

**आयकर अपीलीय अधिकरण, विशाखापटणम पीठ, विशाखापटणम**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**VISAKHAPATNAM “DIVISION” BENCH, VISAKHAPATNAM**  
**(HYBRID HEARING)**

**श्री रवीश सूद ,न्यायिक सदस्य एवं श्री एस बालाकृष्णन, लेखा सदस्य के समक्ष**  
**BEFORE SHRI RAVISH SOOD, HON’BLE JUDICIAL MEMBER**

**&**

**SHRI S BALAKRISHNAN, HON’BLE ACCOUNTANT MEMBER**

**आयकर अपीलसं./I.T.A.No.204/VIZ/2025**  
**(निर्धारणवर्ष/ Assessment Year:2016-17)**

<b>M/s. SNF (India) Private Limited</b> 19 JNPC, Ramky Pharmacity Paravada, Visakhapatnam – 531021 Andhra Pradesh  <b>[PAN:AAACP4070A]</b>	<b>Vs.</b>	<b>DCIT - Circle – 3(1)</b> Income Tax Office Infinity Towers, Sankarmat Road Visakhapatnam – 530016 Andhra Pradesh
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**आयकर अपीलसं./I.T.A.Nos.209 & 210/VIZ/2025**  
**(निर्धारणवर्ष/ Assessment Years:2016-17 & 2014-15)**

<b>DCIT - Circle – 3(1)</b> 35, 50-92-35, Sankaramatam Road Opposite Reliance Fresh, Beside Reliance Fresh, Nearby Main Road Madhuranagar, Dwarakanagar Visakhapatnam – 530016	<b>Vs.</b>	<b>M/s. SNF (India) Private Limited</b> Plot No. 19 Ponnuru Village, Parawada Mandal Visakhapatnam – 531021 Andhra Pradesh  <b>[PAN:AAACP4070A]</b>
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करदाता का प्रतिनिधित्व/ Assessee Represented by	:	Shri Kanchan Kaushal, CA
राजस्व का प्रतिनिधित्व/ Department Represented by	:	Shri Badicala Yadagiri, CIT(DR)
सुनवाई समाप्त होने की तिथि/ Date of Conclusion of Hearing	:	01.09.2025
घोषणा की तारीख/Date of Pronouncement	:	08.10.2025

## आदेश / O R D E R

### **PER SHRI S BALAKRISHNAN, ACCOUNTANT MEMBER:**

1. This appeal is filed by the assessee and cross appeal filed by the revenue for the A.Y. 2016-17 vide order of the Learned Commissioner of income-tax (Appeals)-10, Hyderabad [hereinafter in short “Ld. CIT(A)”] in common order vide Appeal No. CIT, Visakhapatnam-1/10663/2019-20 dated 04.02.2025. Revenue has also filed an appeal against order of the Ld. CIT(A) for the A.Y.2014-15 vide Appeal. No. CIT, Visakhapatnam-2/1001/2018-19 dated 04.02.2025.

2. First we take up the appeal of the assessee for the A.Y. 2016-17 in ITA No.204/VIZ/2025 and the brief facts are culled out therefrom.

### **ITA No. 204/VIZ/2025 (A.Y. 2016-17) – Assessee Appeal**

3. Brief facts of the case are that, assessee-SNF (India) Private Limited is a 100% subsidiary of SPCM SA, France has set-up its manufacturing unit in Patancheruvu, Hyderabad and is engaged in the business of manufacture and sale of water-soluble polymers. The assessee's product range is used in a variety of process industries such as oil drilling, paper manufacturing, sugar, textiles, ceramics, cosmetics and agriculture etc. Assessee filed its return of income for the A.Y. 2016-17 on 30.11.2016 admitting a total income of Rs.1,15,84,090/- and it was subsequently, revised to Rs.(-)26,82,854/- vide revised return dated

29.03.2018. Subsequently, the case was selected for complete scrutiny under CASS and notice under section 143(2) of Income Tax Act, 1961 (in short ‘Act’) was issued on 23.08.2018. Thereafter, notice under section 142(1) of the Act was issued on 08.11.2019. It was observed from the Form-3CEB report that the assessee has entered into international transaction with its Associated Enterprise (in short “AE”) aggregating to Rs.187.55 Crores. Thereafter, reference was made to Addl.CIT (Transfer pricing), Hyderabad on 15.11.2018 after obtaining approval from the Appropriate Authorities. Accordingly, the Dy.CIT (Transfer Pricing officer)-1, Hyderabad passed an order under section 92CA(3) of the Act on 29.10.2019 vide Order No. ITBA/TPO/F/92CA3/2019-20/1019531492(1) for the A.Y. 2016-17. The assessee has entered into the international transactions as follows:

