

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

BEFORE
SHRI K.NARASIMHA CHARY, JUDICIAL MEMBER
&
SHRI MADHUSUDAN SAWDIA, ACCOUNTANT MEMBER

आ.अपी.सं / ITA No.	निर्धारण वर्ष / A.Y.	अपीलार्थी / Appellant	प्रत्यर्थी / Respondent
1793/Hyd/2017	2012-13	Computer Sciences Corporation India Private Limited, (previously known as AppLabs Technologies Private Limited) Hyderabad [PAN: AABCC5820A] [PAN: AADCA0632N]	Deputy Commissioner of Income Tax, Circle-1(1), Hyderabad
1805/Hyd/2017	2012-13	Deputy Commissioner of Income Tax, Circle-1(1), Hyderabad	Computer Sciences Corporation India Private Limited, (previously known as AppLabs Technologies Private Limited) Hyderabad [PAN: AABCC5820A] [PAN: AADCA0632N]
854/Hyd/2019	2013-14	Computer Sciences Corporation India Private Limited, (previously known as AppLabs Technologies Private Limited) Hyderabad [PAN: AABCC5820A] [PAN: AADCA0632N]	Deputy Commissioner of Income Tax, Circle-1(1), Hyderabad

निर्धारित्ती द्वारा/Assessee by: Shri Vikram Vijayaraghavan, AR
राजस्व द्वारा/Revenue by: Shri Kumar Pranav, CIT-DR

सुनवाई की तारीख/Date of hearing: 22/05/2024
घोषणा की तारीख/Pronouncement on: 20/06/2024

आदेश / ORDER

PER MADHUSUDAN SAWDIA, A.M:

These cross-appeals have been filed by Computer Sciences Corporation India Private Limited (“the Assessee”) and the Revenue against the order(s) passed by the learned Commissioner of Income Tax (Appeals)-1, Hyderabad (“Ld. CIT(A)”), relating to the assessment years (AYs) 2012-13 & 2013-14. For the sake of convenience, we decide these appeals by way of this common order.

Assessee’s appeal for the A.Y.2012-13:

2. Brief facts of the case as culled out from the records are that the assessee M/s. AppLabs Technologies Private Limited, (Now merged with Computer Sciences Corporation India Private Limited) was a company, engaged in software development. For the AY. 2012-13, the assessee filed its return of income on 29/11/2012, declaring loss at Rs. 10,66,78,673/- under the normal provisions and declared book profits at (-)Rs. 17,67,52,300/- u/s 115JB of the Income Tax Act, 1961 (for short “the Act”). The case of the assessee was selected for scrutiny and accordingly notices were issued to the assessee. The Learned Assessing Officer (“Ld. AO”) completed the assessment under section 143(3) of the Income

Tax Act, 1961 (for short “the Act”) by order dated 02/05/2016, determining the total income under the normal provision at Rs. 10,93,28,344/- and book profit at (-) Rs. 13,35,44,319/- after considering the order dated 30/01/2016 passed by the learned transfer price officer (“Ld. TPO”). However, the assessee filed rectification application before the Ld. TPO on 01/03/2016 and consequently the Ld. TPO revised his order on 27/01/2017. On the basis of said revised order of Ld. TPO, Ld. AO passed the revised order on 13/02/2017, determining the total income under the normal provision at Rs. 6,54,01,144/- and book profit at (-) Rs. 13,35,44,319/-

3. Aggrieved, assessee preferred appeal before the Ld.CIT(A), who partly allowed the appeal of the assessee. Hence, the assessee is in appeal before the Tribunal against the order of CIT(A).

4. During the course of arguments, summarizing all their grounds raised before us, the Ld. AR submitted that, the assessee has only objections that the Ld. CIT(A) has not properly adjudicated their grounds while deciding the appeals. He further submitted that the assessee had raised total 23 grounds before the Ld. CIT(A). While adjudicating the appeal the Ld. CIT(A) consolidated all their grounds into six parts and deals with the same from para no. 5 to 10 of his order. The Ld. AR also submitted that the assessee has

objection against the adjudication of CIT(A) under para no.6 and para no. 7 of the order of the CIT(A).

