

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "I": NEW DELHI**

**BEFORE SHRI S RIFAUZ RAHMAN, ACCOUNTANT MEMBER
AND SHRI VIMAL KUMAR, JUDICIAL MEMBER**

ITA No. 3964/DEL/2024
Assessment Year: 2020-21

AND

Stay Application No.61/Del/2025
(In ITA No. 3964/Del/2024)
Assessment Year: 2020-21

Jones Lang LaSalle Property Consultants (India) Private Limited, 1110 Ashoka Estate, Barakhamba Road, Connaught Place, 110001, New Delhi, India PIN: 1100 01 PAN No. AAACL2089B (Appellant)	Vs.	Assessment Unit, Income Tax Department National Faceless Assessment Centre, Delhi/Deputy Commissioner of Income Tax- Central- 13(1), Delhi (Respondent)
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Assessee by:	S/Shri Nageshwar Rao and Parth, Advocates
Department by:	ShriDharam Veer Singh, CIT (DR)
Date of Hearing:	23.05.2025
Date of pronouncement:	30.06.2025

ORDER

PER VIMAL KUMAR, JUDICIAL MEMBER:

The appeal of assessee and application for stay are against final assessment order dated 30.07.2024 by the Assessment Unit, Income Tax Department/National Faceless Assessment Centre (NFAC), Delhi (hereinafter

referred as “Ld. AO”) under Sections 143(3) r.w.s. 144C(13) r.w.s. 144B of the Income Tax Act, 1961 (hereinafter referred as “the Act”) pursuant to directions dated 31.05.2024 of Learned Dispute Resolution Panel-2 (hereinafter referred as “Ld. DRP”) under Section 144C(5) of the Act for assessment year 2020-21.

2. Brief facts of case are that the assessee company, Jones Lang Lasalle Property Consultants (India) Private Limited, is a related entity to JLL Group which is a financial and professional services firm specializing in commercial real estate services and investment management. The assessee company is engaged in providing real estate consultancy, brokerage, design and construction of office interiors and project management services in India. The assessee company filed its return of income for AY 2020-21 on 08.01.2021 and the same was selected for scrutiny under CASS to examine the following issues:

1. High Value International Transactions
2. Difference in ICDS adjustment reported in Form 3CD and ITR
3. Reduction in Profit due to ICDS application
4. Deemed income u/s 41 on account of written off debts
5. Loss/gain from currency fluctuations
6. Claim of large refund
7. Deduction under Chapter VI-A
8. Default in TDS
9. Foreign Outward Remittance

Notice u/s 143(2) of the Act was issued on 29.06.2021. Later on the case was referred to the NFAC u/s 144B of the Act. The 'International Transactions' being one of the reasons, the case was subsequently referred to the Transfer Pricing Officer (TPO) for determination of Arm Length Price(ALP) in respect

of 'International Transactions'. Further, notices u/s 142(1) were issued to the assessee requesting it to submit various details pertaining to the issues involved.

3. Vide notices issued on 22.08.2022, 19.10.2022 and 07.07.2023, the assessee was requested to furnish various details with regard to the issues involved. The assessee submitted the details called for on various dates. On considering the submissions made by the assessee and information available on record including order dated 30.05.2023 of Ld. TPO under Section 92 CA(3) wherein TP adjustment of Rs.296,90,11,730/- was determined vide draft assessment order dated 16.08.2023 by the Ld. AO.

4. Against draft assessment order dated 16.08.2023, assessee preferred Objections dated 13.09.2023 before the Dispute Resolution Panel, New Delhi. The Dispute Resolution Panel-2, New Delhi vide order dated 31.05.2024 decided objections and issued directions under Section 144C of the Act.

5. On receipt of the order of the Honorable DRP on 05.06.2024, the TPO passed order under Section 144C giving effect to the order of the Honorable DRP on 26.06.2024 vide DIN No. ITBA/COM/F/17/2024/10660567729(1). In the giving effect order the TPO has enhanced the TP adjustment to Rs.369,62,68,083/-.

6. Ld. AO vide order dated 30.07.2024 passed final assessment order dated 30th July 2024 against the assessee.

7. Being aggrieved, appellant/assessee preferred present appeal with following grounds:

“General grounds

1. Orders passed by Ld. AO /Transfer Pricing Officer ("TPO") and directions issued by Ld. DRP, to the extent prejudicial to Appellant, are based on incorrect appreciation of facts and incorrect interpretation of law and therefore, are bad in law.
2. Ld. AO/TPO, erred in assessing total income of the Appellant at 793,39,35,493/-as against returned income of ₹ 417,42,57,840/-.

