

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

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

ITA No. 6390/DEL/2017 Assessment Year: 2013-14
ITA No. 9852/DEL/2019 Assessment Year: 2015-16

Technip Energies India Limited, (formerly known as Technip India Limited), A-4, Sector 1, Institutional Area, Noida – 201 301 PAN No. AAACK3349R	Vs.	Additional Commissioner of Income Tax, Special Range-9, New Delhi
(Appellant)		(Respondent)

Assessee by:	Shri Vishal Kalra, Adv., Shri Yishu Goel, AR & Shri Anil Kumar, Adv.
Department by:	Shri Dharm Veer Singh, CIT (DR)
Date of Hearing:	31.07.2025
Date of pronouncement:	17.09.2025

ORDER

PER VIMAL KUMAR, JUDICIAL MEMBER:

The appeals of assessee are against assessment orders dated 30.08.2017 and 29.01.2019 of the Learned Additional Commissioner of Income-Tax, Special Range-9, Delhi (hereinafter referred as “the Ld. AO”) under Sections 143 read with section 144C(13) of the Income Tax Act, 1961 (hereinafter referred as “the Act”) for assessment years 2013-14 and 2015-16 respectively. In ITA No.9852/Del/2019 challenge is also to order dated 31.10.2019 of

Learned Commissioner of Income Tax (Appeals)-44, New Delhi (hereinafter referred as “the Ld. CIT(A)) for assessment year 2015-16.

2. Both the appeals involve similar facts, grounds and issues. So, both were heard together and for sake of convenience.

3. Brief facts of case through ITA No.6390/Del/2017 are that appellant/assessee declared income of Rs.76,05,47,120/- in ITR filed on 27.11.2013. The case was selected for scrutiny. Notice under Section 143(2) of the Act dated 04.09.2014 was issued by the Ld. DCIT, Circle 16(1), New Delhi. Notices under Section 143(2)/142(1) of the Act were issued along with questionnaire were issued calling specific details. The case was transferred to Special Range-9, New Delhi by Ld. PCIT vide order dated 12.08.2016. After the transfer of jurisdiction, the assessee was again issued notices u/s. 143(2) & 142(1) of the Act. Shri Niren Gupta, CA/AR of the assessee attended proceedings from time to time.

3.1 The assessee is engaged in the business of designing, engineering, consultancy, fabrication, supply and erection & commissioning of chemical plants. During the year, assessed company entered into international transactions with its Associated Enterprises which are reflected in Form No. 3CEB annexed with the Return of Income. Accordingly, a reference was made to the Transfer Pricing Officer/DCIT-3(3)(2), New Delhi by DCIT Circle-25(1)

with the prior approval of Ls. PCIT-9, New Delhi to determine the 'Arms Length Price' under Section 92CA(3) of the Income Tax Act in respect of "International Transactions" entered into by the assessee.

3.2 The Ld. Addl. Commissioner of Income Tax/Transfer Pricing Officer-3(2), New Delhi passed order under Section 92CA (3) of the Act dated 18.10.2016 wherein he has computed the arm's length price. The TPO suggested upward adjustment in ALP by Rs.3,03,37,217/- on account of the receivables.

3.3 Based on the TPO's order, Ld. AO passed draft assessment order dated 29.12.2016 under Sections 143(3) r.w.s. 144C of the Act by making the following addition of TP Adjustments of Rs. 30,33,721/-.

3.4 Aggrieved with the draft assessment order dated 29.12.2016 of Ld. AO, assessee approached Hon'ble Dispute Resolution Panel and raised objections to the proposed additions in the order. The Hon'ble DRP-2 under Section 144C(5) has given its directions through a detailed order vide F. No.DRP-2/Del/2017-13/488 dated 27.07.2017 received in this office on 31.07.2017, Hon'ble DRP has upheld the T.P adjustment of Rs.30,33,721/- made by the AO/TPO.

3.5 On basis of Ld. TPO's recommendation and directions of Hon'ble DRP, an addition of Rs.30,33,721/- was made on the returned income of the assessee by the Ld. AO/TPO vide order dated 30.08.2017.