4.1. The Ld. AR while objecting the adjudication of Ld.CIT(A) under para No. 6, submitted that the Ld. CIT(A) has dealt with the ground no. 4 to 6 of the various grounds raised before the CIT(A) under para No. 6 of his order. The Ld. AR reproduced as under the ground No. 4 to 6 as raised before the CIT(A) and the adjudication of the CIT(A) on the same ground under para No. 6 of his order :

Grounds No. 4 to 6 raised before the Ld.CIT(A):

4. The learned TPO and the learned AO have erred, in not considering extra-ordinary expenses incurred on account of cancellation of employee stock option plan (ESOP) pursuant to acquisition as non-operating in nature. In doing so, the TPO has contradicted his own approach of considering extra-ordinary expense to be non-operating in nature.

5. The learned TPO and the learned AO have erred, in not considering professional fees incurred pursuant to acquisition as non-operating in nature. In doing so, the TPO has contradicted his own approach of considering extra-ordinary expense to be nonoperating in nature.

6. The learned TPO and the learned AO have erred, in not considering the unrealized forex exchange loss incurred in relation to forex loss on forward contracts and other items as non-operating in nature.”

Adjudication by Ld.CIT(A):

“6. Ground No. 4 to 6 : Cancellation of Employee Stock Option Plan (ESOP)

6.1. During the appeal proceedings, the appellant submitted that they filed rectification petition u/s.154

before the Assessing Officer. They have received the order and hence the issue is not being pressed before the first Appeal. In this light, the grounds are dismissed.”

4.2. The Ld. AR also submitted that the assessee had raised three issues which are related to i.e. a) Employees Stock Option Plan (ESOP), b) Professional fees and c) forex exchange loss before the Ld. CIT(A) through the aforesaid grounds No. 4 to 6. After filing the said appeal before the Ld. CIT(A), the assessee had filed a rectification application before the Ld.TPO on the issue related to Professional fees only. However the Ld. CIT(A) adjudicated the ground No. 4 to 6 on the misconception that the assessee had filed the rectification application before the Ld. TPO on the issues of ESOP and dismiss the grounds on all the three issues which are related to i.e. a) ESOP, b) Professional fees and c) forex exchange loss. Thus, the Ld. AR argued that the Ld. CIT(A) did not consider the grounds raised by the assessee properly, before passing the order. Hence, Ld. AR requested the Bench to set aside the impugned order and restore the issue to the file of Ld.CIT(A) for fresh consideration of the matter.

4.3. Learned DR, on the other hand, did not have any objection on the request of the assessee in setting aside the issues and restore the same to the file of Ld.CIT(A).

4.4. We have heard the rival submissions and also gone through the record in the light of the submissions made by

either side. It is not in dispute that the assessee had moved a rectification application before the Ld. TPO only on the matter of professional fees. However, the Ld. CIT(A) while adjudicating the grounds mistaken the rectification moved on the matter of professional fees as rectification moved on the matter of ESOP and passed the orders on three issues instead of only one issue on which the rectification had been sought by the assessee and accordingly dismiss the appeal of the assessee on these three issues. In our opinion the Ld. CIT(A) failed to appreciate the grounds raised by the assessee properly on merits, before passing the order. Hence, we set aside the issues and restore the same to the file of Ld.CIT(A) with a direction for fresh consideration of the matter in accordance with law, by giving an opportunity of being heard to the assessee. These grounds are accordingly treated as allowed for statistical purposes.

5. The Ld. AR while objecting the adjudication of CIT(A) under para no.7 submitted that the Ld. CIT(A) has dealt with the ground no. 7 to 15 of the various grounds raised before the CIT(A) under para no. 7 of his order. The Ld. AR reproduced as under the ground no. 7 to 15 as raised before the Ld. CIT(A) and the adjudication of the Ld. CIT(A) on the same ground under para No.7 of his order :

Grounds No. 7 to 15 raised before the Ld.CIT(A):

Selection of Comparables

7. The learned TPO and the learned AO have erred in the law and facts by selecting the inappropriate/arbitrary filters for selecting the comparable companies.

8. The learned TPO and the learned AO have erred, in law and in facts, by selecting certain additional companies as comparables which are not functionally comparable to the appellant.