<b>Associated Enterprises</b>	<b>Nature of International/Domestic Transactions</b>	<b>Amount Received/Receivable (Amount in INR)</b>	<b>Amount Paid Payable (Amount in INR)</b>
PT SNF Florindo	Purchase of various type of polymers and other raw materials	--	22,46,880/-
SNF China flocculant Co. Ltd	Purchase of various type of polymers and other raw materials	--	66,81,46,552/-
SNF Inc.	Purchase of various type of polymers and other raw materials	--	16,65,75,599/-
SNF Japan Co. Ltd	Purchase of various type of polymers and other raw materials	--	45,75,969/-

<b>Associated Enterprises</b>	<b>Nature of International/Domestic Transactions</b>	<b>Amount Received/Receivable (Amount in INR)</b>	<b>Amount Paid Payable (Amount in INR)</b>
SNF Korea Co. Ltd	Purchase of various type of polymers and other raw materials	--	1,06,72,650/-
SNF SAS Andrezieux	Purchase of various type of polymers and other raw materials	--	72,78,12,201/-
SNF China Flocculant Co. Ltd	Purchase of traded goods	--	2,93,18,412/-
SNF Floerger RSA Pty Ltd.	Sale of finished goods	1,49,34,780/-	--
SNF SAS Andrezieux	Sale of finished goods	69,14,239/-	--
SNF SAS Andrezieux	Purchase of capital goods	--	13,99,27,452/-
SPCM SA	Royalty for use of technical know how	--	6,10,99,097/-
SPCM SA	Corporate Guarantee Aailed	--	0
SPCM SA	Interest on ECB	--	2,98,54,365/-
SNF SAS And rezieux	Reimbursement of expenses	1,34,65,260/-	--

**4.** The assessee has carried out economic analysis and has summarised the international transactions as under: -

<b>Nature of transaction</b>	<b>Amount (Rs.)</b>	<b>MAM</b>	<b>PLI</b>	<b>Margin of taxpayer</b>	<b>Margin of comparables</b>
Purchase of various types of polymers and other raw materials	1,58,00,29,851/-	TNMM	OP/OR	3.92%	3.57% to 6.85%
Purchase of traded goods	2,93,18,412	TNMM	OP/OR	3.92%	3.57% to 6.85%
Sale of finished goods	2,18,49,019	TNMM	OP/OR	3.92%	3.57% to 6.85%

<b>Nature of transaction</b>	<b>Amount (Rs.)</b>	<b>MAM</b>	<b>PLI</b>	<b>Margin of taxpayer</b>	<b>Margin of comparables</b>
Purchase of capital goods	13,99,27,452	Other Method	NA	NA	NA
Royalty for use of Technical know how	6,10,99,097	TNMM	OP/OR	3.92%	3.57% to 6.85%
Interest on ECB loan	2,98,54,365	Other Method	NA	NA	NA
Corporate guarantee availed	0	Other Method	NA	NA	NA
Reimbursement of expenses-received	1,34,65,260	Other Method	NA	NA	NA

5. Assessee has used proress data-base in their search for comparable companies. After applying certain filters, the assessee has short listed nine comparables for bench-marking the international transactions. Assessee has adopted Transactional Net Margin Method (in short “TNMM”) as the most appropriate method (MAM). Accordingly, the margin (OP/OR) of the comparable was arrived in the range from 3.57% to 6.85%, whereas the PLI of the assessee stood at 3.92%. As per audited financial statements, financial results of the assessee are as follows: -

<b>Description</b>	<b>Amount in Rs.</b>
Operating Revenue (OR)	3102901320
Operating Cost (OC)	2920048517
Operating Profit (OP) - - OR-OC	182852803
OP/OR ( %)	5.89
OP/OC (%)	6.26

6. After examining the submissions made by the assessee during the TP proceedings the TPO made the following adjustments under section 92CA of the Act: -

<b>S.No.</b>	<b>Description</b>	<b>Adjustment u/s 92CA (in Rs.)</b>
1	Excess paid on account of royalty being adjustment	6,10,99,097
2	Interest on receivables	4,41,775
3.	Excess interest paid on ECB loan being adjustment	39,25,985
	Total Adjustment U/s. 92CA	6,54,66,857

7. Ld. AO, thereafter passed a draft assessment order on 07.12.2019. Since the assessee submitted that it is filing an appeal before the Ld. CIT(A), requested the Ld. AO to pass the final assessment order. The Ld. AO then passed final assessment order under section 143(3) r.w.s. 144C(3) of the Act on 29.01.2020 vide DIN & Order No. ITBA/AST/S/143(3)/2019-20/1024380205(1) confirming the addition proposed in the draft assessment order.