4. Similarly, in ITA No.9852/Del/2019, Ld. AO vide order dated 29.01.2019 made additions of Rs.62,27,539/- and Rs.5,69,823/- denying expenses. Against order dated 29.01.2019, of Ld. AO, the appellant/assessee preferred appeal before Ld. CIT(A) under Section 250 of the Act which partly allowed vide order dated 31.10.2019 directing the Ld.TPO to take net payables losses into account while calculating notional interest.

5. Being aggrieved, the appellant/assessee preferred present appeals with following grounds:

Grounds in ITA No.6390/Del/2017:

“1. That on the facts and circumstances of the case and in law, the learned Assessing Officer ("AO") has erred in assessing the total income of the Appellant under section 143(3) r.w.s 144C(13) of the Act for the relevant assessment year ("AY") at INR 763,580,841 as against the returned income of INR 760,547,120.

2. That on the facts and circumstances of the case and in law, the orders passed by the AO/Transfer Pricing Officer ("TPO") were bad in law as the pre-requisite for applying Chapter-X, i.e., existence of an international transaction between two Associated Enterprises ("AE") under the provisions of section 92B of the Act, was not satisfied or existed in the present case.

3. That on the facts and circumstances of the case and in law, the learned DRP/AO/TPO has erred in interpreting and applying the explanation (1)(c) to Section 92B of the Act on the amount of outstanding receivables;

4. That on the facts and circumstances of the case and in law, the learned Dispute Resolution Panel ("DRP")/AO/TPO has erred in considering the amount of year end outstanding receivables from associated enterprises as an international transaction;

5. That on the facts and circumstances of the case and in law, the learned DRP/AO/TPO erred in confirming/making an adjustment of INR 3,033,721 by imputing interest in respect of alleged international transaction pertaining to outstanding receivables, alleging the same to be not at arm's length in terms of the provisions of Sections 92C(1) and 92C(2) of the Act read with Rule 10D of the Income-tax Rules, 1962 ("the Rules");

6. That on the facts and circumstances of the case and in law, the learned DRP/AO/TPO has erred in confirming/stating that the Appellant:

a. has provided benefit to its associated enterprises by way of advancement of interest free loan in the form of delay in receipt of receivables; and

b. has incurred cost in relation to provision of such service/benefit to its associated enterprises;

7. On a without prejudice basis to the above grounds, the learned DRP/AO/TPO has erred on facts in stating that the Appellant has failed to show that the delay in payment of receivables was compensated by the associated enterprise through a set off in any other transaction;

8. On a without prejudice basis to the above grounds, the learned DRP/AO/TPO has erred by not allowing the Appellant's claim for working capital adjustment,

9. On a without prejudice basis to the above grounds, the learned DRP/AO/TPO has erred in not appreciating the fact that working capital adjustment factors in any effect arising on account of difference in the credit period thereby not warranting any transfer pricing adjustment and further erred by not following the decision of Hon'ble Delhi High Court in the case of Kusum Healthcare Pvt. Ltd. vs ACIT [ITA No. 765/2016] in this regard.

10. That on the facts and circumstances of the case and in law, the learned DRP/AO/TPO has erred by levying interest on the amount of outstanding receivables and further on a without prejudice basis to the above grounds, the learned DRP/AO/TPO has erred by applying an imputed rate of interest which is based on incorrect assumptions;

11. On a without prejudice basis to the above grounds, the learned DRP/AO/TPO has erred in not appreciating the fact that if the Appellant

was not receiving interest on outstanding receivables then it was also not paying any interest on outstanding payables to its associated enterprises;

12. On a without prejudice basis to the above grounds, the learned DRP/AO/TPO has erred in not appreciating the fact that the Appellant in its normal business operations neither charges any interest nor pays any interest either from/to third parties;

13. On a without prejudice basis to the above grounds, the learned DRP/AO/TPO has erred in not appreciating the business model of the appellant where revenue cycle is usually longer and it takes longer time to recover the proceeds;

14. On a without prejudice basis to the above grounds, the learned DRP/AO/TPO has erred in not appreciating the fact that operating profitability of Appellant vis-à-vis comparable companies was much higher even after considering the impact for loss of impugned notional interest;

15. On a without prejudice basis to the above grounds, the learned DRP/AO/TPO has erred in being selective in computing interest in situations where there was net receivables and not providing set off for situations where there was only outstanding payables;