9. The learned TPO and the learned AO have erred, in law and facts, by rejecting certain functionally comparable companies identified by the Appellant.

Erroneous computation of income of margins of comparable companies.

10. The learned TPO and the learned AO have erred, in law and facts, by making erroneous computation with respect to operating margins of comparable companies

Computation of TP adjustment

11. The learned TPO and the learned AO have erred, in law and facts, by not restricting the value of adjustments to the global profits earned by the Appellant from the international transactions.

12. The learned TPO and the learned AO have erred, in not considering the rectification petition filed by the Appellant in relation to mistake apparent from record in considering the professional fees incurred pursuant to acquisition expenses as non-operating in nature.

Corporate Guarantee

13. The learned TPO and the learned AO have erred, in law, facts and circumstances of the case in making a TP addition to the transactions relating to provision of corporate guarantee, without appreciating the fact that the said transactions is not covered under the definition of international transaction u/s. 928 of the Act and that the

explanation to section 928 would not apply to the facts of the case.

Others

14. The learned TPO and the learned AO have erred, in law and in facts, in using single year data (pertaining to FY 2011-12 only) of the comparables to arrive at the ALP without taking cognizance of the fact that such data may not truly reflect the market realities.

15. The learned TPO and the learned AO have erred, in law and facts, in computing the ALP without giving benefit of +1- 5 per cent under the proviso to Section 92C of the Act.”

Adjudication by Ld.CIT(A):

“7. Ground Nos.7 to 15: Computation of TP Adjustments u/s.92CA

7.1 The Assessing Officer made an addition of Rs.17,27,99,036/- on account of Arm's Length Price of International Transactions with Associated Enterprises. The Assessing Officer followed the findings of the TPO, vide order u/s.92CA(3) dated 30.01.2016.

7.2 Before me, the appellant submitted that the AO has selected companies that are incomparable and that should not have been taken, as they were in principle different to the Appellant case. The cases which wrongly taken by TPO are as follows:

1) M/s. Acropetal Technologies limited

Appellant's contention:

Nature of business not same. The Company transformed from a Pure play services provider, to a Business technology Solutions Company.

i. Emerged as a leading intellectual property, it led to the product development company

ii. Continuously invests on innovation by supporting and providing infrastructure to new products and ideas.

- iii. Information technology services segment consist of software product & intellectual property
- iv. Extra-ordinary event - Acquisition has occurred

TPO's contention:

- i. There is segmental information available and one of the segments relates to "Information Technology services" which has been considered as a comparable segment to that of the assessee.
- ii. The assessee contended that the "Information Technology services" segment contains products also, Assessee did not provide any evidence to this effect.

Decision:

I accept the view of the TPO and uphold the view that this is a valid comparable.

2) M/s. C T I L Limited Appellant's contention:

- i. Fails employee cost filter (9.21 %)
- ii. Enterprise solutions, supply chain management, client relationship management, business, intelligence, business process quality, engineering and product lifecycle management, and infrastructure services.
- iii. Spent sizable amount towards R&D in e-learning space and other areas
- iv. Significant intangible assets - 92% of total fixed assets

TPO's contention:

- i. As per annual report, CTIL is in the' business of information technology Services Company. It is only its subsidiary companies engaged in infrastructure, BPO services, e-governance, information technology and the company development and not CTIL itself. So there is no requirement of CTIL to have separate segments.

ii. No document which contradicts has been placed on record for non-accepting the CTIL as a comparable before the TPO.

Decision :

I accept the view of the TPO and uphold the view that this is a valid comparable.

3) Igate Global Solutions Limited

Appellant's contention:

- i. Fails related party transactions filter (RPT = 83% of sales)*
- ii. Information technology and IT enabled services*
- iii. Segmental information is not available.*
- iv. Extra-ordinary event - Acquisition of equity share capital*

TPO's contention:

- i. As per prowess database, the company is classified under "Software" category. The company satisfies all the filters applied and hence is comparable to the assessee's business.*
- ii. As per assessee's submission, the company has acquired only the current equity shares of MIS Patni. But the assessee failed to provide any evidence as to how such an event has impacted the margins of the company.*
- iii. Related Party transaction is below 25%*

Decision:

I accept the view of the TPO and uphold the view that this is a valid comparable.

