(A) order:

It may be important to mention that as per the allocation methodology, the shareholder cost has been separately allocated to ATK US.

From the above observations of Ld. CIT(A) on the issue of global support services, it is evident that his intent was basically against the claim of the assessee. The ld. CIT Appeal has not written anything about why 80% should be considered as genuine IGS. Thus from the perusal of the CIT's observation, it is absolutely clear that even the ld.CIT Appeal was not fully convinced about the global support services rendered by the AE and it is unfair on his part to confirm only 20% of the amount paid as disallowance which has been done on completely adhoc manner not backed by any evidence. Thus, the ld.CIT Appeal order is at best a self-contradictory order on this issue and the same should be set aside and the order of the TPO/AO may please be restored."

5. On the other hand, the ld. A.R. submitted that this issue came for consideration for assessment year 2008-09 in ITA No.6249/Del/2012 vide order dated 21.5.2018. Further, for the assessment year 2009-10 & 2010-11 in ITA Nos.7887 & 7888/Del/2017 dated 14.9.2021 and in ITA Nos.7722/Del/2017 & 7723/Del/2017 dated 25.2.2020 wherein the Tribunal allowed the claim of assessee by observing as under:

"8. We have heard the rival arguments of both the sides, perused the Order of the A.O, Ld. CIT(A), paper book filed on behalf of the assessee and gone through the Order of the Tribunal. We find the A.O. in the instant case has made an adjustment of Rs.5,32,51,014/- on account of payment of intra group services to AE. We find the Ld. CIT(A) vide Order Dated 22.09.2017 directed the TPO to grant 50% of the adjustment on account of intra group services and accordingly an amount of Rs.2,66,25,507/- was sustained and balance amount of Rs.2,66,25,507/- was deleted. We find against the Order of the Ld. CIT(A), the assessee filed an appeal before the Tribunal and the Tribunal vide ITA.Nos.7722 & 7723/Del./2017, Order Dated 25.02.2020, for the A.Ys. 2009-2010 and 20102011, deleted the addition sustained by the Ld. CIT(A) by observing as under :

"7. We have considered the rival arguments made by both the sides, perused the orders of the AO and the CIT(A) and the paper book filed on behalf of the assessee. We find identical issue had come up before the Tribunal in assessee's own case vide ITA No.6249/ Del/2012 for A.Y. 2008-09. The Tribunal, vide order dated 21st May, 2018 at para 16 to 18 of the order has observed as under:-

> *"11. After considering the written submissions of the ld. DR and the orders of the authorities below, in our considered opinion, in order to examine the ALP of intra group services received by one of the associated enterprises, following essential information should be available:*
>
> 1. *Whether the AE has received intra group services?*
> 2. *What are the economic and commercial benefits derived by the recipient of intra group services.*
> 3. *In order to indentify the charges relating to services, there should be a mechanism in place which can identity (i) the cost incurred by the AE in providing the intra group services and (ii) the basis of allocation of cost to various AEs.*
> 4. *Whether a comparable independent enterprise would have paid for the services in comparable circumstances?*
>
> *12. Examination of controlled transaction ordinarily should be based on the transaction actually undertaken by the AE as it has been structured by them using the method applied by tax payer in so far these are consistent with the methods described under Chapter II*

and III. Only in exceptional cases tax Admn. should disregard the actual transactions or substitute other transactions for them. Restructuring of legitimate business transactions would be a wholly arbitrary exercise the inequity of which could be compounded by double transaction created where the other tax administration does not share the same views as to how the transaction should be structured. For this proposition, we draw support from the judgment of the Hon'ble jurisdictional High Court of Delhi in the case of EKL appliances 344 ITR 241.

13. In the same judgment, the Hon'ble High Court observed that

> *"The character of transaction may derive from relationship between the parties rather than be determined by normal commercial conditions as may have been structured by the tax payer to avoid or minimize tax.*
>
> *The significance of the aforesaid guidelines lies in the fact that they recognise that barring exceptional cases, the tax administration should not disregard the actual transaction or substitute other transactions for them and the examination of a controlled transaction should ordinarily be based on the transaction as it has been actually undertaken and structured by the associated enterprises. It is of further significance that the guidelines discourage re-structuring of legitimate business transactions."*

14. *It has been held by various courts that it is not for the revenue authorities to dictate to the assessee as to how he should conduct his business and it is not for them to tell the assessee as to what expenditure the assessee can incur. The question whether decision was commercially sound or not is not relevant. The Hon'ble High Court in the judgment cited as EKL Appliances [Supra] has held that the assessee was not required to show that any expenditure incurred by him for the purpose of business carried on by him has actually resulted in profit or income either in the same year or in the subsequent years.*

15. *The Hon'ble High Court of Delhi in the case of Cotton Naturals India [P] Ltd 276 CTR 445 at para 17 of its order has held that "Chapter X and Transfer Pricing rules do*

not permit the Revenue authorities to step into the shoes of the assessee and decide whether or not a transaction should have been entered. It is for the assessee to take commercial decisions and decide how to conduct and carry on its business."

16. *It is incorrect to say that the assessee has not provided appropriate/logical allocation of cost to ATK affiliates for management support and cost allocated to ATK India. Following chart summarizes the total group costs:*

17. *Break up of cost under each head is exhibited separately in the paper book. Each cost is supported by evidences which are placed at pages 701 to 1421 of the paper book.*

18. *In so far as the allegation relating to the payment for duplicate services is concerned, it appears that lower authorities have confused ATKBO with another group entity ATK India Pvt. Ltd which is a separate entity whose financial/TP study are placed on our record for the year under consideration. Detailed cost allocation sheets showing different personnel involved for each service has been placed on record separately. We find that the revenue authorities have simply rubbished the email evidences brought on record without examining and pointing out defects in the evidences. It is not proper for the lower authorities to disregard such direct evidences.*

19. *In so far as the payment relating to management services provided by ATK Australia is concerned, we find that the same has been dismissed by lower authorities on flimsy grounds. We find that the allocation in respect of services provided by Shri John Yoshimura Regional head of offices is on the basis of time spent by him in relation to ATKBO. In our considered opinion, this allocation is logical and sound on the facts of the case. There are email evidences wherein it has been mentioned that Shri John Yoshimura was responsible for advising on various performances/review of Indian partners. Moreover, specific dates of physical presence of Shri John Yoshimura in India are exhibited at pages 1417, 1419 and 1420 of the paper book.*

> 20. *Considering the cost allocation chart exhibited elsewhere supported by evidences placed as exhibits in the paper book, we do not find any merit in the transfer pricing adjustments made by DRP/TP/Assessing Officer on this count and the same is directed to be deleted.*

> *8. Since the facts of the impugned assessment year are identical to the facts of the case decided by the Tribunal in assessee's own case, therefore, respectfully following the order of the Tribunal, we direct the A.O./TPO to delete the addition. The grounds raised by the assessee are accordingly allowed."*

> *8.1. Since the issue has already been decided by the Tribunal in favour of the assessee by deleting 50% of disallowance sustained by the Ld. CIT(A), therefore, in view of the Order of the Tribunal, we do not find any infirmity in the Order of the Ld. CIT(A) in deleting the adjustment on account of payment of intra group service to A.E. Ground Nos. 1 to 3 of the appeal of the Revenue are accordingly dismissed."*

6. According to the ld. A.R., the issue to be decided in favour of the assessee by following the orders of the Co-ordinate Bench for AYs.2008-09, 2009-10 & 2010-11.

7. We have heard the rival submissions and perused the materials available on record. The main contention of the ld A.R. is that the issue is already decided by this Tribunal in favour of the Assessee in earlier Assessment Years and the same to be followed.

7.1 In this regard, it is important to mention that the said order of this Tribunal are not applicable in this assessment year as in

the earlier years orders, Ld. CIT(A) has confirmed 50% addition on this account on ad-hoc basis and without any discussion on evidences in ITA No.- 7887 & 7888/Del/2017 dated 14.9.2021. It is evident from the CIT(A) order for this year that detailed discussion on each Intra group service has been made and on the basis of sample evidences produced by assessee, Ld. CIT(A) has partly deleted the additions. Since, in the earlier order, evidence wise discussion was not taken place and ld. CIT(A) was not in a position to quantify the value of services availed by assessee in absence of any independent third-party documentations, thus, earlier year decision are not applicable in this case. Hence, it cannot be said that this issue is covered by earlier year orders of ITAT by any stretch of imagination. Also, the principle of res-judicata is not applicable in the Income Tax Proceedings.