16. On a without prejudice basis to the above grounds, the learned DRP/AO/TPO has erred on the facts and circumstances of the case and in law by denying relief to Appellant on arbitrary basis for delay in receipt of receivables beyond a certain time limit,

17. That on the facts and circumstances of the case and in law, the learned DRP/AO/TPO has erred by disregarding judicial pronouncements in undertaking Transfer Pricing adjustments;

18. That on the facts and in the circumstances of the case and in law, the learned AO has erred in charging interest under section 234C of the Act without recording any satisfactory reasons for the same; and

19. That on the facts and in the circumstances of the case and in law, the learned AO has erred in initiating penalty proceedings under section 271(1)(c) read with section 274 of the Act and stating that the Appellant has furnished inaccurate particulars of income leading to concealment of income

20. That on the facts and circumstances of the case and in law, the learned AO has erred in not providing credit of tax deducted at source amounting to INR 2,35,51,658 and foreign tax credit of INR 13,25,393 while computing the assessed income.”

Grounds in ITA No.9852/Del/2019:

“1. That on the facts and circumstances of the case and in law, the learned Assessing Officer ("AO") has erred in assessing the total Income of the Appellant under section 143(3) read with section 144C(13) of the Income-tax Act, 1961 ("the Act") for the relevant assessment year ("AY") at INR 2,068,737,812/- as against the returned Income of INR 2,061,740,430.

2. That on the facts and circumstances of the case and in law, the orders passed by the learned AO/ Transfer Pricing Officer ("TPO") were bad in law as the pre-requisite for applying Chapter-X, i.e., existence of an international transaction between two Associated Enterprises ("AE") under the provisions of section 92B of the Act, was not satisfied or existed in the present case.

3. That on the facts and circumstances of the case and in law, the learned AO/TPO has erred in interpreting and applying the explanation (1) to Section 92B of the Act on the amount of outstanding receivables. The Hon'ble CIT(A) has erred in not providing any findings on the above interpretation;

4. That on the facts and circumstances of the case and in law, the learned AO/TPO has erred in considering the amount of year end outstanding receivables from associated enterprises as an international transaction. The Hon'ble CIT(A) has erred in not providing any findings on the above consideration;

5. That on the facts and circumstances of the case and in law, the learned AO/TPO erred in making an adjustment of INR 6,427,559/- by imputing interest in respect of alleged international transaction pertaining to outstanding receivables, alleging the same to be not at arm's length in terms of the provisions of Sections 92C(1) and 92C(2) of the Act read with Rule IOD of the Income-tax Rules, 1962 ("the Rules"). The Hon'ble CIT(A) has erred in not providing any findings of the interpretation;

6. That on the facts and circumstances of the case and in law, the learned AO/TPO has erred in stating that the Appellant:

a. has provided benefit to its associated enterprises by way of advancement of interest free loan in the form of delay in receipt of receivables; and

b. has incurred cost in relation to provision of such service/benefit to its associated

The Hon'ble CIT(A) has erred in not providing any findings of the interpretation;

7. On a without prejudice basis to the above grounds, the learned AO/TPO has erred on facts in stating that the Appellant has failed to show that the delay in payment of receivables was compensated by the AE through a set off in any other transaction. The Hon'ble CIT(A) has erred in not providing any findings of the above facts;

8. On a without prejudice basis to the above grounds, the learned AO/TPO has erred by not allowing the Appellant's claim for working capital adjustment. The Hon'ble CIT(A) has erred in not providing any findings of the above facts;

9. On a without prejudice basis to the above grounds, the learned AO/TPO has erred in not appreciating the fact that working capital adjustment factors in any effect arising on account of difference in the credit period thereby not warranting any transfer pricing adjustment and further erred by not following the decision of Hon'ble Delhi High Court in the case of Kusum Healthcare Pvt. Ltd. vs ACIT [ITA No. 765/20161 in this regard. The Hon'ble CIT(A) has erred in not providing any findings of the above facts;.

10. That on the facts and circumstances of the case and in law, the learned AO/TPO has erred by levying interest on the amount of outstanding receivables and further on a without prejudice basis to the above grounds, the learned AO/TPO has erred by applying an imputed rate of interest which is based on incorrect assumptions and without recording any satisfactory reasons for the same. The Hon'ble CIT(A) has erred in not providing any findings of the above facts;

11. On a without prejudice basis to the above grounds, the learned AO/TPO has erred in not appreciating the fact that if the Appellant was

not receiving interest on outstanding receivables then it was also not paying any interest on outstanding payables to its associated enterprises. The Hon'ble CIT(A) has erred in not providing any findings of the above facts;

12. On a without prejudice basis to the above grounds, the learned AO/TPO has erred in not appreciating the fact that the Appellant in its normal business operations neither charges any interest nor pays any interest either from/to third parties. The Hon'ble CIT(A) has erred in not providing any findings of the above facts;

14. On a without prejudice basis to the above grounds, the learned AO/TPO has erred in not appreciating the fact that operating profitability of Appellant vis-à-vis comparable companies was much higher even after considering the impact for loss of impugned notional interest. The Hon'ble CIT(A) has erred in not providing any findings of the above facts;

15. That on the facts and circumstances of the case and in law, the learned AO/TPO has erred in arbitrarily relying on the Master circular issued by the Reserve Bank of India on External Commercial Borrowings and Trade Credits (No. 8/2010-11) for imputing notional interest. The Hon'ble CIT(A) has erred in not providing any findings of the above facts;

16. On a without prejudice basis to the above grounds, the learned AO/TPO has erred in not appreciating the facts and circumstances of the case and in law by denying relief to Appellant on arbitrary basis for delay in receipt of receivables beyond a certain time limit. The Hon'ble CIT(A) has erred in not providing any findings of the above facts.”

6. In ITA No.6390/Del/2017 vide application dated 07.02.2020, additional ground of appeal under Rule 11 of the Income Tax (Appellate Tribunal) Rules, 1963 was taken, as under:

"1. On the facts and circumstances of the case and in law, the assessing officer/Commissioner of Income-tax (Appeals) ought to have restricted the levy of the dividend distribution tax, on the dividend distributed to Technip France SA (formerly known as Technip France SAS), to

beneficial tax rate in accordance with Article 11 of the double taxation avoidance agreement (DTAA) between India and France read with para 7 of the protocol thereto, instead of 16.995% charged in terms of section 115-O of the Income-Tax Act, 1961."

7. At the time of hearing, Learned Authorized Representative for the appellant/assessee submitted that in view of decision in Total Oil's Case, the additional ground of appeal may be dismissed. Ordered accordingly.

ITA No.6390/Del/2017:

8. Learned Authorized Representative for the appellant/assessee in ITA No.6390/Del/2017 submitted that ground of appeal no.1 is general.

8.1 Ground nos. 2 to 17 of ITA No.6390/Del/2017, regarding international transaction, Ld. TPO proposed transfer pricing adjustment amounting to INR 30,33,721/- on account of notional interest on receivables outstanding from the AEs.

8.2 Ld. TPO/AO has disregarded the inter-company pricing arrangement and has not appreciated the fact that unlike a loan or borrowing, outstanding receivable is not an independent transaction which can be viewed on standalone basis and needs to be examined with the commercial transaction, as a result of which the debit balance has come into existence. As per the additional analysis carried out by the Appellant under TNMM method, for benchmarking provision

of EPC services, the Appellant earned a net margin of 53.46 percent on cost whereas the arithmetic mean of the net margin earned by comparable companies is 9.58 percent (refer page 13 and 14 of the paper book).

8.3 Any separate adjustment on the pretext of outstanding receivables while accepting the comparables and transfer price of underlying transactions is unjustified. The Hon'ble ITAT also advocated the approach of aggregation of closely inextricably connected transactions for the purpose of benchmarking.

8.4 **Margin of Appellant even after excluding interest on outstanding receivables much higher than the margin earned by comparable companies.**

The net margin of the Appellant after excluding the interest on outstanding receivables works out to **52.82% (OP-INR 38,52,82,140/OC-INR 72,93,97,330)*100, refer page 14 of the paper book** whereas the arithmetic mean of the margin earned by the comparable companies is 9.58%. Therefore, it is established that the Appellant has earned a much higher margin even after excluding the interest on outstanding receivables and thus there should be no Transfer Pricing adjustment on account of the detailed payment. **Cases where it has been held that where assessee's margin was much higher than comparable margin, no TP adjustment could be made on account of interest on outstanding receivables.**

- Agilisys IT Services India (P.) Ltd. vs. ITO [2017] 77 taxmann.com 16 (Mumbai)

- GKN Driveline (India) Ltd. vs ACIT (OSD): [2024] 167 taxmann.com 124 (Delhi).

