IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'D': NEW DELHI

BEFORE SHRI SAKTIJIT DEY, VICE PRESIDENT

AND

SHRI BRAJESH KUMAR SINGH, ACCOUNTANT MEMBER

3399/DEL/2023
[Assessment Year: 2021-22]

Backbase Europe VB, Jacob Bontiusplaats 9, 1018 LL, Amsterdam, Netherlands	Vs	The Assistant Commissioner of Income Tax, Circle International Taxation-1(1)(2), Civic Centre, Minto Road, New Delhi-110002
PAN-AAGCB1699B		
Assessee		Revenue

Assessee by	Sh. Tarun G. Advocate
Revenue by	Sh. Vijay B. Vasanta, CIT-DR

Date of Hearing	**26.07.2024**
Date of Pronouncement	**20.08.2024**

ORDER

PER BRAJESH KUMAR SINGH, AM,

This appeal by the assessee is directed against the order of the Assessing Officer dated 29.09.2023 passed u/s 143(3)/144C(13) of the Income Tax Act, 1961 (hereinafter 'the Act') arising out of directions of Dispute Resolution Panel dated 22.08.2023 pertaining to Assessment Year 2021-22.

2. The grounds of appeal raised by the assessee are as under:-

"1. The order of the Assistant Commissioner of Income Tax, Circle International Tax - 1(1)(2), New Delhi dated 29.09.2023 vide DIN & Order No. ITBA/AST/S/143(3)/2023-24/1056642431(1) read in conjunction with the directions of the Dispute Resolution Panel dated 22.08.2023 for the above

mentioned Assessment Year is contrary to law, facts, and in the circumstances of the case.

2. The ACIT / DRP erred in bringing to tax Rs. 5,55,358 / - being the amount received from IDFC Bank Ltd as Software Consultancy Charges as fee for technical services on the application of section 9(1)(vii) of the Act in the computation of taxable total income without assigning proper reasons and justification.

3. The ACIT / DRP erred in bringing to tax Rs.2,25,46,600/- being the amount received from HDFC Bank Ltd as Software Consultancy Charges as fee for technical services on the application of section 9(1)(vii) of the Act in the computation of taxable total income without assigning proper reasons and justification.

4. The ACIT / DRP erred in bringing to tax Rs. 89,081/-being the amount received from Xebia Architects India Pvt Ltd as Software Consultancy Charges as fee for technical services on the application of section 9(1) (vii) of the Act in the computation of taxable total income without assigning proper reasons and justification.

5. The ACIT / DRP erred in bringing to tax Rs. 4,71,24,998/- being the amount received from HDFC Bank Ltd as Software License AMC Charges as fee for technical services on the application of section 9(1) (vii) of the Act in the computation of taxable total income without assigning proper reasons and justification.

6. The ACIT /DRP failed to appreciate that the provisions of section 9(1)(vii) of the Act had no application to the facts of the case and ought to have appreciated that the support services/consultancy services were erroneously reckoned as fee FTS upon misreading the related provisions in the treaty as well as in the statute.

7. The ACIT/ DRP failed to appreciate that the receipts from the transactions which were subjected to Indian Taxation suo moto were erroneously compared with the disputed receipts and ought to have appreciated that the transactions which were subjected to Indian Taxation were clearly distinguishable from the facts pertaining to the receipts which are now disputed for inclusion as part of the computation of taxable total income.

8. The ACIT/ DRP failed to appreciate that the provisions of Article 12 of the concerned treaty were wrongly understood and applied and ought to have appreciated that the disputed receipts would be subjected to taxation only in Netherlands by virtue of tax residency status of the appellant, thereby

vitiating the related findings both in the impugned order as well as in the order passed by the DRP.

9. The ACIT / DRP failed to appreciate that the annual maintenance and support services were in connection with perpetual licence given to HDFC Bank & others for ensuring the copy righted software being maintained/updated by providing new version/by providing patches and hence ought to have appreciated that having not made available the technical knowledge, the decision to bring the related receipts under Indian Tax Regime should accordingly be reckoned as bad in law.