7.2 Moreover, the issue in the case of assessee is mainly rendering of services accordingly the decision of the earlier years cannot be taken as precedents because, for each year rendering of services is different and it has to be established by independent evidences. The onus of establishing receipt of services from the Associated Enterprise has to be discharged on year to year basis by the assessee company and there are various decisions of the

Hon'ble High Court/ Tribunals which clearly say that, in the case of Intra Group Services, each year is different one and the Assessee has to establish rendering of services for each year. We also place reliance on the order of the Tribunal Delhi Bench in the case of Akzo Nobel India Pvt. Ltd. 137 taxmann.com 369, wherein while holding that the assessee could not prove the receipt of Intra Group Services by providing requisite documents, has also stated that the Tribunal decision will not prejudice Assessee claim in other A.Y, as it has to be decided based on the evidences produced to establish the claim of the receipt of services from AEs. The relevant extract of the Tribunal order is reproduced below:-

> *"8. We have considered rival submissions and perused the materials on record Undisputedly, the issue in dispute is with regard to determination of ALP of certain infra-group services claimed to have been received by the assessee from its AE. It is the contention of the assessee that certain administrative services have been received from the AE for which payment has been made to the AE. However, on careful perusal of the order passed by the TPO and learned first appellate authority, it is evident, there is a concurrent finding, of both the authorities that the assessee failed to furnish even an iota of evidence to demonstrate that administrative services were actually rendered by the AE and the assessee has received such services. On a specific query made by the Bench to demonstrate the receipt of services from AE through cogent evidence, including, any communication with the AE, learned counsel for the assessee expressed his inability to furnish any evidence and repeated his submission to restore the matter back to the Assessing Officer for enabling the assessee to furnish evidence, if any. We are unable to accept the aforesaid submission of learned counsel for the assessee. When the assessee has failed to furnish any evidence either before the departmental authorities or before us to demonstrate that administrative services, indeed, were rendered by the AE and the nature and scope of such services, in our view, no useful purpose would be served in restoring the matter back to the Assessing officer for*

> *reconsidering the issue. In view of the aforesaid, we do not find any valid reason to interfere with the decision of learned Commissioner (Appeals) on the issue.* ***However, at this stage, we must make it clear, we have come to the aforesaid conclusion based on the facts involved in the impugned assessment year, wherein, the assessee has failed to furnish cogent evidence to demonstrate that administrative services were actually received from the AE. Therefore, this decision of ours may not prejudice assessee's claim in any other assessment*** *year,* ***as, it has to be decided based on the evidences produce to establish the claim of receipt of services from AE.*** *Ground no. 3 along with sub-grounds are dismissed."*

7.3 This above decision of the Tribunal has also been confirmed by the Hon'ble High Court of Delhi in 145 taxmann.com 468 vide order dated 27 September 2022. Again the issue was of Intra Group Services and applicability of the decision of the Hon'ble High Court for other years. The Hon'ble Delhi High Court has held that each year is separate unit and governed by its peculiar facts. It is pertinent to reproduce the relevant para of the Hon'ble High Court's decision as below:-

> *"6. This Court is also of the view that every Assessment Year is a separate unit which is governed by its own peculiar facts. Further, the ITA T in the impugned order has clarified that its decision would not prejudice the assessee's claim in any other assessment year, as it has to be decided based on the evidences produced to establish the claim of receipt of services from AE."*

6.4 Similar decision has also been arrived by various other Courts /Tribunals and reference is made to the decision of the Tribunal in the case of Safran Engineering Services India Pvt. Ltd. 89

taxmann.com77 (Bengaluru). The relevant para of the order of the Hon'ble Tribunal is given below:

"11. On the principle of consistency, we hold that each assessment year is separate and distinct. The principles of res judicata have no application to income-tax assessment proceedings. Simply because in the preceding year, this expenditure came to be allowed without any probe or enquiry it does not preclude the AOfrom making the enquiries on these issues.'

11. *Now, in the present case, assessee-company had not discharged the onus of proving the receipt of services before lower authorities. Despite opportunities given to the assessee-company, no attempt was made by the assessee-company to lead necessary evidence in support of receipt of actual services from the AE. The submission of the assessee-company that an opportunity may be granted to the assessee-company to discharge onus, cannot be accepted because it is settled principle of law that the assessee-company cannot be accepted, because it is settled principle of law that the assessee-company cannot be given a second innings to make good its case.*

Lintas India Private Limited Vs ACIT Circle 3(2) in ITA *No.398/*
MUM/2019. (Mumbai Tribunal).(Paral9 &22)

019... ,

The learned transfer pricing officer and learned dispute resolution panel has heavily relied on their findings in the earlier years which have already been negated by the ITA T. We are not in agreement with the lower authorities by following the decisions taken by them in earlier years in determination of arm "s-length price of intra group services at Rs. nil. This is so because for each year test of rendition of services, need of such services, benefits derived from the services and those services are not duplicative or shareholder services is required to be established by assessee based on proper documentation. Therefore, decisions rendered in earlier years by the authorities either in favour of the assessee or against the assessee does not help the case of the either party because these tests are required to be satisfied every year and also needs to be examined every year.