4) Larsen & Toubro Infotech Limited

Appellant's contention:

- i. While the segmental details are available, the break-up of software services and products is not specified.*
- ii. Further, the company is providing services to diverse sectors such as Financial services, manufacturing and telecom.*
- iii. Functionally different.*

TPO's contention:

- i. As per prowess data baser the company is classified under "Software" category. The company satisfies all the filters applied and hence is comparable to the assessee's business.*
- ii. As per annual report, the assessee earns majority of its revenue from software exports. So there is no requirement of having segmental information.*
- iii. High Brand value does not affect the profitability of the company.*

Decision:

I accept the view of the TPO and. uphold the view that this is a valid comparable.

5) M/s. Persistent Systems Limited

Appellant's contention:

- i. Outsourced software product development services and offers complete product lifecycle services from end to end*
- ii. The outsourced product development services are different from IT services.*
- iii. Segmental information is not available*
- iv. Abnormal year of operations-merger activity*

TPO's contention:

- i. The company has global present in lot of countries and therefore the product design doesn't pertain to India*
- ii. There is no requirement of segmental information*
- iii. There is no evidence as to how the abnormal year of operations (Merger) is affecting profitability.*

Decision:

I accept the view of the TPO and uphold the view that this is a valid comparable.

6) M/s.Zylog Systems Limited

Appellant's contention:

- i. Earns revenue from export of software services, products & solutions. However, segmental information is not available.*
- ii. The company specifically owns research, analysis and development wing namely "IDEA".*
- iii. Intangible assets contribute 45.81 % of total fixed assets*

TPO's contention:

- i. The company is predominantly into software development.*
- ii. Brand value doesn't have any impact on profitability of the company.*

Decision:

I accept the view of the TPO and uphold the view that this is a valid comparable.

7) M/s.Spry Resources Limited

Appellant's contention:

- i. Company substantially undertakes the central and state government projects*
- ii. The company is mainly into software product development*
- iii. Exceptional year of operations*
- iv. High Working capital loan (percentage of interest to EBITDA 47.21 % and percentage of borrowings to fixed assets 105.71 %).*

TPO's contention:

The company is mainly engaged in software development services

Decision:

I accept the view of the TPO and uphold the view that this is a valid comparable.

8) M/s.Thirdware Solutions Limited

Appellant's contention:

- i. Provides information technology and information technology enabled services*
- ii. Is into multiple verticals*
- iii. Segmental information is not available*

TPO's contention:

- i. The company is engaged in software development. In the ROC, both IT & ITeS companies are filed under one code and hence the same cannot be considered as basis for rejection.*
- ii. Sale of license cannot be treated as functionally different.*

Decision:

I accept the view of the TPO and uphold the view that this is a valid comparable.

7.3 The Appellant contented that, the Following companies were rejected by the TPO, however should have been included as comparable. In the TP Order, the learned TPO rejected some of the comparable companies selected by the Appellant in the TP documentation. They are as follows:

A) M/s. Cat Technologies Limited

Appellant's contention:

i. The company is suggested as additional comparable, as it satisfies all the filters applied by the TPO

ii. The company has earned revenue of 92.61% from software development services

TPO's contention:

i. The company is not a comparable to the business of the assessee. This company is engaged in the medical transcription, trading software development and consulting services.

ii. There is no segmentation information for software development segment is available.

Decision:

I accept the view of the TPO and uphold the view that this is an invalid comparable.

B) M/s. Maverick Systems Limited

Appellant's contention:

i. The company is suggested as additional comparable in show cause notice as it satisfies all the filters except forex earnings filter applied by the TPO.

il. The detailed contentions regarding forex earnings filter can be referred above.

TPO's contention:

The company does not satisfy forex filter, the same cannot be accepted as comparable.

Decision:

I accept the view of the TPO and uphold the view that this is an invalid comparable.

C) M/s. Thinksoft Technologies Limited

Appellant's contention:

i. The company satisfies all the filters applied by the TPO and is functionally comparable.

ii. The company is engaged in software testing, which is part of software development life cycle and therefore, the company is in business of software development.

TPO's contention:

i. The company provides both onsite and offsite services.

ii. Also, the company is only into software testing and validation work only.