8. On being aggrieved by the additions, the assessee carried the matter in appeal before Ld.CIT(A). The Ld. CIT(A) considering the submissions of the assessee by relying on the jurisdictional bench decision in assessee's own case for the A.Ys.2007-08 & 2008-09 held that TNMM is the most appropriate method for determining the royalty payment and directed the Ld. AO to delete the adjustment of Rs.6,10,99,987/-. Similarly, on the issue of notional interest on outstanding trade receivable, the Ld. CIT(A) while confirming the transaction as international transaction directed the Ld. AO / Ld.TPO to

recompute the interest on outstanding receivable by adopting LIBOR + 200 basis points as against 7.5% adopted by the TPO. Finally, on the issue of upward adjustment of Rs.39,25,985/- on the interest paid on ECB Loan to SPMC SA (AE) to adopt LIBOR + 200 basis points by relying on the jurisdictional Tribunal decision in the case of Teejay India (P.) Ltd. v. DCIT [2023] 152 taxmann.com 70 (Visakhapatnam- Trib).

9. On being aggrieved by the order of the Ld. CIT(A), assessee is in appeal before us by raising the following issues: -

**Issue No. 1:** - T.P Adjustments of international transactions charging interest on overdue receivables.

**Issue No. 2:** - T.P Adjustments of Rs.39,25,985/- on international transactions of interest on External Commercial Borrowings.

10. On the issue of adjustment with respect to interest on overdue receivable, it was submitted by the Ld. Authorised Representative [hereinafter "Ld.AR"] that the assessee does not charge interest with respect to Non-AE's and accordingly adopted the same policy with respect to the AE. Further, he submitted that outstanding payable to the AE's are more than the outstanding receivable from the AE's. On this issue he referred to Annexure – 2 submitted before the Tribunal wherein the outstanding receivable to SPMC SA stood at

29,17,260/- as against the outstanding payable to the same AE - SPMC SA, stood at 35,37,08,086/-. It was also submitted that the Co-ordinate Bench of the Hyderabad in the case of ADP Private Limited v. DCIT in ITA No. 975/HYD/2024 dated 22.08.2025 has accepted the concept of netting off of overdue receivable against overdue payable from the single AE for the very same AE. Ld.AR submitted that as demonstrated outstanding payables are more than the outstanding receivable from the same AE. He therefore submitted that it is not justifiable to compute the interest by applying LIBOR + 200 basis point on overdue receivable without considering the overdue payables. Therefore, he prayed for the deletion of the addition made in this issue of notional interest on outstanding receivable.

**11.** Per contra, Ld. Departmental Representative [hereinafter in short “Ld.DR”] relied on the orders of the Revenue Authorities.

**12.** We have heard both the sides and perused the material available on record. It is an admitted and undisputed fact that the following outstanding receivable and payable to / from SPMC SA:

- i. outstanding receivable 29,17,260/-
- ii. outstanding payable 35,37,08,086/

**13.** It can be observed that the outstanding payable to AE - SPMC SA is more than the outstanding receivable from the same AE - SPMC SA. On this issue,

the Co-ordinate Bench of Hyderabad in the case of ADP Private Limited v. Dy.CIT (supra) in Para No. 19 observed as follows: -

*“19. .... Therefore, in our considered view, the arguments of the Counsel for the Assessee that, it has not charged interest on third party receivables and consequently, the question of imputing interest on receivable from AE is incorrect and is also devoid of merit and cannot be accepted. The Counsel for the Assessee had also made an alternative argument that, if at all interest needs to be impugned on overdue receivable from AEs, then, overdue payable to the AE should be adjusted and only on net overdue receivable from AE should be considered. In our considered view, the proposition canvassed by the Learned Counsel for the Assessee is acceptable, provided, the appellant-company provides relevant details of overdue receivable from AE and overdue payable to the AE. Further, in our considered view, the concept of netting of overdue receivable against overdue payables comes into operation only in a case where the appellant is having overdue receivable and overdue payable from a single AE or very same AE. ....”*

**14.** Judicially following the decision of the Co-ordinate Bench, we find merit in the argument of the Ld.AR and therefore direct the Ld. AO / Ld. TPO to delete the addition made on account of notional interest on outstanding receivables in the hands of the assessee. Accordingly, grounds raised on this issue is allowed.