022. As we have already held that, the transaction is required to be benchmarked and arm "s-length price of the same is required to be determined for every year based on need to test, benefit test, rendition test, duplication test and shareholder "s activity test. Therefore, the simplistic order passed by the learned dispute resolution panel by following its earlier order without giving an independent finding for the year on all these activity tests is not sustainable."

7.5 Thus from the above, it is clearly proved that the various Courts/Tribunals have held that each year is distinct and different and it is to be governed by facts and circumstances of each year. Thus, the assessee contention that no adjustment in the current year is to be made on the issue of services because in earlier years no adjustment was made is of no consequence because in the case of intra Group Services, assessee has to establish receipt of services with convincing evidence/details for each year, which assessee has failed to prove and accordingly its case cannot be taken as precedent from earlier years decision.

7.17 Further, on going through the order of the TPO/AO which is speaking and detailed one, and based on the above discussion on evidences filed, it is absolutely clear that the assessee has failed to prove the rendition of services and the TPO/AO has rightly taken the ALP as nil on account of Assessee's failure to prove receipt of services along with the benefit received by assessee. Further, though the Need/ Benefit Test has been accepted as the valid ground for benchmarking of IGS by several authorities, but the disallowance has been made primarily on the rendition of services. The assessee has also stated that the TPO/AO cannot question the need or the benefit achieved by the assessee from services given by

AE. In this connection, it is found that, though the TPO/has mentioned/asked about the benefit received, however the disallowance was mainly based on the assessee failure to prove the rendering receipt of services. It is surprising that though the assessee has relied on OECD guidelines, but at the same time it is forgetting that the OECD guidelines clearly provides for Benefit Test for payment of intra group services and also the benefit test is duly recognized as several countries as mentioned by TPO/OECD in its commentary.

7.18 Further we rely on the two recent decisions of this Tribunal which clearly recognized need/Benefit Test. The decisions are

a) Lintas India Private Limited Vs ACIT Circle 3(2) in ITA No. 398/ MUM/2019. (Mumbai Tribunal) (Para 18 and Para 22)
b) 2. EOS Power India Pvt. Ltd. 154 Taxman.com 131 (Mumbai Trib.) (Para 12)

6.19 Thus the above discussion clearly proves that there is absolutely no rendering/receipt of services and the assessee has miserably failed to discharge the onus of providing the basic evidences with regard to so called services received from AE. Thus,

the Assessee's appeal on this grounds deserves to be rejected and the grounds raised by the Revenue to be allowed on this issue.

6.20 In view of this, the grounds of Appeals in both the Assessee's appeals are dismissed and Ground Nos.1 to 4 in Revenue's appeals in both assessment years are allowed.

8. Ground No.5 in ITA No.1305/Del/2018 and ITA No.1306/Del/2011 in Revenue's appeal are regarding interest on outstanding receivables from the AE.

8.1 Facts of the issue for A.Y.2012-13 are that, the AO/TPO made addition of Rs. 2,86,52,945/- by applying interest rate of 12.6% on account of interest on delayed receivables. Though this issue has not been argued however the Ld CIT(A) has given relief to the assessee on the following grounds. Outstanding receivable is not an international transaction.

- Amount receivable/payable arising out of international transactions of sales are closely linked and, no separate adjustment should be made.
- Working capital adjustment takes into account the impact of outstanding receivables on profitability and therefore, no further imputation of interest ought to be warranted.

- No interest is to be charged on delayed receivables as assessee does not charge any interest from third party also.

8.2 The ld. CIT(A) has deleted the addition made based on the fact that the assessee did not charge any interest on delayed payments from unrelated customers accordingly no interest is to be charged from AEs also. Further, the ld. CIT(A) also mentioned that the average delay from AEs for outstanding payments is 119 days whereas for non-AEs 130 days.