Decision:

I accept the view of the TPO and uphold the view that this is an invalid comparable.

D) M/s. CG-Vak Software & Exports limited

Appellant's contention:

i. Majorly engaged in software development activities

ii. TPO has incorrectly not considered, as its persistent loss making, however the company has made profit for FY 2010-11

TPO's contention:

The company is incurring loss in software segment based on annual report of the company.

Decision:

I accept the view of the TPO and uphold the view that this is an invalid comparable.

E) M/s. R Systems International Limited

Appellant's contention:

i. The company is engaged in software development activity ii. The quarterly results of the company is available in website

TPO's contention:

i. The company's yearend is 31st March as that of the company is 31st Dec.

ii. The TPO has power to reject such comparable, which falls yearend filter.

Decision:

I accept the view of the TPO and uphold the view that this is an invalid comparable.

F) M/s. Bluestar Infotech Limited

Appellant's contention:

i. The company satisfies all the filters adopted by the TPO

ii. *The reason for rejection by TPO is export earnings filter, which is 62.88% of sales.*

TPO's contention:

i. *The company forex earnings are 62.88%. The forex earnings adopted by the TPO for SDS transactions is forex earnings greater than 75% of the sales, but not 25%.*

ii. *This company fails forex filter is correct.*

Decision:

I accept the view of the TPO and uphold the view that this is an invalid comparable.

G) M/s. Cigniti Technologies Limited

Appellant's contention:

i. *The company satisfies all the filters adopted by the TPO*

ii. *The reason for rejection by TPO is export earnings filter, which is 62.528% of sales.*

TPO's contention:

i. *The company forex earnings are 62.52%. The forex earnings adopted by the TPO for SDS transactions is forex earnings greater than 75% of the sales, but not 25%.*

ii. *This company fails forex filter is correct.*

Decision:

I accept the view of the TPO and uphold the view that this is an invalid comparable.

7.4 The reasoning given by the TPO is appropriate and factual, hence the objections raised by the appellant are not tenable. Thus, the Assessing Officer has taken stand correctly. Hence, I upheld the comparables selected to make Arms length calculations, under transfer pricing.”

5.1. The Ld. AR also submitted that it can be perused from the aforesaid grounds that the assessee had raised many issues i.e. selection of comparables (ground no. 7 to 9), erroneous computation of income of margins of comparable companies (ground no. 10), computation of TP adjustments (ground no. 11 & 12), corporate guarantee (ground no. 13), use of single year data (ground no. 14) and benefits of +/- 5 percent(ground no. 15) before the Ld. CIT(A) through the aforesaid ground no. 7 to 15 . However the Ld. CIT(A) without appreciating the facts properly adjudicated the ground no.7 to 15 on the basis of only single issue i.e. “whether the comparables are valid or not” and dismiss the grounds on all the different issues with considering the merits. Thus, the Ld. AR argued that the Ld. CIT(A) did not consider the grounds raised by the assessee properly, before passing the order. Hence, Ld. AR requested the Bench to set aside the impugned order and restore the issue to the file of Ld.CIT(A) for fresh consideration of the matter.

6. The Ld. DR, accepted the contention of the Ld. AR and did not raise any objection on the request of the assessee in setting aside the issues and restore the same to the file of Ld.CIT(A).

7. We have heard the rival submissions and also gone through the record in the light of the submissions made by either side. It is not in dispute that the assessee had raised

many issues i.e. selection of comparables (grounds No. 7 to 9), erroneous computation of income of margins of comparable companies (ground No. 10), computation of TP adjustments (ground No. 11 & 12), corporate guarantee (ground no. 13), use of single year data (ground no. 14) and benefits of +/- 5 percent (ground no. 15) before the Ld. CIT(A) through the ground no. 7 to 15 . However, the Ld. CIT(A) adjudicated the grounds no.7 to 15 on the basis of only single issue i.e. “whether the comparables are valid or not” and dismiss the grounds on all the different issues. In our opinion the Ld. CIT(A) failed to appreciate the grounds raised by the assessee on merits, before passing the order. Hence, we set aside the issues and restore the same to the file of Ld.CIT(A) with a direction for fresh consideration of the matter in accordance with law, by giving an opportunity of being heard to the assessee. These grounds are accordingly treated as allowed for statistical purposes.

