

आयकर अपीलिय अधिकरण
दिल्ली पीठ "आई", दिल्ली
श्री विकास अवस्थी, न्यायिक सदस्य एवं
श्री प्रदीप कुमार केडिया, लेखाकार सदस्य के समक्ष

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "I", DELHI
BEFORE SHRI VIKAS AWASTHY, JUDICIAL MEMBER &
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER

आअसं . 8128/दिल्ली/2018 (नि . व. 2014-15)
ITA No.8128/DEL/2018 (A.Y.2014-15)

Inabensa Bharat P. Ltd.,
A-225, Double Story, Ground Floor, Kalkaji,
New Delhi 110019
PAN: AABCI0386D

..... अपीलार्थी / Appellant

बनाम Vs.

Deputy Commissioner of Income Tax,
Circle 12(1), C.R Building,
New Delhi 110002

..... प्रतिवादी / Respondent

अपीलार्थी द्वारा/ Appellant by : None
प्रतिवादीद्वारा/ Respondent by : Shri Rajesh Kumar, CIT-DR
सुनवाई की तिथि/ Date of hearing : 03/06/2024
घोषणा की तिथि/ Date of pronouncement : 10/06/2024

आदेश / ORDER

PER VIKAS AWASTHY, JM:

This appeal by the assessee is directed against the assessment order dated 26.10.2018 passed u/s 143(3) r.w.s 144C(6) of the Income Tax Act 1961 (hereinafter referred to as 'the Act'), for assessment year 2014-15.

2. This appeal was filed by the assessee in December 2018. Initially the assessee was represented by Shri Ved Jain, Advocate. The assessee had filed an application for early hearing of appeal. The same was allowed by the Tribunal

vide order dated 13.02.2019 and the appeal was listed for hearing on 07.03.2019. On the said date the appeal was adjourned to 01.05.2019 at the request of Id. DR. Thereafter on 01.05.2019 the assessee sought adjournment to file paper book. The assessee again on 17.09.2019 sought adjournment. The Bench vacated the benefit of early hearing allowed to the assessee. The appeal was thereafter adjourned to 14.11.2019. On the said date bench did not function and the appeal was adjourned to 22.01.2020. On 22.01.2020 the appeal was adjourned to 12.03.2020 at the written request of assessee's counsel. On 12.03.2020 again the appeal was adjourned to 11.05.2020 at the request of counsel for the assessee. Thereafter, in remaining part of year 2020 the appeal could not be heard as the Bench did not function on account of Covid-19 pandemic. The hearing of appeal resumed on 23.02.2021, on the said date again the appeal was adjourned at the request of assessee's counsel. Thereafter, the appeal was repeatedly adjourned at the written request of counsel for the assessee on following dates 22.04.2021, 23.08.2021, 26.10.2021, 03.01.2022, 03.03.2022, 10.05.2022 and 02.08.2022. Thenceforth, none appeared to represent assessee. Repeated notices were sent to the assessee as per the zimini orders dated 10.11.2022, 28.02.2023, 11.05.2023, 17.08.2023, 23.11.2023 and 22.02.2024. The notices were sent to the assessee on various dates through RPAD. The notices were received back unserved from the postal authorities with remarks, closed since long/left. The notices were sent to the assessee on the address furnished in Form no. 36. The assessee has not furnished any revised Form No. 36 intimating its current/new address. The conduct of the assessee shows that the assessee is not interested in pursuing the appeal. Therefore, this appeal is taken up for hearing with the assistance of Id. DR and on the basis of documents already on record.

3. Shri Rajesh Kumar, representing the Department vehemently defended the impugned assessment order and the order of TPO.

4. The assessee in appeal has primarily raised two grounds assailing the assessment order and the directions of the DRP i.e. (i) Adjustment on account of foreign exchange fluctuation gains; and (ii) Transfer Pricing adjustment in respect of engineering services segment. The assessee is a subsidiary of Abengoa S.A engaged in providing engineering & construction services for electrical, mechanical and instrumental infrastructure in the sectors of energy, industry, transport, service, communication etc. During the period relevant to assessment year under appeal, the assessee entered into various international transactions. To benchmark the Arm's Length Price (ALP) of the transactions, the assessee applied Transactional Net Margin Method (TNMM) as the most appropriate method. The TPO vide order dated 26.10.2017 rejected TNMM in trading segment and applied RPM as most appropriate method. In engineering services segment the TPO rejected the segment accounts and allocated indirect expenses of trading segment to engineering segment and made following adjustments:

<i>Sl.No</i>	<i>Segment</i>	<i>Amount of adjustment in INR</i>
<i>1</i>	<i>Trading Segment</i>	<i>504,518,505</i>
<i>2</i>	<i>Engineering service segment</i>	<i>95,989,974</i>
	<i>Total</i>	<i>600,508,479</i>

5. Aggrieved by the transfer pricing adjustments, the assessee filed objections before the Dispute Resolution Panel (DRP). The DRP vide directions dated 18.09.2018 granted part relief to the assessee. The Assessing Officer passed the

impugned order in accordance with the directions of the DRP. No material to controvert the findings of the Assessing Officer or the order of Transfer Pricing Officer is furnished before the Tribunal. Thus, we uphold the impugned assessment order and dismiss appeal of the assessee.

6. In the result, appeal of the assessee is dismissed.

Order pronounced in the open court on Monday the 10th day of June, 2024.

Sd/-

(PRADIP KUMAR KEDIA)

लेखाकार सदस्य/ACCOUNTANT MEMBER

दिल्ली/Delhi, दिनांक/Dated 10/06/2024

Sd/-

(VIKAS AWASTHY)

न्यायिक सदस्य/JUDICIAL MEMBER

NV/-

प्रतिलिपि अग्रेषितCopy of the Order forwarded to :

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. The PCIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., दिल्ली /DR, ITAT, दिल्ली
5. गार्ड फाइल/Guard file.

BY ORDER,

//True Copy//

(Dy./Asstt. Registrar) ITAT, DELHI