9. The ld. D.R. submitted that the issue of delay in receivables from AEs is no more res Integra. After the amendment in explanation to section 92B of the Act, the outstanding receivables constitute a separate international transaction which is required to be bench marked separately. The working capital adjustment does not subsume the invoices which are raised during the year and accordingly interest is to be separately computed for outstanding receivables. Inter-company services agreement clearly provides for even termination of contract on delay of receivable after 90 days. Further submitted that a most important and distinguishing thing in the case of assessee, is the inter- company Service Agreement, which the assessee company has entered into with its holding company/AE (placed at page

497to 509 of PB) Clause 4.3 i.e termination for non-payment provides clearly that if the receiver of services or its intermediary does not make payment within 90 days then even the contract can be terminated. Thus, in the case of assessee, the agreement itself provides for penal clause which even go to the extent of termination of the entire agreement. Thus the intention of the agreement itself makes it compulsory on the receiver of the services to clear all dues within a period of 90 days and department has just followed the Assessee's agreement and merely levied interest on the delays exceeding 90 days which is completely in line with the letter and spirit of the agreement Thus, he submitted that from the perusal of the agreement clearly shows that the AE is liable to compensate the assessee company for all delayed payments and there is no exception granted on delayed payments. Thus, the AO/TPO/DRP has charged the interest and their action is clearly in line with the terms and conditions stipulated in the agreement. In fact, it is not even clear that why the assessee is contested such adjustment when there is a clear-cut provision in the agreement itself which calls for even severe punishment like termination of the agreement. Further this condition, as stipulated in the case of

assessee in inter services agreement, is not there in the case of Kusum Healthcare Ltd and accordingly assessee can't claim that it is covered by Kusum Healthcare decision./ Indo American Jewellery Ltd

9.1 Further, he submitted that several decisions of Hon'ble Tribunals decided on the issue raised by the assessee of working capital adjustment subsuming the interest on outstanding receivables and categorically gives a finding that working capital adjustment doesn't subsume the within year transactions of outstanding receivables i.e. invoices realized during the year after the completion of credit period from AE's. Also, this finding is not from only from one tribunal but several tribunals have given similar findings and interpreted the decision of Hon'ble Delhi High Court in Kusam Healthcare. Also, the assessee has stated that the weighted average period of realization of invoices is 119 days, accordingly no adjustment is required. However, this reason is totally devoid of any merits because as stated above, the agreement clearly provides for charging of interest after 90 days and no such benefit of so called weighted average period is given in the agreement Also the analysis has been made invoice wise and in line with the Hon'ble High Court's decision in the case of Kusum

Healthcare, interest has been computed. Assessee has also taken one of the grounds that as no interest was charged from third party customers, accordingly no adjustment is to be made for related parties. In this connection, it is submitted that TP provisions clearly provides for determining ALP in the case of related parties and as these are anti-tax avoidance provisions which hits at tax base of the country and accordingly are required to be strictly applied as held by several courts including the Pune Tribunal in the case of M/s. ACS Customer Services India P.Ltd., ITA N0.162/PUN/2022 & C.O. No.22/PUN/2022. Being pertinent the relevant extract of the Hon'ble Tribunals order is given below:-

> *"5. We have given our thoughtful consideration to the forgoing rival pleadings and find forced in the Revenue's stand since an advance pricing agreement "APA" is applicable only for the specified time span not exceeding five consecutive previous years u/s.92CC(4) r.w. sub section (9A) of the Act. We make it clear that Chapter X in the Act is in the nature of a "SPECIAL PROVISION RELATING TO AVOIDANCE OF TAX" i.e. an anti avoidance measure introduced by the legislature. Hon'ble apex court's recent landmark decisions PCIT V/s Wipro Ltd. (2022) 140 taxmann.com 223, Commissioner V/s Dilip Kumar & Co. 2018 (9)4CC 1(SC) FB & CIT V/s. GM Knitting Industries (P) Ltd.(2015) 376 ITR 456 (SC) have settled the law that the relevant provisions in the Act ought to be put to stricter interpretation only."*

9.2 Lastly, the ld. D.R. submitted that even at the cost of repetition, as discussed in detail in the above noted paras, it is once again reiterated that the interest on outstanding receivables has been duly computed by the TPO based on the principles laid

down by the Hon'ble Delhi High Court in the case of Kusum Healthcare Pvt. Ltd/ Indo American Jewellery Ltd, even though the decisions has been distinguished by several Tribunals. Also when there is an inter-company service agreement which clearly mandates for even termination of contract if payments are received after 90 days then there is absolutely no logic in not charging the interest on account of delayed receivables because it clearly tantamount to infringement of the written agreement between the assessee and its AE and there is no reason at all to benefit the assessee even after the presence of the inter- company service agreement. Also, the assessee has failed to show the similar agreement with a third party which has clause for termination and it appears that the Ld CIT(A) has rendered his decision without any documentary evidence in the form of third-party agreement and the decision fs based on bald statement made by assessee. Accordingly, the addition on account of interest on receivables may kindly be upheld and the Assessee's appeal may kindly be dismissed on account of the issue of interest on outstanding/delayed receivables.