Preliminary technical grounds:

3. Impugned Order passed by Ld. AO under section 143(3) read with section 144C(13) read with section 144B of the Act is time barred having been passed beyond the time limit prescribed under section 144C(13) for completion of assessment.
4. In the alternative to ground no. 3, directions issued by Ld. DRP under section 144C(5) have been issued beyond time limit prescribed under section 144C(12).
5. Without prejudice to the above, assessment proceedings which culminated in the Impugned Order are illegal and void in as much as the same are in breach of section 153 of the Act.
6. Without prejudice to above, directions issued by Ld. DRP are in contravention of section 144C(8) and therefore invalid.

Grounds relating to transfer pricing issues

7. Ld. AO/TPO/DRP have erred in making an addition of 369,62,68,083/- to total income of Appellant on account of adjustment to arm's length

price ("ALP") for international transactions entered by Appellant with its Associated Enterprises.

8. Ld. AO/TPO/DRP have erred, in law and in facts:

8.1 Claiming that reference is made to Ld. TPO but not providing details/ copy of such reference to enable one to ascertain whether reference is as per law.

8.2 in not accepting economic analysis undertaken by the Appellant in accordance with the Act, conducting a fresh economic analysis for determination of ALP and holding that Appellant's impugned international transactions are not at arm's length.

8.3 in not furnishing all the relevant details of economic analysis performed by Ld. TPO, in gross violation of principles of natural justice.

8.4 in incorrectly applying following quantitative and qualitative filters:

a) different accounting year filter as a comparability criterion (i.e., rejecting companies having accounting year other than March 31 or companies whose financial statements were for a period other than 12 months)

b) rejecting companies reporting loss in two out of three years as persistent loss makers.

c) selecting companies wherein income from exports is at least 70% of total income.

d) selecting companies using minimum 25% of employee cost to total cost as a comparability criterion.

8.5 By rejecting certain functionally comparable companies based on unreasonable comparability criteria:

i. Knight Frank (India) Pvt. Ltd.

ii. Tenor Facility Management India Pvt. Ltd.

iii. Murugappa Management Services Ltd.

iv. Forbes Facility Services Pvt. Ltd.

- v. Dusters Total Solutions Services Pvt. Ltd.
- vi. A2Z InfraserVICES Ltd,
- vii. A-1 Facility and Property Managers Pvt. Ltd.
- viii. Cushman and Wakefield India Pvt. Ltd.
- ix. Turner and Townsend Pvt. Ltd.
- x. Marksmen Facilities Pvt. Ltd.
- xi. Property Solutions (India) Pvt. Ltd.
- xii. DLF Estate Developers Ltd.
- xiii. Impressions Services Pvt. Ltd.
- xiv. Kapston Facilities Management Pvt. Ltd.
- xv. Nimbus Harbour Facilities Management Pvt. Ltd.
- xvi. Kaarya Facilities and Services Ltd.
- xvii. Compass India Support Services Pvt. Ltd.
- xviii. Krystal Integrated Services Pvt. Ltd.
- xix. KHFM Hospitality and Facility Management Services

8.6 By accepting certain companies which are non-functional and/or fail the filters applied by Ld. TPO itself:

- i. Interactive Manpower Solutions Pvt. Ltd.
- ii. BVG India Ltd.
- iii. Info Edge (India) Ltd.

8.7 By selecting companies making supernormal profits.

8.8 By erroneously treating 'Foreign exchange gain/loss' and 'Provision written back' as non-operating in nature for computing operating margins of tested party and comparable companies.

9. Ld. AO/TPO/ DRP erred in including deemed international transactions for determination of the quantum of adjustment for property management, advisory and brokerage segment, without appreciating that these transactions are quadrangular in nature and are only reported out of abundant caution.

Corporate Tax Grounds

10. Ld. AO has erred in passing a non-speaking order under section 143(3) of the Act wherein no details or findings or reference is mentioned basis which addition is made relying on the intimation issued by CPC under section 143(1) of the Act.

11. Ld. AO has erred in making addition basis intimation issued by CPC without adjudicating disputed additions and erred in taking contradictory stand by adopting income u/s 143 (1) as starting point for purpose of computation of income pursuant to order under section 143(3).

12. Ld. AO erred in not issuing show-cause notice prior to making addition based on the adjustments made to the returned income in the intimation issued under section 143(1) of the Act which is against the principles of natural justice.

