

**IN THE INCOME TAX APPELLATE TRIBUNAL, 'E' BENCH  
MUMBAI**

**BEFORE: SHRI AMIT SHUKLA, JUDICIAL MEMBER  
&  
SHRI RATNESH NANDAN SAHAY, ACCOUNTANT MEMBER**

**ITA No.122/Mum/2024  
(Assessment Year :2015-16)**

M/s. Excel Biolife Private Limited 203, Parimal CHS Daftary Road Malad East Mumbai – 400 097	Vs.	National Faceless Appeal Centre (NFAC) Delhi
<b>PAN/GIR No.AAFCS0122D</b>		
<b>(Appellant)</b>	..	<b>(Respondent)</b>

Assessee by	Ms. Niyati Mankad
Revenue by	Shri P.D. Chougule
<b>Date of Hearing</b>	<b>21/05/2024</b>
<b>Date of Pronouncement</b>	<b>27/05/2024</b>

**आदेश / O R D E R**

**PER AMIT SHUKLA (J.M):**

The aforesaid appeal has been filed by the assessee against order dated 12/07/2023 passed by NFAC against penalty order u/s.271G for the A.Y.2015-16.

2. The assessee is aggrieved by levy of penalty of Rs. 40,47,075/- u/s.271G being 2% earned on total value of Specified Domestic Transaction of Rs.20,23,52,771/-.

3. The grounds read as under:-

*“The learned CIT(A) erred in confirming the order of Assessing officer levying penalty of Rs 40,47,055/- u/s 271G being 2% on total value of specified domestic transaction of Rs 20,23,52,771/- without appreciating that the all the details as called for were submitted and the ALP was accepted and the delay in submission was bonafide and due to reasonable cause and hence the penalty of Rs 40,47,055/- may be deleted.”*

4. From the bare perusal of the impugned penalty order it is seen that ld. AO has mentioned that DCIT, Transfer Pricing (2)(1)(1), Mumbai issued notice u/s.92CA(2) to the assessee on 11/09/2018 and notice u/s.92D to the assessee on 29/01/2018 whereby it is required to submit the details / explanation to support arm's length price. Nowhere it has been mentioned that during the course of transfer pricing proceedings assessee had not furnished any such details which were required. In fact in the order u/s.92CA(3) dated 24/10/2018, the ld. TPO had noted that assessee had furnished all the details required and value of Specified Domestic Transaction with the AE in regard to ALP is not being disturbed. For the sake of ready reference, the order of 92CA(3) is reproduced hereunder:-

*1. A Reference u/s 92CA(1) of the Income-tax Act, 1961 (hereinafter referred to as 'Act') in the case of M/s. Excel Blolife Pvt Ltd. (hereinafter referred to as "assessee") for A.Y. 2015-16 was received from the Assessing Officer, ITO- 12(2)(2), Mumbai, vide letter dated 08.08.2017 The Assessing Officer (hereinafter referred to as "AO") has made this reference for determination of arm's length price (hereinafter referred to as 'ALP) In respect of the specified domestic transactions (hereinafter referred to as "SDT") entered into by the assessee with its associated enterprises (hereinafter referred to as 'AE'), as reported In Form 3CEB filed by the assessee.*

2. In view of the above reference, the notices u/s 92CA(2) and 92D(3) of Act dated 16.08.2017 were issued requesting the assessee to file all the evidence and documents relied in support of the computation of arm's length price in relation to the specified domestic transactions entered into with its AEs. In response to said notices, The assessee furnished certain submissions in tapal.

3. Considering the facts and circumstances of the case, the Assessee's submission and documents furnished, the value of Specified domestic transaction with AE In regard to ALP is not being disturbed.

5. The only ground on which penalty has been levied, the details were not filed within 30 days. If the details for computation of ALP of SDT has been accepted by the ld. TPO and ALP computed by the assessee has been accepted, we find no reason for levy of penalty u/s.271G. The ld. CIT(A) has simply confirmed the penalty on the ground that there was no explanation filed by the assessee and there is no reasonable cause for such failure. If the ld. TPO had duly considered the explanation and the details submitted as noted above in the ld. TPO's order, then penalty cannot be levied u/s.271G. Accordingly, the same is deleted.

**6. In the result, appeal of the assessee is allowed.**

Order pronounced on 27<sup>th</sup> May, 2024.

**Sd/-**

**(RATNESH NANDAN SAHAY)**  
**ACCOUNTANT MEMBER**

Mumbai; Dated 27/05/2024

**Sd/-**

**(AMIT SHUKLA)**  
**JUDICIAL MEMBER**

KARUNA, *sr.ps*

**Copy of the Order forwarded to :**

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)  
**ITAT, Mumbai**