

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : H : NEW DELHI

BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER

ITA No.509/Del/2022
Assessment Year: 2017-18

Nefab India Pvt. Ltd.,
Gate No.519 1/4/8,
30 Km. Milestone,
Near Kalubai Mandir,
Golden Quadrilateral NH-4,
Pune,
Maharashtra – 412213.

Vs DCIT,
Circle 3(1),
Gurgaon.

PAN : AACCN1599G

(Appellant)

(Respondent)

Assessee by : Shri Ajit Kumar Jain, CA,
Shri Aditya Dokania, Advocate &
Shri Amit Gupta, CA

Revenue by : Shri Zafarul Haque Tanveer, CIT-DR

Date of Hearing : 11.12.2024

Date of Pronouncement: .12.2024

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the assessee against the order dated 25.01.2022 of the National Faceless Assessment Centre, Delhi (hereinafter referred to as the Ld. AO) passed u/s 143(3) r.w.s. 144C(13) r.w.s. 144B of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for the assessment year 2017-18.

2. On hearing both the sides, it comes up that primarily the assessee has challenged the finding of the ld. tax authorities below rejecting the economic analysis including selection of Most Appropriate Method as undertaken by the assessee in its transfer pricing documentation. The case of the assessee is that the ld. tax authorities below have failed to appreciate the commercial expediency for availing intra group services and the contention of the assessee is that the ld. tax authorities could not have questioned the commercial decisions of the company to take the intra group services requiring the assessee to satisfy net benefit receipt test. The case of the assessee is also that determination of arm's length price of the transaction as nil by applying CUP method without providing any information on Comparable Uncontrolled transactions wherein service providers have charged nil price for providing similar services.

3. The ld. AR has made a case before us that the manner in which the proceedings were conducted by the transfer pricing officer and before the DRP, the assessee did not have sufficient time to submit contemporaneous documentary evidences to establish the intent and use of the services. We are of the considered view that the chronology of the events cited before us justify this contention.

4. The ld. AR has accordingly stressed for disposal of application under Rule 29 of the Income-tax (Appellate Tribunal) Rules, 1963 for admission of additional evidences.

5. We have gone through the Annexure I, which contains the additional evidences and primarily the same are for the purpose of establishing that intra group services were availed by the assessee for accomplishing business of the assessee providing customized packing solutions to its customers in India. The intention is to establish that said services are an integral part of the business of the assessee for achieving operational efficiency and to be benefitted from the best practices followed by various group entities.

6. Thus, we are of the considered view that the evidence will be helpful for determination of the issue conclusively and the assessee did not have sufficient opportunities before the ld. tax authorities to furnish these

evidences, in spite of due diligence. Accordingly, the additional evidences deserve to be admitted.

7. Consequently admitting the additional evidence filed as Annexure 1, the impugned orders of the ld. tax authorities are set aside and the issue on merits are restored to the files of TPO/AO for fresh determination in accordance with the law as per the directions for admission of additional evidences given by us. AO/TPO shall be at liberty to enquire upon the same with regard to their authenticity and content.

8. The appeal be considered allowed for statistical purposes.

Order pronounced in the open court on 18.12.2024.

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Dated: 18th December, 2024.

dk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi