

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH : Bengaluru**

BEFORE SHRI PRASHANT MAHARISHI, VICE PRESIDENT  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER

IT(TP)A No.1925/Bang/2024
Assessment year : 2020-21

Concur Technologies (India) Private Limited, No.65/2, Bagmane Laurel, Bengaluru North, Bengaluru – 560 093. <b>PAN: AA ECC 3891N</b>	Vs.	The Assistant Commissioner of Income Tax, Circle 2(2)(1), Bengaluru.
APPELLANT		RESPONDENT

Appellant by	:	Shri Chavali Narayan, CA
Respondent by	:	Ms. Neera Malhotra, CIT(DR)(ITAT), Bengaluru.

Date of hearing	:	12.11.2024
Date of Pronouncement	:	05.12.2024

**ORDER**

*Per Prashant Maharishi, Vice President*

1. This appeal is filed by M/s. Concur Technologies (India) Private Limited, (the assessee/appellant) for the assessment year 2020-21 against the assessment order passed by the Assessment Unit (Id.AO) pursuant to the directions of the Dispute Resolution Panel, Bangalore [Id. DRP] dated 24.6.2024 in draft assessment order passed u/s. 143(3) r.w.s. 144C(13) of the Income-tax Act, 1961 (the Act) raising the following grounds of appeal:-

“Based on the facts and circumstances of the case and in law, Concur Technologies (India) Private Limited (hereinafter referred to as the "Appellant"), respectfully craves leave to prefer an appeal against the order passed by the Assessment Unit (hereinafter referred to as the "learned AO"). dated 3 August 2024 for the Assessment Year ("AY") 2020-21, under section 143(3) of the Income-tax Act, 1961 ("the Act) to the order giving effect passed dated 8 July 2024 under section 143(3) read with 144C(13) pursuant to the directions issued by the Dispute Resolution Panel, Bangalore (hereinafter referred to as the "Honorable DRP") dated 24 June 2024 under section 144C(5) of the Act, inter-alia on the following grounds which are without prejudice to each other:

That on the facts and circumstances of the case and in law:

1. The impugned order of the learned AO pursuant to the directions of the Honorable DRP, erred in assessing the total income at INR 96,401,632 as against the returned income of INR 91,458,511 reported by the Appellant.

Grounds relating to transfer pricing ("TP") matter

2. The learned AO/ TPO erred in law and facts by re-characterizing the outstanding receivables from the associated enterprise (AEs) as loan extended to the AE and thereby erred in computing notional interest on the outstanding balance from the AE amounting to INR 17,777,133, While doing so, the learned AO/ TPO erred by not appreciating the fact that the outstanding receivables from AE were purely on account of genuine business reasons and was not undertaken with any mala-fide intention to extend any indirect credit period benefit to AEs.
3. The learned AO/ TPO erred in law and facts by rejecting the contention of Appellant that the receivables have resulted out of international transactions undertaken by the Appellant with its AE and is subsumed within the arm's length price determination of the principal transactions itself using the transactional net margin method ("TNMM") as the most appropriate method in the I'P study report. The learned AO/ TPO has also erred in law and facts by treating outstanding

receivables as a separate international transaction as per provisions of section 92B of the Act.

4. The learned AO/ TPO erred in law and facts by not granting working capital adjustment which was sought for and contended by the Appellant before the learned TPO.
5. Without prejudice to Appellant contentions that the outstanding receivables should not be treated as a separate international transaction, even where the learned AO/ TPO has alleged it to be separate international transaction, the learned AO/TPO erred in law and facts by only computing the interest on trade receivable from AE and not taking into consideration trade payables or net working capital days. For AY 2020-21, Appellant's average net working capital days was negative 10 days as compared to comparable companies average net working capital days of 76 days.
6. Without prejudice to Appellant contentions that the outstanding receivables should not be treated as a separate international transaction, even where the learned AO/ TPO has alleged it to be separate international transaction, the TPO erred in law and facts by not comparing Appellants average receivables period as against the average receivables period of the comparables companies. For AY 2020-21, Appellant's average receivable period was 40 days as compared to comparable companies average receivable period of 159 days.
7. The learned AO/ TPO erred in facts by not appreciating the fact that the inter-company agreement of the Appellant does not provide for any charge of interest on account of delayed receipts against the invoices raised to the AEs. Further, the learned AO/TPO has not appreciated the fact that the Appellant neither charges interest on outstanding receivables from external vendors do not get charged on delayed payments to creditors.
8. The learned AO/ TPO erred in facts by not appreciating the fact that no interest was paid by the Appellant on third party balance payables. Therefore, Appellant is not entitled to receive any interest on the trade receivable from AE.