10. The ACIT/ DRP failed to appreciate that having not disputed the fact of the appellant/assessee not making available the technical knowledge, the taxability of the related/disputed receipts under Indian Tax Regime within the scope of the related treaty provisions read with the statutory provisions in the Act was wrong, incorrect, erroneous, invalid, unjustified and not sustainable both on facts and in law.

11. The ACIT/ DRP failed to appreciate that the findings in para 6.1 of the DRP's order which were adopted in the final assessment order under challenge in the present appeal were wrong, erroneous, incorrect, invalid, unjustified and not sustainable both on facts and in law.

12. The ACIT /DRP failed to appreciate that the provisions governing the definition of FTS both under the treaty as well as in the statute under consideration were completely misread and ought to have appreciated that the tangential findings in this regard were wrong, incorrect, erroneous, invalid, unjustified and not sustainable both on facts and in law.

13. The ACIT /DRP failed to appreciate that the Dispute Resolution Panel's mechanical action in following the Panel's order rendered for assessee's own case for the Assessment Year: 2020 - 21, which order had also relied upon the order passed for the previous assessment years, thereby demonstrating the lack of proper adjudication on their part inasmuch ought to have appreciated that the first order passed in the appellant's own case for the assessment year: 2016 - 17 had attained finality under VSVS Act, 2020, thereby vitiating the decision based on the said year's findings in the impugned order under consideration.

14. The ACIT/ Dispute Resolution Panel erred in adding back a sum of Rs. 4,22,062/- being the sum received in the nature of reimbursement from Xebin IT Architects India Pvt Ltd as income of the appellant without assigning proper reasons and justification.

15. The ACIT/ DRP failed to appreciate that there could not be any scope for income accruing in the hands of the appellant for the sum received in the nature of reimbursement, thereby vitiating the findings in relation there to.

16. The ACIT/ DRP failed to appreciate that having sufficiently and adequately explained the nature of the reimbursement sum received through documentary evidences filed before them at every stage of assessment proceedings, the action in adding back the said sum was wrong, erroneous, incorrect, invalid, unjustified and not sustainable both on facts and in law.

17. The ACIT / DRP failed to appreciate that the findings of the DRP in this regard were wrong, incorrect, erroneous, invalid, unjustified and not sustainable both on facts and in law and ought to have appreciated that the mechanical adoption of such findings in the impugned order as a consequence should be considered as nullity in law.

18. The ACIT failed to appreciate that the evidences filed in support of the stand were not considered and looked into, despite the directions issued by the DRP at para 6.1 and ought to have appreciated that non recording of findings in relation to the evidences filed in support would vitiate the related findings in the impugned order.

19. The ACIT /DRP failed to appreciate that the order passed by the Dispute Resolution Panel - 1, New Delhi dated 22.08.2023 should be reckoned as non-est in law in the absence of Document Identification Number forming part of the said order passed by them and further ought to have appreciated that the attempt in validating the said order by issuing intimation letter on 24.08.2023 should also be reckoned as bad in law, thereby vitiating the consequential impugned order under consideration.

20. The ACIT /DRP failed to appreciate that non adherence to the decision rendered by the jurisdictional Delhi High Court in the case of Brandix Mauritius Holdings Ltd in ITA 163/2023 dated 20.03.2023 would vitiate the impugned order in its entirety.

21. The ACIT /DRP failed to appreciate that the entire re-computation of taxable total income was wrong, incorrect, erroneous, invalid, unjustified and not sustainable both on facts and in law and ought to have appreciated that the brushing aside of revised return of income was wholly unjustified and not sustainable in law.

22. The ACIT /DRP failed to appreciate that the impugned order was passed out of time, invalid, passed without jurisdiction and not sustainable both on facts and in law.