8. In the result, the appeal of the assessee for the A.Y.2012-13 is treated as allowed for statistical purposes.

Revenue’s cross appeal for the A.Y.2012-13:

9. Revenue filed this cross-appeal on the issue of deleting the disallowances by the Ld.CIT of Rs. 4,32,07,981/-.

10. It was the submission of the Ld. DR before the Bench that before invoking the provisions u/s 14A r.w. rule 8D of the

Act, Ld.CIT(A) ought to have considered that any investment which is yielding or likely to yield exempt income falls within the ambit of section 14A of the Act and expenditure in relation to such investment has to be computed as per the formula in Rule 8D and there is no exemption in case where no exempt income is earned or not. It was further contended by the ld. DR that while taking such a view, Ld.CIT(A) failed to consider Circular No. 5/2014, dt. 11/02/2024 issued by the CBDT wherein it is clarified that Rule 8D r.w.s. 14A of the Act, provides for disallowance of the expenditure even where taxpayer in a particular year has not earned any exempt income. It was also contended that the Ld. CIT(A) has given the relief contending under para no. 8.4 of his order that *“the dividend received by the assessee is from the foreign companies and is taxable as per Section 115BBD. Therefore, the question of non-taxability of income does not arise. The Assessing Officer has wrongly applied Section 14A disallowance to an income which is taxable.”*. The Ld. DR also submitted that the Ld. CIT(A) did not appreciate that the said Section 115BBD of the Act prohibit the allowance on any expenditure against the said foreign dividend income. Finally, learned DR prayed to delete the allowance made by the Ld.CIT(A).

11. Per contra, learned AR while placing heavy reliance on the impugned order, reiterated that the order of the Ld.CIT(A) is a well-reasoned order and, therefore, there are no grounds

required to interfere with such well-considered order. Hence, prayed the Bench to sustain the impugned order.

12. We have heard the rival submissions and also gone through the record in the light of the submissions made on either side. The facts whether the dividend received by the assessee covered u/s 115BB of the Act and whether any expenditure have been incurred for earning those dividend are required to be verified from the records of the assessee. The Ld.CIT(A) has not elaborately dealt with the issue in his order. Hence we think it proper to remit back the issue to the file of the Ld.CIT(A) with the direction to denovo verify the issue and decide as per the provision of the Act. It is need less to say that before deciding the same an opportunity of being heard should be given to the assessee. Accordingly the issue raised by the revenue is decided.

13. In the result, the appeal of the Revenue for the AY. 2012-13 is treated as allowed for statistical purposes.

Assessee's appeal for the A.Y.2013-14:

14. Brief facts relevant to A.Y. 2013-14 as culled out from the records are that the assessee filed its return of income on 29/11/2013, declaring total income at Rs.NIL under the normal provisions of the Act and declared book profits at Rs. 33,24,01,104/- u/s 115JB of the Act. The case of the assessee was selected for scrutiny and accordingly notices were issued

to the assessee. The Ld. AO completed the assessment under section 143(3) of the Act by order dt. 31/01/2017, determining the total income under the normal provision of the Act at Rs. 6,56,30,425/- and book profit at Rs. 33,93,42,457/-after considering the order dated 31/10/2016 passed by the Ld. TPO.

15. Aggrieved, assessee preferred appeal before the Ld.CIT(A), who dismissed the appeal of the assessee accepting the ply of the Ld. AO contending that the assessee failed to furnish any evidences/documents before him. Hence, the assessee is in appeal before the Tribunal against the order of CIT(A).

16. During the course of arguments, summarizing all their grounds raised before us, the Ld. AR submitted that, the Ld. CIT(A) dismissed the appeal of the assessee on the reason that the assessee failed to furnish any evidences/documents before him. Ld. AR bring our attention to page no. 5 to the page no. 154 of the paper books filed by the assessee on 28/10/2020 and submitted that the same were filed before the Ld. CIT(A). He further submitted that the Ld. CIT(A) without perusing the various evidences/documents filed before him by the assessee, dismissed the appeal of the assessee. Hence, the Ld. AR requested the Bench to set aside the impugned order and restore the issue to the file of Ld.CIT(A) for fresh consideration of the matter.