The Appellant submits that each of the above grounds is independent and without prejudice to one another.

The Appellant craves leave to add, alter, amend; vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of the appeal, so as to enable the Honorable Income-tax Appellate Tribunal, to decide on the appeal in accordance with the law.”

2. The brief facts of the case show that the assessee, Concur Technologies (India) Private Limited, is engaged in the provision of services to its Associated Enterprises (AEs) of IT-enabled Services [ITes] with respect to travel request, travel bookings and claims of expenses. The assessee filed its return of income on 1.1.2021 at a total income of Rs.36,12,59,340 which was picked up for scrutiny and one of the reasons for scrutiny was examination of TP aspect of international transactions based on TP risk parameters.
3. The functions performed by the assessee is related to limited localisation of promotional initiatives such as exhibition events and participation in trade shows. The assessee provides marketing and sales support services to its AEs. The function of assessee includes identifying potential customers, distribute and disseminate information of the product, gathering client and business specific data and act as facilitator between the AEs and existing customers. It acts as a first point of contact between the customers and AEs. It also advises AE on the market trend, strategies, market conditions, information of the competitor and

new products. It is also responding to enquiries of the customers regarding technology and the product.

4. The TPO found that there is delay in receivable from the AEs over and above the agreed period and therefore it amounts to a separate international transaction which needs to be benchmarked separately. Accordingly the TPO computed number of days of delay exceeding the agreed days as per agreement, applied SBI PLR of 13.27% and proposed an adjustment of Rs. 1,77,77,133.
5. Total ALP Aadjustment proposed was of Rs.12,93,75,803 by order of TPO passed u/s. 92CA (3) of the Act dated 9.2.2023. Based on this, a draft order u/s. 144C(1) of the Act was passed by the Assessment Unit on 26.9.2023 assessing the income of assessee at Rs.49,06,81,713 incorporating the above TP adjustment proposed of Rs.12,93,75,803.
6. The assessee preferred objections before the Id. DRP. Consequent to DRP directions, the adjustment made of Rs.11,15,98,670 was reduced to NIL in respect of business support services segment. The interest on delayed payment was upheld by the DRP in principle and the adjustment was retained at Rs.1,77,77,133 as per order passed by the Id. TPO/AO on 8.7.2024, pursuant to the direction of the DRP dated 3.7.2024. The direction dated 3.7.2024 is the order under Rule 13 of the DRP Rules which was passed on the original direction u/s. 144C(5) of the Act dated 3.6.2024.

7. Based on the above direction, the final assessment order u/s. 143(3) r.w.s. 144C(13) r.w.s. 144B of the Act was passed on 3.8.2024 determining total income of assessee at Rs.37,90,36,473 against returned income of Rs. 36,12,59,340/- wherein only adjustment is on account of interest on delayed receivables.
8. The assessee has raised 8 different grounds, however, it challenges the adjustment on the ground that outstanding receivables from AEs were (i) purely on account of genuine business reasons and was not undertaken with any malafide intention to extend any indirect benefit of credit to its AE, (ii) when the margins of the assessee are computed on TNM Method, the above adjustment of outstanding receivable subsumes and there cannot be any separate international transaction, (iii) assessee requested for working capital adjustment, but same was not granted to assessee and if working capital adjustment is granted, then the above adjustment could not be made (iv) As assessee does not charge any interest on third party balances and therefore assessee is not entitled to receive any interest from AEs.
9. The Id. AR over and above the issue raised in the grounds of appeal, also submitted that the TPO has recharacterised the outstanding receivable as of 31.3.2020 as loan transaction and has applied the interest at SBI PLR @ 13.27% and did not provide any basis of determination of arm's length interest.