23. The ACIT / DRP failed to appreciate that the mechanical approach in following the earlier assessment years' decision for taxing the disputed sums should be reckoned as bad in law and ought to have appreciated that the said order were subjected to further appeal.

24. The ACIT / DRP failed to appreciate that there was no proper opportunity given before passing the impugned order/DRP order and any order passed in violation of the principles of natural justice is nullity in law."

3. Brief facts of the case: The Assessee is a tax resident of Netherlands and holds a valid tax residency certificate. The Assessee is part of Backbase group with Twinspark BV as holding company and the said group consists of operating companies specialized in development, licensing and implementation of digital banking software. The companies provide Fin-tech software for financial institutions.

4. The main issue in this appeal in ground no.2 to 12 pertain to taxability of Rs.7,03,16,037/- received from the ancillary services provided in relation to the software sold by the assessee company to HDFC Bank, IDFC Bank and Xebia Architects India Pvt Ltd. The same was held to be income from Fee from Technical Services (FTS) and taxable as per provisions of Article-12 of India Netherlands DTAA and Income Tax Act, 1961 by the AO. According to the assessee, the services rendered in upgrading / updating the software already sold should be reckoned as transfer of software and hence would not fall within the ambit of FTS or royalty. The assessee relied on Article 12 of India Netherlands Double Taxation Avoidance Agreement and submitted that the receipt was not chargeable to tax in India. It was further submitted that the same issue

relating to similar amounts received by the assessee for the ancillary services provided in relation to the software sold to HDFC Bank and IDFC Bank was also therein assessment year 2018-19, 2019-20 and 2020-21.

4.1. The second issue relates to reimbursement of expenses of Rs.4,22,062/- from Xebia Architects India Pvt Ltd. considered as income of the assessee by the AO on the ground that necessary evidences of its claim of reimbursement was not submitted by the assessee.

5. The above disputes were summarised by the DRP in its order dated 22.08.2023 as under:-

> *"2) The ACIT erred in bringing to tax Rs. 7,03,16,037/- being the annual maintenance and support services receipts received from HDFC Bank Ltd. as fee for technical services on the application of section 9(1)(vii) of the Act in the computation of taxable total income without assigning proper reasons and justification.*
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> *3) The ACIT erred in bringing the tax of Rs. 4,22,062/- being reimbursement of expense received from Xebia IT Architects India Pvt Ltd. As fee for technical services in the computation of taxable total income without assigning proper reason and justification."*

5.1 During the course of hearing, at the outset, it was submitted by the ld. AR that the issue with respect to amount of Rs.7,03,16,037/- received from the ancillary services provided in relation to the software sold to HDFC Bank/IDFC Bank/ Xebia Architects India Pvt Ltd. is covered by the decision of the Tribunal in assessee's own case for AYs 2018-19, 2019-20 and 2020-21 in ITA Nos.1572/Del/2022, ITA No.1573/Del/2022 and in ITA No.301/Del/2023. It was submitted that on similar facts, the Tribunal vide its order dated 24.04.2024 held that the decision rendered by the ld. DRP by reckoning the disputed components as royalty as well

as FTS was self-contradictory. It was further submitted that the Tribunal in the said order held that the principles governing for considering the particular components of receipt as royalty involve the consideration as prescribed under the relevant DTAA and in contra distinction for reckoning the very same receipts as FTS and that there are different set of principles governing in relation there to and that the disputed receipts cannot fall under both the categories of royalty and FTS. It was submitted that the Tribunal after considering these facts had referred to the ld. DRP to independently examine the issue for the years also and pass appropriate directions as deemed fit.

5.2. In view of the above facts, it was submitted that the matter be referred to the ld. DRP to independently examine this issue for the present assessment year also in light of the above directions of the Tribunal and to pass appropriate directions as deemed fit.

6. On the second issue, it was submitted that the issue regarding reimbursement of expenses of Rs.4,22,062/- from Xebia Architects India Pvt Ltd. considered as income of the assessee may also be set-aside to the file of the AO as the AO did not examine the evidences in support of its claim of reimbursement submitted before him.

7. The Ld. DR objected in principle and supported the orders of the authorities below.

8. We have considered the rival submissions and perused the material available on record. On the issue of amount of Rs.7,03,16,037/- received from the ancillary services provided in relation to the software sold to

HDFC Bank/IDFC Bank/ Xebia Architects India Pvt Ltd., the Ld. DRP in para no.5 and 5.1 of its order for the present assessment year noted that the issue was repetitive in nature and has been adjudicated by the DRP in its previous order for AY 2020-21 and held that since the legal and factual matrix remains the same as in AY 2018-19, 2019-20 and 2020-21, the DRP reiterated its view as pronounced in AY 2018-19, 2019-20 and 2020-21 for the present assessment year also. The relevant extract of the directions of the DRP in para no.5 and 5.1 is reproduced as under:-

> "5.Grounds No. 2 to 13 (excluding ground 3) relate to taxability of annual maintenance and support services receipt from HDFC bank as FTS under section 9(1)(vii) of the Act, read with the India Netherlands DTAA. This issue is repetitive in nature and has been adjudicated by the DRP in his previous orders as below:
>
> > "3.3 In respect of annual maintenance and support services receipt from HDFC bank, it is submitted that the assessee is part of M/s Backbase group with Twinspark BV as holding company and they are specializing in development, licensing and implementation of digital banking software. The AO records his findings in para 5 to para 8 of his order in justifying the inclusion of two components of receipts aggregating to Rs. 901,57,167/- as part of the assessable income under the Act by reckoning such receipts as fee for technical services. The assessee place heavy reliance on Article 12 of the India Netherlands DTAA by justifying its claim. It is submitted that the assessee granted right to use the software, namely, copy righted article and not the copy right in the article as the copy right of the software was retained as the customer could only use the software. It is stated that the assessee is providing annual maintenance and support services in connection with the perpetual licence given to HDFC. The company does not provide any technical service to HDFC. It merely ensures that the software is updated and maintained properly by providing new version of the software or by providing a patch, e.g., for functionality or security. Such maintenance and support is not custom for HDFC, it is the same for all Backbase's customers. For greater certainty, there is no technical knowledge transferred to HDFC, the benefit of the maintenance and support services in connection with the license stops when the maintenance and support subscription stops.
> >
> > 3.4 The Panel has considered the submission. It is noticed that a similar receipt from IDFC was sustained by this Panel during AY 2016-17, rejecting an identical objection in the following words:
> >
> > > *"After hearing the contentions of the assessee and its submissions, the Panel is of the view that the services provided by assessee to IDFC are ancillary or subsidiary to the payments received by the assesse, and which qualify as royalty and that the technical knowledge and know how*

has been rendered to IDFC and the payment therefore qualify as FTS.

The software maintenance and support services cannot operate independent of the software service being provided by the assesse. In fact the agreement to purchase or acquire the software service is integral with the maintenance and support service. Service clause of the agreement provided mentions "by making use of backbase support your development team is powered with direct channel to the heart of all backbase expertise-directly accessible via web or phone" which supports the condition of providing technical knowledge and know how rendered to IDFC which qualifies is FTS.

AO's action is upheld and assessee's objections on the issue are rejected."

3.5 Accordingly, following its direction for AY 2016-17, 2018-19 & 2019-20, which was followed in AY 2018-19, the Panel rejects this ground for AY 2020-21 as well. The reliance placed to the Supreme Court decision [2021) 125 taxmann.com 42 (SC) - Engineering Analysis Centre of Excellence (P.) Ltd. v CIT. However, it is noticed that the Engineering Analysis decision is rendered on distinguishable facts and without offer any aid to the facts of this case. The action of the AO is accordingly upheld. This objection stands dismissed accordingly."

