

**IN THE INCOME TAX APPELLATE TRIBUNAL
COCHIN BENCH****BEFORE SHRI INTURI RAMA RAO, AM
AND SHRI PRAKASH CHAND YADAV, JM****ITA Nos. 85 & 86/Coch/2025
Assessment Years: 2016-17 & 2018-19**

Olam Food Ingredients India Pvt Ltd Appellant
Tower A, 1st Floor, DLF Building No.8,
Phase-II, Cyber City,
Haryana – 122002.

vs.

The Income Tax Officer, Respondent
Ward-1 & TPS,
Kollam.

Appellant by: Shri Uday Agarwal, CA
Respondent by: Sri Sundrasan S, CIT-DR

Date of Hearing: 28.05.2025
Date of Pronouncement: 26.06.2025

ORDER**Per: Inturi Rama Rao, AM**

The captioned two appeals are filed by the assessee against the different orders of the Learned Commissioner of Income Tax (Appeals)-12, Bengaluru for the Assessment Years (AY) 2016-17 and 2018-19.

2. Since the identical facts and issues are involved in these appeals, both the appeals are clubbed, heard together and disposed of in this consolidated order.
3. For the sake of clarity and convenience, the facts relevant to the appeal ITA No. 85/Coch/2025 for the AY 2016-17 are stated herein under.
4. Briefly the facts of the case are that appellant is a company incorporated under the Companies Act, 1956 which is engaged in the business of procurement, processing and international trading of various agro-commodities such as coffee, cashew, cotton, rice sesame, sugar, pulses etc. The return of income for the AY 2016-17 was filed on 30/11/2016 declaring NIL income. The appellant company also reported certain international transactions with its Associated Enterprises (in short "AE") details of which were extracted by the Assessing Officer (in short "AO") at page 2 of the Draft Assessment order. On noticing the above international transactions, the AO referred the matter to the Transfer Pricing Officer (in short "TPO") for the purpose of benchmarking the international transactions. Thereafter, the TPO vide order dated 10/10/2019 passed the order U/s. 92CA(3) of the Income Tax Act, 1961 (in short "the Act") and suggested upward TP adjustment in respect of Corporate Guarantee Commission of Rs. 4,15,68,051/- paid to Olam International Limited for an amount of Rs. 11,35,56,789/- and rejected the contention of the appellant that the transaction of corporate guarantee is not an international transaction. The TPO proceeded to benchmark the international transaction of corporate

guarantee @ 1% of the average outstanding loans, which amounts to Rs 7,19,88,738/-, the balance amount of Rs. 4,15,68,051/- was suggested as TP adjustment.

5. On receipt of the TP adjustment, the AO passed the Draft Assessment Order U/s. 144C of the Act proposing the TP adjustment of Rs. 4,35,51,370/-. On receipt of the Draft Assessment Order, the appellant has opted to file an appeal before the CIT(A). Thereafter, the final assessment order was passed U/s. 143(3) r.w.s 144C(3) of the Act, dated 14/01/2020 after incorporating the addition on account of upward adjustment of Transfer Pricing of Rs. 4,35,51,370/-.

6. Being aggrieved by the assessment order, an appeal was filed before the CIT(A) who vide impugned order confirmed the addition made by the AO.

7. Being aggrieved the appellant is in appeal before us in the present appeal.

8. When the appeal was called on, the Learned Counsel for the assessee submitted that the issue involved in the present appeal is covered by the decision of this Tribunal for the AY 2011-12 & 2012-13 in ITA Nos. 558 & 559/Coch/2019, dated 18/11/2024 in the case of ACIT vs. M/s. Olam Agro India Pvt Ltd wherein it was held that *the commission of corporate guarantee is to be allowed on the gross loan limit and not on the basis of actual loan availed*. Respectfully following the decision of the Coordinate Bench of the Tribunal in the assessee's own case for the AYs 2011-12 and 2012-13 (supra),

we hold that the corporate guarantee commission should be computed on the gross loan limit not on the actual loan availed. Accordingly, we set-aside the orders of the lower authorities and remit the matter back to the file of the AO / TPO to benchmark the international transaction of corporate guarantee on the above lines. Accordingly, the appeal filed by the assessee is allowed for statistical purposes.

9. In the result, appeal of the assessee is partly allowed.

10. With respect to ITA No. 86/Coch/2025, AY 2018-19, since the facts and circumstances and the issue involved in this appeal is identical to that of the issue adjudicated by us in the foregoing paragraphs of this order while dealing with the assessee's appeal in ITA No. 85/Coch/2025, AY 2016-17, our decision given therein *mutatis mutandis* applies to the appeal for the AY 2018-19 (ITA No. 86/Coch/2025) also. Accordingly, the assessee's appeal for the AY 2018-19 is partly allowed.

11. Ex-consequenti, both the appeals filed by the assessee are partly allowed.

Order pronounced in the open court on 26th June, 2025.

Sd/-
(PRAKASH CHAND YADAV)
JUDICIAL MEMBER

Sd/-
(INTURI RAMA RAO)
ACCOUNTANT MEMBER

Cochin, Dated: 26th June, 2025

okk sps

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1. The Appellant
2. The Respondent
3. The Pr. CIT concerned
4. The Sr. DR, ITAT, Cochin
5. Guard File

Assistant Registrar
ITAT, Cochin