**15.** With respect to the issue No.2 on interest on External Commercial Borrowings (in short “ECB”) Loans, it was the submission of the Ld.AR that the assessee has bench marked interest as per the master circular of RBI. Ld.AR also referred to the loan agreement available in the paper book and stated that as per the agreed terms interest on ECB shall LIBOR + 350 basis

points. He further submitted that the Tenure for loan is a long-term period of five years. He further submitted that assessee falls under the automatic approval route prescribed by the ECB guidelines which has been permitted by the Reserve Bank of India (in short “RBI”). He further submitted that the terms and conditions of the loan are within the regular frame work laid down by the RBI. The amount paid in respect of loan is consistent with Arm’s length Price. He therefore pleaded that addition made on account of interest on ECB loan is not justifiable and hence prayed for its deletion.

**16.** Per contra, Ld. DR heavily relied on the orders of the Ld. CIT(A) on this issue and prayed for upholding the same.

**17.** We have considered the rival submissions and perused the material available on record as well as the decisions cited by the rival parties. It is an admitted proposition that various judicial pronouncements have held that in respect of foreign currency loan in the international market, the LIBOR basis interest has to be adopted. The loans are categorised as long-term and short-term, whereas the banks are adopting 200 basis on the short loans and higher rate of 500 basis points on the long-term loans. Further the prices of the interest on term loans are determined based on the security, net-worth, ratings, term of loan etc. The rate varies according to the risk involved. It was the contention of the assessee that the interest rate is within the permissible limits as prescribed under the automatic route and is allowed by the RBI and hence it could be said

to met with Armed length requirements. We find from the Master Circular relied on by Ld. AR, that RBI prescribed the maximum All-in-cost ceilings on the ECBs with different tenures. The Ld. CIT(A) while adjudicating this issue, relied on the decision of the jurisdictional bench wherein it was held in the case of Teejay India (P.) Ltd. v. DCIT (supra) that the interest on ECB loan shall be at LIBOR + 200 basis points for the purpose of determining Arm's length price. We, therefore, following the principle of consistency, do not wish to interfere with the order of the Ld. CIT(A) on this issue and hence the grounds raised on this issue by the assessee is dismissed.

**18.** In the result, appeal of the assessee is partly allowed.

**ITA No. 209/VIZ/2025 (A.Y. 2016-17) – Revenue Appeal**

**19.** Now, we come to the cross appeal filed by the revenue for the A.Y. 2016-17 agitating against the deletion of adjustment made with respect to Royalty payment to the AE. On this issue, the Ld. DR placed heavy reliance on the order of the Ld.TPO. It was submitted that the TPO has adopted Comparable Uncontrolled Price (in short “CUP”) Method as most appropriate method for such type of transactions. He further submitted that the TPO has made a detailed analysis and found that the contention of the assessee as not tenable. Further he submitted that the TPO has rejected the contention of the assessee that increase in sales is not linked with the receipt of Technical-know-

how and there is no direct benefit derived from payment of royalty. He further submitted that the payment of royalty does not commensurate with the benefit that is derived or expected to be derived when the parties deal with each other at Arm's length. He therefore submitted that the TPO has rightly determined the ALP at Nil with respect to the royalty payments.

**20.** Per contra, it was the submission of the Ld.AR that the issue involved in the impugned assessment year is identical and similar to the issue raised by the TPO in A.Y. 2007-08 & A.Y. 2008-09, wherein the jurisdictional bench of the Tribunal held in favour of the assessee. He also submitted that without the technical-know-how and technical support from its AE in France, the assessee could not have achieved the increased turnover year after year. He further submitted that various judicial pronouncement has justified adoption of TNMM as most appropriate method for determination of arm's length price for the royalty payments. He therefore pleaded that the decision of the jurisdictional Tribunal in assessee's own case be considered on this issue.

**21.** We have heard rival contentions and perused the material available on record. The TPO has adopted the CUP method as most appropriate method for the payments of royalty by the assessee while determining the ALP thereby rejecting the TNMM adopted by the assessee. The TPO was of the view that the TP study made by the assessee with regard to the payment of royalty was not acceptable, since, the assessee has aggregated the payment of royalty with