5.1 The Panel is of the view that reliance on the decision of Engineering Analysis Centre of Excellence (P.) Ltd. V CIT by the assessee is misplaced and the AO has brought out clearly in the draft assessment order that the above services rendered by the assessee partakes in nature of FTS and further, satisfies the make available plause The DRP in its previous direction as above have held it to be taxable as proposed by the assessing officer in the previous orders. Since the legal and factual matrix remains same, the DRP reiterates its view as pronounced above. Assesse's objections s on the above is rejected.

8.1. On similar issue, the directions of the DRP for AYs 2018-19, 2019-20 and 2020-21 was challenged by the assessee before the Tribunal and the Tribunal vide an order dated 24.04.2024 in assessee's own case, had referred the matter to the ld. DRP to independently examine the issue for the years involved and pass appropriate directions as deem fit. The relevant order of the Tribunal is reproduced hereunder:-

"The present appeals have been filed by the assessee against the orders dated 12.05.2022 and 19.01.2023 passed by the AO u/s 143(3) r.w.s. 144C(13) of the Income Tax Act, 1961.

2. Since, the issue involved in all the appeals are similar, they were heard together and being adjudicated by a common order. In ITA No. 1572/Del/2022, the assessee has raised the following grounds:

"1. The order of the Assistant Commissioner of Income Tax, Circle International Tax - 1(1)(2), New Delhi dated 12.05.2022 for the above mentioned Assessment Year is contrary to law, facts, and in the circumstances of the case.

2. The ACIT erred in bringing to tax Rs.4,14,70,000/-being the annual maintenance and support service receipts received from the clients as fee for technical services on the application of section 9(1)(vii) of the Act in the computation of taxable total income without assigning proper reasons and justification.

3. The ACIT erred in bringing to tax Rs.6,03,362/-being the consultancy receipts received from the clients as fee for technical services on the application of section 9(1)(vii) of the Act in the computation of taxable total income without assigning proper reasons and justification.

4. The ACIT failed to appreciate that the provisions of section 9(1) (vii) of the Act had no application to the facts of the case and ought to have appreciated that the support services/consultancy services were erroneously reckoned as fee FTS upon misreading the related provisions in the treaty as well as in the statute.

5. The ACIT failed to appreciate that the receipts from the transactions which were subjected to Indian Taxation suo moto were erroneously compared with the disputed receipts and ought to have appreciated that the transactions which were subjected to Indian Taxation were clearly distinguishable from the facts pertaining to the receipts which are now disputed for inclusion as part of the computation of taxable total income.

6. The ACIT failed to appreciate that the provisions of Article 12 of the concerned treaty were wrongly understood and applied and ought to have appreciated that the disputed receipts would be subjected to taxation only in Netherlands by virtue of tax residency status of the appellant, thereby vitiating the related findings both in the impugned order as well as in the order passed by the DRP.

7. The ACIT failed to appreciate that the annual maintenance and support services were in connection with perpetual licence given to the clients for ensuring the copy righted software being maintained/updated by providing new version/by providing patches and hence ought to have appreciated that having not made available the technical knowledge, the decision to bring the related receipts under Indian Tax Regime should accordingly be reckoned as bad in law.

8. The ACIT failed to appreciate that having not disputed the fact of the appellant/assessee not making available the technical knowledge, the taxability of the related/disputed receipts under Indian Tax Regime within the scope of the related treaty provisions read with the statutory provisions in the Act was wrong, incorrect, erroneous, invalid, unjustified and not sustainable both on facts and in law.

9. The ACIT failed to appreciate that the findings of the DRP were wrong, incorrect, erroneous, invalid, unjustified and not sustainable both on facts and in law and ought to have appreciated that the mechanical adoption of such findings in the impugned order as a consequence should be considered as nullity in law.

10. The ACIT failed to appreciate that the evidences filed in support of the stand were not considered and looked into and ought to have appreciated that non recording of findings in relation to the evidences filed in support would vitiate the related findings in the impugned order.