13. Ld. AO has erred in making addition amounting to ₹ 6,34,06,415/- without appreciating that the said amount has already been disallowed by the Appellant in the ITR form, thus leading to double disallowance.

14. Ld. AO/ DRP has erred in computing the total income basis the Intimation dated 28.12.2021 issued under Section 143(1) of the Act, without validating the erroneous adjustments made therein.

15. Ld. AO has erred in allowing the credit of tax deducted at source ('TDS') only to the extent of INR 1,65,13,08,947/- while determining tax liability under assessment order as against full credit of TDS of ₹ 1,96,45,34,436/- claimed by the Appellant in ITR Form.

Consequential grounds:

16. Ld. AO has erred, in law and in facts in initiating penalty proceedings under section 274 read with section 270A of the Act.

17. The Ld. AO has erred, in law and in facts, by:

17.1 levying an interest of 63,94,964/- in the assessment order under Section 234A of the Act.

17.2 By levying an interest of ₹ 16,62,69,064/- in the assessment order under Section 234B of the Act.

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 Hon'ble Tribunal to decide on the appeal in accordance with the law.”

8. Learned Authorized Representative for appellant/assessee submitted that preliminary technical grounds are 3 to 5. Impugned order dated 30.07.2024 under Section 143(3) r.w.s. 144C(13) r.w.s. 144B of the Act is time barred having been passed beyond the time limit prescribed under Section 144C(13) for completion of assessment. The draft assessment order under Section 144C(1) of the Act is dated 16.08.2023. Objections to draft assessment order filed on 14.09.2023 were decided on 31.05.2024 by DRP-2. Page no. 51 of the paper book, intimation letter for order under Section 144C(5) dated 31.05.2024 mentions that order under Section 144C(5) dated 31.05.2024 is having document no.(DIN)ITBA/DRP/M/144C(5)/2024-25/1065315889(1). DRP uploaded the order on 31.05.2024. Final assessment order was passed on 30.07.2024, was barred by time prescribed under Section 144C(13) of the Act.

8.1 Reliance was placed on para nos. 25 and 26 of order dated 17.10.2023 in the case of Microsoft Corporation (India) Pvt. Ltd. Vs. DCIT, New Delhi at page 125 to 141. The relevant observation is as under:

“12. On a cohesive reading of provision of section 130 and 144B of the Act read together with section 13 of the Information Technology Act, 2000, we hold that the moment document is uploaded by the originator (which in the present case ld DRP) on 07.04.2022 in ITBA portal that dispatch from the side of the ld DRP is complete and since the entire documents are uploaded through electronic mode, the same happens seamlessly and accordingly, the receipt of the said document also becomes instantaneously. Hence, the date of receipt of DRP direction also happened on 07.04.2022 itself and the due date in terms of section 144C(13) would start reckoning from that date. Merely, because the NeAC had retained the document receipt from ld DRP in the form of DRP directions for few months in its kitty and the later transfer the same to the assessment unit on 02.05.2022, the due date in terms of section 144C(13) of the Act for framing the final assessment order by the ld AO does not get automatically extended. Hence, we have no hesitation to hold that the final assessment order ought to have been passed by the ld AO on or before 31.05.2022 in the instant case. Since, the same was done on 30.06.2022 which is barred by limitation. Accordingly, ground Nos. 2 and 3 raised by the assessee are allowed. Since, the entire final assessment is quashed Page | 16 ITA No. 1863/Del/2022 Microsoft Corporation (India) Pvt. Ltd as barred by limitation the adjudication of other grounds becomes academic in nature and they are left open.”

8.2 Further reliance was placed on the following cases:

- i) Order of the Tribunal in ITA No,1628/Del/2022 dated 19.03.2024 passed by the Tribunal in the case of Nikon India (P) Ltd. Vs. ACIT, Delhi;
- ii) Order of the Tribunal in ITA No,1733/Del/2022 dated 22.05.2024 passed by the Tribunal in the case of Honda R & D (India) (P) Ltd. Vs. ACIT, Delhi;

- iii) Order of the Tribunal in ITA No.2027/Del/2022 dated 18.11.2024 passed by the Tribunal in the case of Hyundai Rotem Company Indian Project Offices Vs. ACIT, International Taxation;
- iv) Order of the Hon'ble Supreme Court dated 23rd September 2020 in the case of Union of India Vs. G.S.Chatha Rice Mills (2021) 2 Supreme Court Cases 209;