10. The Id. AR further referred to paperbook (PB) No.2 filed before us showing the invoice copies and ageing schedule. He further referred to several judicial precedents. Further, his main contention was that if the outstanding receivable is considered as a separate international transaction of financing to AEs, then adoption of rate of 13.27% adopting SBI PLR rate by the Id. TPO is grossly unjust. He submits that invoices are prepared in Foreign Currency, therefore there cannot be applicability of SBI PLR.
11. The Id. DR vehemently submitted that overdue interest receivable beyond the agreed time period is a separate international transaction which cannot be subsumed in the normal transaction of sale because the amount is not collected by the AE during the agreed time period. It was submitted that it is a transaction of financing to AEs. Therefore, it should be benchmarked separately. The Id. AO/TPO has adopted rate of 13.27% correctly.
12. We have carefully considered the rival contentions and perused the orders of Id. lower authorities. The only TP issue involved in this appeal is benchmarking of outstanding receivables from AEs for a period over and above the agreed period of realization of sale consideration. We find that outstanding receivables from AEs exceeding the agreed days as per agreement is a separate international transaction as it becomes the transaction of

providing capital financing including lending of receivables which is a separate international transaction which cannot be subsumed in the normal transaction of purchase and sales or provision of services. It is an undisputed fact that allowing credit to AEs beyond the agreed days is allowing AE to retain money more than agreed time, which results in AE enjoying those funds without any cost to AE. Thus, it amounts to transaction of providing funds to its AE without any Charge. As the agreed terms of payment is mentioned in the agreement of services, the outstanding beyond an agreed term is never the part of agreement of provision of sales or services, further there is no link between the overdue outstanding receivable and the extended credit period allowed to the AE, therefore it is not linked with those transactions. Hence, it is a separate international transaction and therefore it should be benchmarked separately. To that extent, we do not find any infirmity in the order of the Id. TPO.

13. The limited issue that now involves is that the Id. TPO has computed the interest of trade receivable by applying the SBI PLR of 13.27%. With respect to the above rate adopted by the Id. TPO, it is interesting to read para 16.22 of the order of the Id. TPO. As per that para, it is specifically mentioned that in case invoices are raised in domestic currency, rate of interest is to be charged on the basis of SBI PLR prevailing during the FY 2019-20 i.e., 13.27% p.a. However, in case invoices have been raised in foreign currency, the interest rate proposed to be charged is on

the basis of mark-up on prevailing LIBOR rate during the year. The Id. AR has placed before us copies of invoices at pages 370 to 409 of PB wherein we find that the invoices have been raised by assessee in foreign currency i.e., Euro. We do not find any invoice raised by the assessee on its AEs in Indian currency. Therefore, the computation of rate of interest @ 13.27% adopted by the Id. TPO and confirmed by the Id. DRP is devoid of any merit. As per the order of the Id. TPO himself, if the invoices are raised in foreign currency, the interest rate should be charged on the basis of prevailing LIBOR rate + appropriate mark-up. Therefore, as the Id. TPO has not charged interest adopting LIBOR rate, we direct the Id. TPO to apply the LIBOR rate as the basis for computation of interest.

14. So far as the issue of mark-up over and above is concerned, it is to be based on the basis of risks involved. The Markup is to be based on actual delineation of the financial transaction of overdue receivables, which is different from tenure loans and other financial transactions. Generally, risk involved in this type of overdue receivable is minimal. Thus, it is for the assessee to show nature of risks involved. Thus, Assessee is directed to show that what mark-up should be charged on LIBOR rate for benchmarking the above transaction with various risk factors involved. The Id. TPO may verify the same and then after examination, apply the LIBOR after verification of invoices and determine the mark-up on the basis of various risk factors. In

view of the above facts, ground nos. 2 to 8 are allowed with the above directions.

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

Pronounced in the open court on this 05<sup>th</sup> day of December, 2024.

Sd/-

( KESHAV DUBEY )  
JUDICIAL MEMBER

Sd/-

( PRASHANT MAHARISHI )  
VICE PRESIDENT

Bangalore,  
Dated, the 05<sup>th</sup> December 2024.

*/Desai S Murthy/*

Copy to:

1. Appellant      2. Respondent      3. Pr. CIT      4. CIT(A)  
5. DR, ITAT, Bangalore.

By order

Assistant Registrar  
ITAT, Bangalore.