other transactions. The TPO also viewed that TNMM is the most appropriate method for determining the ALP for trading transactions and not with respect to royalty payments. The TPO further viewed that the payments made to AEs under the prescribed FEMA guidelines cannot be taken as a benchmark and the transfer pricing is altogether a different subject and has to be analysed within the ambit of law prescribed under section 92CA of the Act. TPO was also of the opinion that there is no direct benefit derived by the assessee commensurate to the payments of royalty and hence ALP of such payment for royalty be treated at either RS. Nil. In the instant case, the assessee has made royalty payment of Rs.6,10,99,987/- to its AE at 3% on the sales. The TPO has determined the Arm's length Price at Rs.NIL and therefore the Ld. AO has completed the assessment under section 143(3) r.w.s. 144C(3) of the Act while making the addition of Rs.6,10,99,987/-, representing the Arm's Length Price of the royalty transactions. The Ld. CIT(A) after analysing and examining the details placed before him found that the assessee has received technical information from its AE and such technical information provided by the AE was established. The jurisdictional Tribunal in assessee's own case for the earlier assessment years, relied on by AR, has held as follows:

*“18. In the instant case, there is no dispute that the assessee has derived the benefit from the technical information given by the AE. There was an agreement reduced in writing between the assessee and the AE for payment of royalty and for extending necessary technical support to the assessee for manufacturing product continuously and consistently. The ld. CIT(A) has given a finding that the technical information on the*

*manufacturing the activity was received and benefitted by the assessee. The ld.AR submitted that the manufacturing activity of company and the continuous technical support for which the royalty is paid are independent and interrelated and as held by the Hon'ble Bombay High Court in the case of M/s. Johanson & Johnson, the TPO obliged to follow any one of the methods prescribed in section 92C of the Act. Instead, the ld.TPO adopted the benefit test which is not one of the prescribed methods. Thus, the order of the TPO is defective in not following the methods prescribed under the Act. Commercial expediency is the business decision of the tax payer and the AO cannot sit and judge the business expediency as decided by the Hon'ble Delhi High Court. The coordinate bench of ITAT, Delhi also held that TNMM is the most appropriate method for benchmarking the royalty payment. On application of TNMM as MAM at the entity level the PLI of the assessee more than the comparable cases, thus the transactions of the assessee company are at Arm's length. Following the judicial precedents discussed in the preceding paragraphs, we hold that determination of royalty at Rs. NIL is unjustified and the most appropriate method for determining the royalty payment is TNMM method at the entity level aggregating all the transactions including the payment for royalty. Accordingly, we hold that the adjustment made by the TPO is not warranted and the addition made by the Assessing Officer is deleted and the order of the ld. CIT(A) is upheld."*

22. Respectfully following the decision of the jurisdictional Tribunal, we do not find any infirmity in the order of the Ld. CIT(A) on this issue and therefore the ground raised by the revenue are dismissed.

23. In the result, appeal of the revenue is dismissed.

**ITA No. 210/VIZ/2025 (A.Y. 2014-15).**

24. For the assessment year under consideration, revenue has raised issue agitating against the deletion of adjustment made with respect to Royalty payment to the AE. This Ground is identical to that of the Ground raised in ITA No.209/Viz/2025 for the AY 2016-17. Since there is no change in the facts and

circumstances of the case, our decision given on the identical issue in the revenue case in ITA No. 209/Viz/2025 for the AY 2016-17, which is adjudicated aforesaid paragraphs of this order, *mutatis mutandis* applies to the issue raised in appeal for the A.Y. 2014-15 also. Accordingly, grounds raised by the revenue are dismissed.

25. In the result, appeal of the revenue is dismissed.

26. To sum-up, appeal filed by the assessee is partly allowed and appeals filed by the revenue are dismissed.

Order pronounced in the open court on 08<sup>th</sup> October,2025.

Sd/-  
(रवीश सूद)

(RAVISH SOOD)

न्यायिक सदस्य/JUDICIAL MEMBER

Dated: 08.10.2025

Giridhar, Sr.PS

आदेशकीप्रतिलिपिअग्रेषित/ **Copy of the order forwarded to:-**

1. निर्धारिती/ The Assessee : **M/s. SNF (India) Private Limited**  
19 JNPC, RamkyPharmacy, Paravada  
Visakhapatnam – 531021, Andhra Pradesh
2. राजस्व/ The Revenue : **DCIT - Circle – 3(1)**  
35, 50-92-35, Sankaramatam Road  
Opposite Reliance Fresh, Beside Reliance Fresh  
Nearby Main Road, Madhuranagar, Dwarakanagar  
Visakhapatnam – 530016
3. The Principal Commissioner of Income Tax
4. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, विशाखापटणम /DR,ITAT, Visakhapatnam
5. The Commissioner of Income Tax
6. गार्डफ़ाईल / Guard file

आदेशानुसार / BY ORDER

Sr. Private Secretary  
ITAT, Visakhapatnam