9.3 The ld. D.R. submitted that the above submissions are pertaining to AY 2012-13 and as similar issues are involved for 2013-14, which was not specifically argued during the course of hearing, the above arguments may be considered for AY 2013-14 also.

9.4 Hence, the ld. D.R. submitted that the order of the ld. CIT(A) to be reversed on this issue and order of the ld. AO has to be sustained.

10. The ld. A.R. submitted that the above issue came for consideration before this Tribunal in Assessee's own case in AY 2009-10 in ITA No.7722/Del/2017 the Tribunal vide order dated 25.2.2020 decided the issue in favour of the assessee.

11. We have heard the rival submissions and perused the materials available on record. Admittedly, this issue came for consideration before this Tribunal in Assessee's own case for assessment year 2009-10 in ITA No.7722/Del/2017 dated 25.2.2020, wherein held as under:

> *"24. After hearing both the sides, we find the issue stands covered in favour of the assessee by the decision of the Hon'ble Delhi High Court in the case of PCIT vs. Kusum Healthcare Pvt. Ltd. in ITA No.765/2016 dated 25.04.2017. The relevant observation of the Hon'ble High Court from para 9 onwards reads as under:-*

"9. Mr. Raghvendra Singh, learned counsel appearing for the Revenue submitted that the ITAT overlooked the fact that the expression "international transaction" as defined in Explanation (i)(c) to Section 92B of the Act included "payments or deferred payment or receivable or any other debt arising during the course of business", and therefore, the outstanding receivables could by themselves constitute an international transaction. He further referred to the OCED Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. Paras 3.48 & 3.49 under Chapter III para A.6.1 of the said Guidelines titled "Different types of comparability adjustments" spoke of the need to eliminate differences that may arise from different accounting practices between controlled and uncontrolled transactions. In particular, it was noted under para 3.49 that "a significantly different level of relative working capital between the controlled and uncontrolled parties may result in further investigation of the comparability characteristics of the potential comparable." Mr. Singh submitted that the ITAT erred in disagreeing with the TPO, who had characterised the outstanding receivables as an international transaction by itself which required benchmarking.

10. The Court is unable to agree with the above submissions. The conclusion in the explanation to section 92B of the Act of the expiration receivables does not mean that de hors the context every item of receivables appearing in the accounts of an entity, ITA No.1440/Del/2016 which may have dealings with the foreign AEs would be characterised as an international transaction. There may be a delay in collection of monies for supplies made, even beyond the agreed limit, due to a variety of facts which will have to be investigated on a case to case basis. Importantly, the impact this would have on the working capital of the assessee will have to be studied. In other words, there has to be a proper enquiry by the TPO by analysing the statistics over a period of time to discern a pattern which would indicate that vis-a-vis the receivables for the supplies made to an 80AE, the arrangement reflects an international transaction intended to benefit the AE in some way."

25. Since the facts of the instant case are identical to the facts of the case decided by the Hon'ble Delhi High Court in the case of Kusum Healthcare Pvt. Ltd. (supra), therefore, we set aside the order of the CIT(A) and direct the AO/TPO to delete the addition on account of interest outstanding receivables.

The grounds raised by the assessee are accordingly allowed."

11.1 The issue in hand has to be decided in favour of the assessee, following the ratio laid down by the Tribunal in earlier year (supra). Therefore, the ground raised by revenue with regard to adjustment towards interest receivable is to be decided in favour of the Assessee and against the revenue. Accordingly, Ground No.5 of appeals in ITA No.1305 & 1306/Del/ 2018 of the Revenue are dismissed.

12. In the result, appeals of the Assessee's in ITA Nos.959 & 960/Del/2018 are dismissed and the Appeals of the Revenue in ITA No.1305/Del/2018 and ITA No.1306/Del/2018 are partly allowed.

Order pronounced in open Court on 28TH February, 2024

Sd/-	Sd/-
(SHAMIM YAHYA)	**(YOGESH KUMAR U.S.)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Dated: 28/02/2024
Binita/R.N Sr. PS
Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT, NEW DELHI