8.5 **Appellant neither charges from nor pays interest on outstanding receivable to third party.**

Ld.TPO has erred in subjecting a hypothetical income to tax by way of imputing notional interest on the invoices not realized by the Appellant from the AEs within the stipulated period.

The Appellant neither charges any interest from third parties and AE's nor pays any interest to third parties and AE's. Reliance in this regard is placed at the chart attached as Annexure - 1

Cases wherein it is held that where there is a uniformity in not charging interest both from associated enterprises and non-associated enterprises, no transfer pricing adjustment can be made

- PCIT v. Avery Dennison (I) (P.) Ltd.: [2023] 154 taxmann.com 454 (Delhi)
- ACIT v. Avery Dennison (I) (P.) Ltd.: [2021] 133 taxmann.com 536 (Delhi - Trib.)
- ACIT vs Axis Risk Consulting Services (P.) Ltd. [2020] 114 taxmann.com 696 (Delhi Trib.)
- Axis Risk Consulting Services (P.) Ltd. vs DCIT [2018] 92 taxmann.com 103 (Delhi Trib.)
- Fujitsu Consulting India (P.) Ltd. vs ACIT (ITA No.5956/Del/2019)
- PCIT vs B.C. Management Services Private Limited: [2018] 403 ITR 45 (Del)
- CIT vs Indo American Jewellery Limited: [2014] 223 Taxman 8 (Bom)
- CIT vs Livingstones: ITA No. 887 of 2014 (Bom)
- Bausch & Lom Eye Care (India) Private Limited vs ACIT: ITA No. 6580/Del/2013 (Delhi)

8.6 **Appellant is a debt free company.**

The Appellant is a debt free company and neither it has borrowed any funds for carrying on its business activities nor it has incurred any interest expense during the year under consideration (**refer page 204 and 212 of the paper book**).

Reliance in this regard is placed on the decision of the Hon'ble Delhi of the ITAT in the case of **Bechtel India Pvt. Ltd. vs. DCIT (ITA No. 1478/Del/2015) (refer page 24 of case law compilation)**. Further, the above decision of the Hon'ble ITAT has also been upheld by the **Hon'ble Delhi High Court (ITA 379/2016) (refer page 03 of case law compilation)**. The judgment has further been upheld by the **Hon'ble Supreme Court (SLP (CC) No. 4956/2017) (refer page 01 of case law compilation)**, wherein the Hon'ble courts have held that question of charging interest on outstanding receivables does not arise when the Assessee is a debt free company.

Cases wherein it is held that question of charging interest on outstanding receivables does not arise - when the Assessee is a debt free company.

- Bechtel India Pvt. Ltd. vs ACIT (ITA No. 7234/Del/2017)
- PCIT vs Boeing India (P.) Ltd. [2023] 146 taxmann.com 131 (Delhi)
- Standard and Poors South Asia Services (P.) Ltd. vs. ACIT [2025] 173 taxmann.com 279 (Delhi - Trib.)
- Global Logic India Ltd vs DCIT: ITA No. 1104/Del/2015
- Kadimi Tool Manufacturing Co (P) Ltd vs DCIT [2017] 87 taxmann.com 42 (Del-Trib.)
- Bain Capability Centre India (P) Ltd vs DCIT [2018] 89 taxmann.com 69 (Del-Trib.)
- Inductis (India) (P) Ltd vs. ITO: 99 taxmann.com 167 (Del)
- Teradata India (P) Ltd vs. ACIT: ITA No 87/D/2017.

Set off of interest on outstanding receivables and payables should be on consolidated basis and not entity wise.

Cases wherein interest on outstanding receivables computed after allowing set-off of outstanding payables from receivables.

- CIT(A) order passed in Appellant's own case for AY 2015-16, basis which adjustment was deleted by TPO.
- TPO order passed in Appellant's own case for AY 2016-17.

The TPO while computing the adjustment on account of interest on outstanding receivables has computed interest only in situations where

there were only outstanding receivables or both outstanding receivables and outstanding payables with the associated enterprises and not provided set-off in situations where there were only outstanding payables with the associated enterprises.

Post factoring the interest on outstanding payable by Appellant, the net interest payable amounts to INR 4,64,538 to AEs (**refer pages 2 to 10, 16, 20, 29 and 30 of paper book**). The same has also been noted/computed by the TPO himself, **refer page 24 of the TP order**.

As per section 92(3) of the Act, if after application of the transfer pricing principles the income of the Appellant is reduced then the transfer pricing provision will not be applicable.

It is submitted that the said benefit of set-off has been provided to the Appellant by the CIT(A) for AY 2015-16, basis which adjustment was deleted by TPO. **Please refer page 340 and 343 of the paper book volume 2**. The said benefit was also provided to the Appellant by the TPO for AY 2016-17. Please refer page 362 of the paper book volume - 2.

8.7. **Working capital adjustment takes into account the impact of outstanding receivables.**

Cases where it is held that where the working capital adjustment has already factored in the impact of receivables, any further adjustment on account of outstanding receivables is not permissible

- PCIT vs Kusum Healthcare: [2017] 398 ITR 66 (Del)
- Phoenix Lamps Ltd. vs. DCIT [2024] 166 taxmann.com 376 (Allahabad)
- Gates India (P.) Ltd. vs ACIT: [2024] 166 taxmann.com 29 (Delhi - Trib.)
- TCI-GO Vacation India (P.) Ltd. vs ACIT: [2024] 159 taxmann.com 710 (Delhi - Trib.)
- EPAM Systems India (P.) Ltd. vs. ACIT [2018] 100 taxmann.com 335 (Hyderabad - Trib.)
- Teejay India (P.) Ltd. vs. ACIT [2024] 159 taxmann.com 607 (Visakhapatnam - Trib.)
- CPA Global Support Services [I] Pvt Ltd vs ITO: [2021] 133 taxmann.com 206 (Delhi - Trib.)

- Kronos Solutions India Pvt. Ltd. vs DCIT [2023] 149 taxmann.com 194 (Delhi Trib.)
- Alcatel Lucent India Ltd. vs ACIT [2023] 149 taxmann.com 150 (Delhi Trib.)
- Orange Business Services India Solutions Private Limited vs DCIT: ITA No. 6751/Del/2018 (Delhi)
- Micro Ink Ltd vs ACIT: ITA No. 2873/Ahd/2010 (Ahmedabad)
- Convergys India Services Pvt. Ltd. v. DCIT: ITA No. 782/Del/2021
- Teradata India Pvt Ltd vs ACIT: ITA No. 8054/Del/2018 (Delhi)
- Barco Electronic Systems (P) Ltd vs DCIT: ITA No. 1530/Del/2016 (Delhi)
- Agilent Technologies (International) Pvt Ltd vs. DCIT [ITA No. 4191/Del/2018 (Delhi)
- Target Sourcing Services India Private Limited vs ACIT: ITA No. 4132/Del/2017 (Delhi)
- Agilent Technologies India Private Limited vs DCIT: ITA No. 1291/Del/2015 (Delhi)
- Barco Electronic System Private Limited vs DCIT: [2021] 187 ITD 249 (Delhi)
- DHR Holding India Private Limited vs DCIT: ITA No. 1758/Del/2016 (Delhi)
- FieldCore Service Solutions International India Private Limited vs ACIT: ITA No. 7692/Del/2017 (Delhi)
- Bechtel India Private Limited vs ACIT: (2021] 86 ITR(T) 544 (Delhi)
- ExlService.com India Private Limited vs ACIT: ITA No. 5436/Del/2017 (Delhi)

Working capital adjustment takes into account the impact of outstanding receivables on profitability and therefore, no further imputation of interest is warranted.

The working capital adjusted margins of independent comparables would reflect the allowance of potential delays in recovery of accounts receivables and since Appellants' margins have been benchmarked against these arm's length comparables and making an additional adjustment by imputing a deemed interest income on the accounts receivables from the AE for the Appellant will tantamount to double addition. If the profitability of the tested party is more than the working

capital adjusted margin of the comparable companies, then additional imputation of interest on the outstanding receivables is not warranted.

Post working capital adjustment, the margin of comparable companies works out to be 4.43 percent and since Appellant has earned a higher margin of 53.46 percent, there is no requirement of separate adjustment on account of outstanding receivable (**refer 306 to 311 of the paper book**).

In view of the above factual position any further adjustment on the pretext of outstanding receivables ought to be uneconomical, unwarranted and wholly unjustified.

8.8 **Arbitrarily adding a mark-up to the LIBOR rate used for calculation of interest on receivables outstanding in foreign currency.**

Ld. TPO has used an interest rate of 4.45690% for computing interest on outstanding receivable on the basis of 6 month LIBOR rate as on March 2013 and 400 basis points (300 basis point plus additional 100 points on account of currency risk) were added to the 6 month LIBOR rate.

The TPO, in the order, has relied on the RBI circular wherein ECB LIBOR rates has been specified for loans having minimum average maturity period of 3 years. However, in the instant case, the outstanding receivable have been realized in average period of 93 days. Therefore, these outstanding receivable cannot be classified as ECB and hence use of 6 month LIBOR rate plus 300 basis point is not applicable.

The TPO has further erred in arbitrarily adding a mark-up of 100 basis points to LIBOR based rate used to impute interest on receivables outstanding in foreign currency by relying on the Reserve Bank of India ('RBI') RBI master circular on external commercials borrowings and trade credits (no. 8/2010-11 dated 1.7.10), wherein a cost ceiling of LIBOR plus 300 basis points has been specified for loans having average maturity period is between 3 and 5 years.

In this regard, it is submitted that the interest rates specified by the RBI in the Master Circular are after considering all the risks related to the borrowing / loan transaction. In the instant case the spread of 300 basis points to the LIBOR rate itself represents all the risks (including foreign exchange fluctuation risk) borne by the Appellant. In case the Appellant was not exposed to such risks, the arm's length interest rate should have been LIBOR, without adding any spread. Therefore, it is submitted that

the further addition of 100 basis points to the interest rate specified in the RBI Master Circular is arbitrary in nature and should be deleted.

8.9 Ground of Appeal nos. 18 and 19 are consequential.

8.10 In regard to Ground of Appeal No.20, Ld. AO has provided tax deduction at source credit amounting to Rs.11,63,89,730/- instead of Rs.13,99,41,388/- claimed by the assessee. TDS credit is reflected in Form 26AS. Ld. AO vide assessment order dated August 30, 2017, has provided tax deducted at source ("TDS") credit amounting to INR 11,63,89,730 instead of INR 13,99,41,388 claimed by the Appellant. The TDS credit is reflecting in Form 26AS of the Appellant (refer page 239 to 256 of the paper book). Copies of foreign tax credit are at page nos. 257 to 261 of the paper books vide application dated 05.09.2017, the assessee requested Ld. AO for providing TDS credit which is at page nos. 237 and 238 of the paper books. Ld. AO has disallowed the foreign tax credit ("FTC") amounting to INR 13,25,393 claimed by Appellant under section 90/90A of the Act. The copy of FTC certificates foreign clients are attached at **page 257 to 261 of paper book.**

9. Learned Authorized Representative for the Revenue submitted that interest on receivable is international transaction, balance sheet at page no. 197 mentions trade receivable, intra group agreement is at page 169 of the paper books. The assessee has given interest. No working capital adjustment have been made by the assessee. The Transfer Pricing Study

Report has been considered. Ld. TPO has not done working capital adjustment because there was no action. Wrong reliance on order in PCIT vs. Kusum Health Care (P) Ltd. – [2018] 99 taxmann.com 431 (Delhi) has been placed. Para no. 8 of order is distinguishable on facts of present case. Reliance on para nos.10, 12 and 17 of Bechtel India (P) Ltd. Vs. ACIT, Circle 4(2), New Delhi – [2017] 85 taxmann.com 121 (Delhi – Trib.) was placed.

10. From examination of record in light of above rival contentions, it is crystal clear that grounds of appeal nos. 2 to 17 are regarding international transaction. Ld. TPO proposed transfer pricing adjustment amount to Rs.30,33,721/- on account of notional interest receivable outstanding from AEs. Ld. TPO disregarded inter-company pricing arrangement like loan or borrowings, outstanding receivables are not an independent transactions which can be violated on standalone basis and needs to be examined with the commercial transaction, as a result of which the debit balance has come into existence. The net margin of appellant after excluding the interest on outstanding receivables works out to 52.82%, whereas the arithmetic mean of the margin earned by the comparable companies is 9.58%. As per ratio in the case of GKN Driveline (India) Ltd. Vs. ACIT (OSD), it well settled that where assessee's margin was higher than comparable margin, no transfer pricing adjustment could be made on account of interest on outstanding receivables.

10.1 It is well settled principles of law that where there is uniformity in not charging interest both from Assessee neither charges from associated enterprises and non-associated enterprises, no transfer pricing adjust can be made.

10.2 Assessee is a debt free company. Assessee company neither borrowing any funds for carrying its business nor has incurred any interest expenses. Reference to page nos. 2.4 and 2.12 of paper books. A Co-ordinate Bench in Bechtel India (P) Ltd. vs. ACIT, cited supra upheld by Hon'ble High Court has held that the question of charging interest does not arise when assessee is a debt free company.

10.3 Ld. CIT(A) in assessee's own case for assessment year 2015-16 deleted adjustment made by Ld. TPO where interest on outstanding receivables computed after allowing set off of receivable payable.

10.4 Working capital adjustment taken into account, the impact of outstanding receivables on profitability and, therefore, no further imputation of interest is warranted. Working capital adjustment margin of independent comparable would reflect the allowance and any further adjustment on account of outstanding receivables is not permissible. Reliance is placed on the decision of PCIT Vs. Kusum Health Care (P) Ltd.(supra).

10.5 Ld. TPO has used an interest rate of 4.45690% for computing interest on outstanding receivable on the basis of 6 months LIBOR rate as on March 2013 and 400 basis points (300 basis plus additional 100 points on account of currency risk) were added to the 6 month LIBOR rate. Ld. TPO relied on RBI Circular where ECB LIBOR rates has been specified for loan having maturity of three years. However, in the present case, the outstanding receivables have been realized in average period of 93 days. Therefore, further addition on in arbitrarily adding a mark-up of 100 basis points to LIBOR based rate used to impute interest on receivables outstanding in foreign currency by relying on the RBI master circular being unjustified is set aside.

11. In view of above observations and discussion, ground of appeal nos. 2 to 17 are allowed.

12. Ground of appeal nos. 18 and 19 are consequential.

13. Ground of appeal no. 20 is regarding tax deduction at source amounting to Rs.11,63,89,730/- instead of Rs.13,89,41,388/- claimed by the assessee. The TDS credit is reflected in Form 26AS (pages 239 to 256 of PB). Copies of foreign tax credit are at page 257 to 261 submitted vide application dated 05.09.2017. In view of the above, in interest of justice, is considered expedient to set aside the order of Ld. AO dated 30.08.2017 and restore the matter to the file of Ld. AO for fresh decision in accordance with law after affording fair

opportunity of hearing to the appellant/assessee. Accordingly, ground of appeal no. 20 is allowed for statistical purposes.

14. In the result, Appeal No.6390/Del/2017 is partly allowed as per above terms.

15. Learned Authorized Representative for the appellant/assessee in ITA No.9852/Del/2017 submitted that ground of appeal no.1 is general.

16. Learned Authorized Representative for the appellant/assessee submitted that Ground nos. 2 to 16 of ITA No.9852/Del/2017, regarding international transaction, ground of appeal nos. 2 to 16 are regarding TP adjustment are similar in facts and circumstances to ground nos. 2 to 17 in ITA No.6390/Del/2017. Therefore, the same are decided mutatis mutandis hereinabove. Accordingly, ground of appeal nos. 2 to 16 are allowed.

16. In the final result, both the appeals of assessee in ITA No.6390/Del/2017 and ITA No.9852/Del/2019 are allowed.

Order pronounced in the open court on 17th September, 2025.

Sd/-
(S RIFAUR RAHMAN)
ACCOUNTANT MEMBER

Sd/-
(VIMAL KUMAR)
JUDICIAL MEMBER

Dated: 17 /09/2025
Mohan Lal

Copy forwarded to -

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

ASSISTANT REGISTRAR
ITAT, New Delhi