11. The ACIT failed to appreciate that the provisions governing the definition of FTS both under the treaty as well as in the statute under consideration were completely misread and ought to have appreciated that the tangential findings in this regard were wrong, incorrect, erroneous, invalid, unjustified and not sustainable both on facts and in law.

12. The ACIT failed to appreciate that the entire re-computation of taxable total income was wrong, incorrect, erroneous, invalid, unjustified and not sustainable both on facts and in law.

13. The ACIT failed to appreciate that the impugned order was passed out of time, invalid, passed without jurisdiction and not sustainable both on facts and in law.

14. The ACIT failed to appreciate that there was no proper opportunity given before passing the impugned order/DRP order and any order passed in violation of the principles of natural justice is nullity in law."

3. The Assessee is a tax resident of Netherlands and holds a valid tax residency certificate. The Assessee is part of Backbase group with Twinspark BV as holding company and the said group consists of operating companies specialized in development, licensing and implementation of digital banking software. The companies provide Fin-tech software for financial institutions.

4. The main issue in the above three appeals pertain to taxability of the amounts received from the ancillary services provided in relation to the software sold to HDFC Bank and IDFC Bank.

5. According to the assessee, the services rendered in upgrading / updating the software already sold should be reckoned as transfer of software and hence would not fall within the ambit of FTS or royalty. The assessee relied on Article 12 of India Netherlands Double Taxation Avoidance Agreement submitted that the receipt was not chargeable to tax in India.

6. The ld. DRP after considering the objections raised by the appellant had followed their findings rendered for the assessment year 2016-17 with respect to the disputed sum.

7. The ld. DRP in their directions had extracted their decision rendered for the said assessment year 2016-17

and wherein it was concluded that the services to IDFC Bank should be reckoned as ancillary / subsidiary to the payments received by the Appellant as **Royalty** in as much as the technical knowledge and know-how was rendered / shared to IDFC Bank and therefore, the payment would qualify as **FTS.** The decision of the ld. DRP is as under:

> *"After hearing the contentions of the assessee and its submissions, the Panel is of the view that the services provided by assessee to IDFC are ancillary or subsidiary to the payments received by the assesse, and which qualify as **royalty** and that the technical knowledge and know how has been rendered to IDFC and the payment therefore qualify as **FTS.***
>
> *The software maintenance and support services cannot operate independent of the software service being provided by the assesse. In fact the agreement to purchase or acquire the software service is integral with the maintenance and support service. Service clause of the agreement provided mentions "by making use of backbase support your development team is powered with direct channel to the heart of all backbase expertise- directly accessible via web or phone" which supports the condition of providing technical knowledge and know how rendered to IDFC which qualifies is FTS."*

8. In this process, the software maintenance and support services according to the ld. DRP could not operate independent of the software service being provided which was based on the agreement to purchase or acquire software services. As a consequence, such services would be integral part of maintenance and support services and in this regard, the service clause of the agreement provided *'by making use of Backbase support your development team is powered with direct channel to the heart of all Backbase expertise-directly accessible via web or phone* would fortify the directions for treating the disputed payment received from IDFC Bank as FTS falling in the Indian tax regime.

9. The ratio / directions issued by the ld. DRP summarized in the preceding paragraph pertaining to the assessment year 2016-17 was followed for the payments received from HDFC Bank during the assessment year under consideration and justified their directions to tax it either as royalty or FTS.

10. On going through the record, we find that there has been overlapping findings of the ld. DRP on the two receipts contested in the present appeal. The decision rendered by the ld. DRP by reckoning the disputed components as royalty as well as FTS is self-contradictory. The principles governing for considering the particular components of receipt as royalty involve the consideration as prescribed under the relevant DTAA and in contra distinction for reckoning the very same receipts as FTS, there are different set of principles governing in relation

> thereto. The disputed receipts cannot fall under both the categories of royalty and FTS.
>
> 11. At this juncture, it was pleaded by the ld. AR for setting aside the directions of the orders and to direct the ld. DRP to consider the issue afresh. The ld. DR objected in principle. We find no prejudice would be caused to the Revenue if the matter is referred to the ld. DRP to independently examine the issue for the years involved and pass appropriate directions as deemed fit. The AO shall complete the Assessment Order *de-novo* as per the new directions issued by the ld. DRP.
>
> 12. In the result, the appeals of the assessee are allowed for statistical purpose."

9. Respectfully following the above decision of the Tribunal on similar facts, the issue relating to the amount of Rs.7,03,16,037/- received from the ancillary services provided in relation to the software sold to HDFC Bank/IDFC Bank/ Xebia Architects India Pvt Ltd. for the present assessment year also is referred to the file of the Ld. DRP to independently examine the issue for the present assessment year in light of the above decisions of the Tribunal for AY 2018-19, 2019-20 and 2020-21 and pass appropriate directions as deemed fit. Further, the AO shall complete the assessment order *de novo* as per the new directions issued by the Ld. DRP.

10. Regarding the issue of adding back a sum of Rs. 4,22,062/- being the sum claimed to be received in the nature of reimbursement from Xebin IT Architects India Pvt Ltd., it was submitted that the AO did not examine the necessary evidences as directed by the ld. DRP, which would have supported its claim that it was in the nature of reimbursement and hence not taxable. In para no.6, the ld. DRP had directed the AO to verify the necessary evidences and if it was found to be purely reimbursement in nature, then the assessee would be eligible for relief on this account. It

is seen from the paper book (page nos.135, 141 and 152) that in the letter dated 03.11.2022 before the AO during the assessment proceedings, the details of expenses in this regard and invoices thereto were submitted in reply to query no.6 and 16 respectively, which apparently has not been considered by the AO, while passing the draft assessment order or the final assessment order as per the direction of the Ld. DRP. Therefore, in order to subserve the interests of natural justice and to provide one more opportunity to the assessee to effectively represent its case, this matter is also restored to the file of Ld. DRP for allowing the assessee to submit the necessary evidences in this regard and if required to get necessary verifications from the AO and pass appropriate directions as deemed fit. The AO shall complete the Assessment Order *de-novo* on this issue also as per the new directions issued by the Ld. DRP. Ground Nos.14 to 18 are allowed for statistical purposes.

11. Ground no. 21 is with respect to the fact that the ACIT /DRP failed to appreciate that the entire re-computation of taxable total income was wrong, incorrect, erroneous, invalid, unjustified and not sustainable both on facts and in law and ought to have appreciated that the brushing aside of revised return of income was wholly unjustified and not sustainable in law. In this regard, the matter is restored to the file of the Ld. DRP for necessary verification regarding the non consideration of the revised return of income and passing appropriate directions as deemed fit. The AO shall complete the Assessment Order *de-novo* on this issue also as per the new directions issued by the Ld. DRP. Ground No.20 is allowed for statistical purposes .

12. Ground nos. 22 and 23 relate to the above main two issues. No specific arguments have been made on these grounds and hence, they are dismissed.

13. In ground nos. 19 and 20, the assessee submitted that the assessment order passed was invalid on account of not following the procedure of DIN. However, during the course of hearing, these grounds were not pressed by the ld. AR. We, therefore, dismiss the ground nos. 19 and 20 of the assessee as not pressed.

14. In the result, the appeal of the assessee is partly allowed for statistical purposes.

Order pronounced in the open court on 20th August, 2024.

Sd/-	**Sd/-**
[SAKTIJIT DEY]	**[BRAJESH KUMAR SINGH]**
VICE PRESIDENT	**ACCOUNTANT MEMBER**

Dated 20.08.2024.
SSK

Copy forwarded to:
1. Assessee
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,
ITAT, New Delhi