17. The Ld.AR also submitted that as far as the ground No.8 and ground No.9 related to “disallowance u/s 14A” and “disallowance u/s 14A for the purpose of MAT” is concerned the order of the Ld.CIT(A) is very cryptic and did not deal with the submission made by the assessee. Hence, he requested the Bench to set aside the impugned order and restore the issue to the file of Ld.CIT(A) for fresh consideration of the matter.

18. Per contra, the Ld. DR, accepted the contention of the Ld. AR and did not raise any objection on the request of the assessee in setting aside the issues and restore the same to the file of Ld.CIT(A).

19. We have heard the rival submissions and also gone through the record in the light of the submissions made on either side. As far as the ground no.8 and ground no.9 related to “disallowance u/s 14A” and “disallowance u/s 14A for the purpose of MAT” respectively is concerned, the contention of the assessee is correct. The order of the Ld.CIT(A) is very cryptic and did not deal with the submission made by the assessee. Hence considering the principle of natural justice to decide the issue on merits, we think it proper to set aside the impugned order and restore the issue to the file of Ld.CIT(A) with a direction for fresh consideration of the matter in accordance with law, by giving an opportunity of being

heard to the assessee. Grounds are accordingly treated as allowed for statistical purposes.

20. However, the contention of the assessee with regards to other ground are also concerned, the contention of the assessee is correct. Ld. AR brought our attention to page No. 5 to the page No. 154 of the paper books filed by the assessee on 28/10/2020 and submitted that the same were filed before the Ld. CIT(A). The relevant portion of the order of the Ld. CIT(A) is reproduced as under for the sake of convenience :

“6. I have carefully considered the facts of the case, assessment order and submissions of the appellant. As per assessment order, The AO mainly considered the disallowance u/s. 92CA(3) and u/s.14A.

6.1. The TPO has clearly analysed using filters which were already provided to the appellant. The Assessing Officer also asked to furnish objections, if any, for TPO order but the appellant has not filed any explanation against the TPO order even after giving opportunity. Therefore, the total income of the appellant analysed by the AO of Rs. 5,86,89,072/- u/s. 92CA(4). And the appellant not filed any appeal before the DRP against TPO order and filed appeal only after completion of assessment by the assessing Officer before the CIT(Appeals).

6.2. During the course of appeal proceedings, the appellant neither furnished any fresh evidence nor any fresh submissions. Therefore, in view of detailed reasons mentioned by the TPO which were clearly followed by the Assessing Officer, I am in agreement with the Assessing Officer. Hence, the addition made by the AO is confirmed.”

20.1. From the perusal of page No. 5 to the page no. 154 of the above referred paper books and the relevant portion of the

order of CIT(A), it is abundantly clear that the Ld. CIT(A) dismissed the other grounds of the assessee without perusing the evidences/documents filed by the assessee. In these circumstances, in the interest of justice, we deem it appropriate to remit the issue back to the file of the Ld.CIT(A) with a direction to look into the facts and decide the issue as per law, by giving an opportunity of being heard to the assessee. Grounds are accordingly treated as allowed for statistical purposes.

21. In the result, the appeal of the assessee for the A.Y.2013-14 is treated as allowed for statistical purposes.

17. To sum up, both the appeals of the assessee and the appeal of the Revenue are treated as allowed for statistical purposes.

Order pronounced in the open court on 20th day of June, 2024.

Sd/-
(K. NARASIMHA CHARY)
JUDICIAL MEMBER

Sd/-
(MADHUSUDAN SAWDIA)
ACCOUNTANT MEMBER

Hyderabad,
Dated: 20/06/2024

TNMM

Copy forwarded to:

1. Computer Sciences Corporation India Private Limited,
(previously known as AppLabs Technologies Private
Limited), DLF Cybercity, Block-II, 6th Floor, Plot No. 129-
132, Gachibowli, Hyderabad.
2. The Deputy Commissioner of Income Tax, Circle-1(1),
Hyderabad.
3. Pr.CIT-1, Hyderabad.
2. DR, ITAT, Hyderabad.
3. GUARD FILE

TRUE COPY

ASSISTANT REGISTRAR
ITAT, HYDERABAD