9. Learned Authorized Representative for the Department of Revenue submitted that a report dated 24.04.2024 received from the Ld. AO in respect of issue of time limitation. Copy of e-mail dated 15.04.2024 received from the Secretary, DRP giving details of dispatch of the DRP is attached. The DRP's directions were received in the month of June, 2024 i.e. after 31.05.2024. Considering the same, the final assessment order dated 30.07.2024 is within the limit under Section 144C(13) of the Act. The order in ITA No.1521/Del/2024 in the case of Haier Appliances (I) Pvt. Ltd. supports the case of the Revenue. Hon'ble Supreme Court of India in Civil Appeal No. 1829 of 2023, in para no. 4 has held as under:

“Having heard Shri Balbir Singh, learned ASG, appearing of the Revenue and Shri Dharan Gandhi, learned counsel appearing for the respondent assessee and having gone through the impugned judgment and order passed by the High Court and considering the fact that the Assessment order was passed without issuing a show-cause-notice with draft assessment order, as was mandatorily required, under Section 144B of the Act, as such, it cannot be said that the High Court has committed any error. However, at the same time, considering the fact that the Faceless Assessment Scheme has been introduced recently and therefore, the Revenue ought to have been given some leverage to correct themselves and take corrective measures and therefore the High Court ought to have remanded the matter to the Assessing Officer to pass a fresh order in accordance with law, after following the due procedure, as

required under the law, namely, more particularly, under Section 144B of the Act.”

10. From examination of record in light of aforesaid rival contentions, it is crystal clear that appellant/assessee pressed ground of appeal no.3 challenging final assessment order dated 30.07.2024 under Section 143(3) read with section 14C(13) read with section 144B is time barred having been passed beyond time limit under Section 14C(13) of the Act for completion of assessment.

11. Comparative table of vital events and dates in cases of Haier Appliances (I) Pvt. Ltd., Microsoft Corporation (India) Pvt. Ltd., Nokom India (P) Ltd. and Honda T & D (India)m Pvt. Ltd. and the directions of Ld. DRP issued directions under Section 144(c)(5) of the Act is as under:

Sr. No.	Events	Haier Appliances (I) Pvt. Ltd.	Microsoft Corporation (I) Ltd.	Nikon India (P) Ltd.	Honda R & D (I) Pvt. Ltd.	Present
1.	Direction of DRP u/s. (C)5	26.11.2021	25.03.2022	17.03.2022	08.04.2022	31.05.2024
2.	DRP Order recorded by JAO.	30.11.2021	07.04.2022	02.05.2022	18.05.2022	31.05.2024
3	Final Assessment	31.01.2022	30.06.2021	30.06.2022	30.06.2022	30.07.2024
4.	Limitation Endson	31.12.2021	31.05.2022	31.05.2022	31.05.2022	30.06.2024

12. In the context of faceless assessment process time and place of dispatch and receipt of electronic document (in this case DRP order) is required to be ascertained by reference to section 13 of Information Technology Act, 2000 which is the basis prescribed under section 144B of Income Tax Act also (refer section 144 B (6)(v)). Hon'ble Supreme Court in case of G.S Chatha Rice Mills (supra), interpreted this very provision. Applying principles laid down by Hon'ble Supreme Court, only relevant fact necessary for deciding Ground No. 3 in present appeal relating to time barred assessment, is time of uploading by DRP of DRP order onto ITBA portal. Intimation letter to DRP order unambiguously shows 31.05.2024 as date of uploading of DRP order. This fact cannot be disputed. Except this critical and relevant information everything else (like when order is visible to AO, date of uploading some document by DCIT/ACIT circle 2 (1) (1) Delhi) has been submitted by Respondents. It is fair to conclude that date of uploading DRP order on ITBA portal is 31.05.2024. As per section 144C(13) of the Act, assessment had to be completed on or before 31.05.2022. In present case the assessment is completed only on 30.6.2022 i.e., it is time barred null and void. Therefore, impugned assessment order dated 30.07.2022 is set aside being barred by limitation. Accordingly, ground of appeal no.4 is allowed.

13. Other grounds having become academic in nature are left open.

14. Since the appeal of appellant/assessee is being allowed, the Stay Application No.61/Del/2025 filed by appellant/assessee becomes infructuous.

15. In the result, the appeal of the assessee is allowed and the Stay Application No.61/Del/2025 is dismissed as infructuous.

Order pronounced in the open court on 30/06/2025.

Sd/-

**(S RIFAUR RAHMAN)
ACCOUNTANT MEMBER**

Sd/-

**(VIMAL KUMAR)
JUDICIAL MEMBER**

Dated: 30/06/2025
Mohan Lal

Copy forwarded to -

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi