

आयकर अपीलीय अधिकरण, हैदराबाद पीठ
IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad ' A ' Bench, Hyderabad

श्री रविश सूद, न्यायिक सदस्य एवं श्री मधुसूदन सावड़िया लेखा सदस्य समक्ष।
Before Shri Ravish Sood, Judicial Member
A N D
Shri Madhusudan Sawdia, Accountant Member

आ.अपी.सं / **ITA-TP Nos.130 & 447/Hyd/2022**
(निर्धारण वर्ष / Assessment Years: 2017-18 & 2018-19)

M/s. SGD Pharma India Private Limited, Mahabubnagar PAN:AADCC7815K	Vs.	Dy.CIT/I.T.O Ward/Circle 3 (1) Hyderabad
(Appellant)		(Respondent)
निर्धारिती द्वारा/Assessee by:	Shri Aliasgar Rampurwala, CA	
राजस्व द्वारा/Revenue by::	Smt. K. Haritha, CIT(DR)	
सुनवाई की तारीख/Date of hearing:	17/12/2025	
घोषणा की तारीख/Pronouncement:	21/01/2026	

आदेश/ORDER

Per Madhusudan Sawdia, A.M.:

Both these appeals are filed by M/s. SGD Pharma India Private Limited (“the assessee”), feeling aggrieved by the separate final assessment orders passed by the Learned Assessing Officer (“Ld. AO”) under section 143(3) read with sections 144C(13) of the Income Tax Act, 1961 (“the Act”) dated 25.02.2022 and 27.07.2022 for A.Y 2017-18 & 2018-19 respectively in pursuance of the directions issued by the Learned Dispute Resolution Panel

("Ld. DRP"). Since identical issues are involved in these two appeals, for the sake of convenience, these were heard together and are being disposed of by this common consolidated order.

ITA-TP No. 130/Hyd/2022 (A.Y. 2017-18):

2. The assessee has raised the following grounds of appeal:

Each of the grounds and/ or sub-grounds of the appeal mentioned here-in are independent and without prejudice to each other.

1. On the facts and in the circumstances of the case and in law, the final assessment order passed by the Learned Assessing Officer ('Ld. AO') pursuant to directions of the Learned Dispute Resolution Panel ('Ld. Panel') under section 143(3) read with section 144C(13) of the Act, also read with the order passed by Learned Transfer Pricing Officer ('Ld. TPO') under section 92CA(3) of the Act, is erroneous on facts and bad in law and is liable to be quashed.
2. On the facts and in the circumstances of the case and in law, the Ld. AO/Ld. TPO/Ld. Panel erred in making an adjustment of INR 2,28,23,848 to the transfer price of the Appellant in respect of payment of interest on external commercial borrowings ('ECBs'). While doing so, the Ld. AO/Ld. TPO erred in:
 - a. Rejecting the economic analysis conducted by the Appellant in its transfer pricing documentation with due diligence for determining the arm's length price of payment of interest on ECBs.
 - b. Not following a structured/methodical search process in selecting the comparable for arriving at the arm's length interest rate;
 - c. Arbitrarily considering LIBOR plus 200 basis points as arm's length price to carry out the transfer pricing adjustment; and
 - d. Not appreciating the fact that the interest paid by the Appellant on ECB loan is as per the circular issued by the Reserve Bank of India ('RBI').
3. On the facts and in the circumstances of the case, and in law, the Ld. AO / Ld. TPO erred in not following the directions passed by the Ld. Panel to consider LIBOR plus 250 basis points as arm's length price while computing the transfer pricing adjustment in the final assessment order.
4. On the facts and in the circumstances of the case and in law, the Ld. AO / Ld. TPO / Ld. Panel erred in rejecting the corroborative analysis carried out by the Appellant in determining the arm's length price for payment of interest on ECBs.
5. On the facts and circumstances of the case and in law, the Ld. AO erred in disallowing expenses amounting to INR 20,32,596 under section 43B of the Act without appreciating the fact that such amount has already been disallowed in the return of income by the Appellant under Section 40A(7) of the Act.
6. Without prejudice to the ground taken above, that on the facts and circumstances of the case and in contrary to law, the Ld. AO erred in disallowing expenses amounting to INR 20,32,596 under Section 43B of the Act despite the specific direction of the Ld. Panel to allow the same.
7. On the facts and in the circumstances of the case and in law, the Ld. AO erred in initiating the penalty proceedings under section 270A of the Act

The Appellant craves leave to add to, alter, omit or substitute any or all of the above grounds of appeal, at any time before or at the time of the appeal.



for SGD Pharma India Private Limited

(Signature)

Name: Sardar Akshay Singh

Designation: Managing Director

3. The assessee has raised the following additional grounds:

“8. On the facts and in the circumstances of the case and in law, the Ld. Panel erred in not quoting a valid computer generated DIN on the body of DRP directions dated 28 January 2022 under section 144C(5) of the Act, in contravention to the Circular No. 19 of 2019 by the CBDT, thus rendering such an order/direction to be invalid and never to have been issued as per para 4 of the said circular.

9. On the facts and in the circumstances of the case and in law, the final assessment order dated 25 February 2022 passed by the Ld. AO under section 143(3) read with section 144C(13) of the Act pursuant to invalid and non-est directions passed by the Ld. Panel, is bad in law, null and void and liable to be quashed.

10. Without prejudice to ground no. 8 and 9, on the facts and in the circumstances of the case and in law, the final assessment order dated 25 February 2022 passed by the Ld. AO under section 143(3) read with section 144C(13) of the Act, is bad in law as it is not passed in conformity with the directions issued by the Ld. Panel, as per the provisions of section 144C(1) r.w.s. 144C(13) of the Act and hence liable to be quashed.

11. On the facts and in the circumstances of the case and in law, the final assessment order dated 25th February 2022 passed by the Ld. A.O under section 143(3) r.w.s. 144C(13) of the Act having been passed beyond the limitation period provided in terms of section 153 of the Act, is void-ab-initio, illegal and bad in law and is therefore liable to be quashed”.

4. The brief facts of the case are that the assessee is a company engaged in the manufacture and sale of borosilicate type-I glass moulded vials, glass tubular vials and ampoules for pharmaceuticals and biological companies. The assessee filed its return of income for Assessment Year 2017-18 on 30.11.2017, declaring a loss of Rs.2,21,78,327/-. The case of the assessee was selected for complete scrutiny, and accordingly, a notice under section 143(2) of the Act was issued to the assessee. In view of the involvement of international transactions with the Associated

Enterprises (“AEs”), the case of the assessee was thereafter referred to the Learned Transfer Pricing Officer (“Ld. TPO”) under section 92CA(1) of the Act. The Ld. TPO, vide order dated 28.01.2021, proposed an upward adjustment of Rs.2,28,23,848/- in respect of the international transaction relating to interest on External Commercial Borrowings (“ECB”). Based on the said order, the Ld. AO passed a draft assessment order dated 13.04.2021.

5. Aggrieved by the order of the Ld. AO, the assessee filed objections before the Ld. DRP. The Ld. DRP disposed of the objections of the assessee vide directions dated 28.01.2022. Pursuant thereto, the Ld. AO finalized the assessment under section 143(3) read with sections 144C(13) and 144B of the Act on 25.02.2022, making, inter alia, the following additions/disallowances:

a. Addition of Rs.2,28,23,848/- towards adjustment in respect of interest on ECB loans; and

b. Disallowance of Rs.20,32,596/- under section 43B of the Act.

6. Aggrieved with the order of the Ld. AO, the assessee is in appeal before this Tribunal. We noted that the assessee has filed request letter dated 17.12.2025 for withdrawal of additional grounds, which is to the following effect:

17 December 2025

The Hon'ble Members,
Income Tax Appellate Tribunal,
'A' Bench, Hyderabad

Dear Hon'ble Members,

Re: SGD Pharma India Private Limited ('Company'/'Appellant')
Assessment Year: 2017-18
Assessee's Appeal: ITA No. 130/Hyd/2022

Sub: Withdrawal of ground on ROCA and DIN

We refer to the captioned appeal heard by the Hon'ble "A" Bench of the Income Tax Appellate Tribunal, Hyderabad, on 17 December 2025.

During the course of hearing, the Authorised Representative proceeded to argue the matter on merits and, by oral declaration, withdrew the legal grounds raised by way of additional grounds of appeal.

In accordance with the Hon'ble Bench's directions, we hereby formally confirm the withdrawal of the following grounds:

8. On the facts and in the circumstances of the case and in law, the Ld. Panel erred in not quoting a valid computer-generated DIN on the body of DRP directions dated 28 January 2022 under section 144C(5) of the Act, in contravention to the Circular No. 19 of 2019 by the CBDT, thus rendering such an order/direction to be invalid and never to have been issued as per para 4 of the said circular.
9. On the facts and in the circumstances of the case and in law, the final assessment order dated 25 February 2022 passed by the Ld. AO under section 143(3) read with section 144C(13) of the Act pursuant to invalid and non-est directions passed by the Ld. Panel, is bad in law, null and void and liable to be quashed.
10. Without prejudice to ground no. 8 and 9, on the facts and in the circumstances of the case and in law, the final assessment order dated 25 February 2022 passed by the Ld. AO under section 143(3) read with section 144C(13) of the Act, is bad in law as it is not passed in conformity with the directions issued by the Ld. Panel, as per the provisions of section 144C(1) r.w.s. 144C(13) of the Act and hence liable to be quashed.
11. On the facts and in the circumstances of the case and in law, the final assessment order dated 25 February 2022 passed by the Ld. AO under section 143(3) read with section 144C(13) of the Act, having been passed beyond the limitation period provided in terms of section 153 of the Act, is void-ab-initio, illegal and bad in law and is therefore liable to be quashed

We respectfully request that the Hon'ble Bench take this on record and proceed to decide the appeal on merits.

Thank You,

Yours faithfully,

For SGD Pharma India Private Limited

DEEPAK
SOOD

Digitally signed by DEEPAK
SOOD
Date: 2025.12.17 17:07:15
+05'30'

Authorised Signatory

Name: Deepak Sood

Designation: Managing Director

Encl.: As above

Cc: Learned Departmental Representative 'A' Bench.

7. As the assessee has already withdrawn the additional grounds of the appeal, no separate adjudication is required on the same. Hence, the additional grounds of appeal of the assessee are dismissed as withdrawn.

8. At the outset, the Learned Authorised Representative (“Ld. AR”) submitted that after withdrawal of additional grounds, two issues alone survive for adjudication i.e. (a) Benchmarking of Interest on ECB Loans and (b) Disallowance under Section 43B of the Act. With regard to Benchmarking of Interest on ECB Loans, the Ld. AR submitted that the assessee had availed three ECB loans, namely ECB-I, ECB-II and ECB-III. It was submitted that the assessee benchmarked the rate of interest on ECB-I and ECB-II at LIBOR + 500 basis points, and on ECB-III at LIBOR + 450 basis points. It was submitted that the Ld. TPO benchmarked the interest at LIBOR + 200 basis points, which was enhanced by the Ld. DRP to LIBOR + 250 basis points. In this regard, reliance was placed on para no. 2.4.6 of the DRP’s order, wherein the Ld. DRP benchmarked the interest on the assumption that the tenure of the ECB loans was less than five years. The Ld. AR submitted that the assumption of the Ld. DRP that the tenure of ECB Loans are for less than five years is factually incorrect. In this regard, the Ld. AR invited our attention to the loan agreement dated 09.04.2014 placed at Page no. 210, the loan agreement dated 24.11.2014 placed at Page no. 231 and the loan agreement dated 23.06.2016 placed at Page no. 252 and it was demonstrated that the ECB loans were for a tenure of seven years, and not for a period of less than five years. It was further submitted that this Tribunal, under

identical facts, for the same assessment year, in the case of Shakti Hormann Pvt. Ltd. vs. ACIT [174 taxmann.com 427], has held that benchmarking of interest on ECB loans at LIBOR + 500 basis points is justified. The Ld. AR argued that the Benchmarking of interest on ECB loans by the assessee is not more than LIBOR + 500 basis points. Accordingly, it was prayed that the adjustment made by the Ld. TPO/Ld. AO be deleted.

9. Per contra, the Learned Departmental Representative (“Ld. DR”) relied upon the orders of the lower authorities.

10. We have heard the rival submissions and perused the material available on record including the case law relied upon. In this regard, we have also gone through para no. 2.4.6 of the order of the Ld. DRP, which is to the following effect:

2.4.6 After considering the submission, documents (agreement), the Panel found that the loans are categorized as long term and short term i.e. working capital loan. We observe that the banks are adopting the 200 bps on working capital loans as spread and higher rates beyond 500 bps on the long term loans such as term loans. The RBI in its prudential norms has given windows for the pricing of interest and the spread. Based on the RBI guidelines, the term up to 5 years, can have spread of 300 bps and beyond 5 years, it can be 500 bps. In this case the effective date of loan was considered on 02.05.2014, 23.12.2014 and 19.08.2016 respectively. Considering the fact that the term of assessee’s loan is less than 5 years, the rating should be below 300 basis points. Further, in the case of DCIT vs. Devgen Seeds and Crop Technology Private Limited (ITA No. 399/Hyd/2016) on which assessee has relied upon the Hon’ble ITAT observed that “in our considered view, the relevant issue is to charge the interest on international transaction based on the LIBOR or any other rates which are the basis for negotiation between the contracting parties and the rates of interest or spread cannot be the same for all the international loans irrespective of their terms, risk etc.” As per the agreement between the assessee and AE, Netherlands Glass Investment BV, there is no mention of rate but it is mentioned 6 months LIBOR (clause 7.1). In view of the above, in the absence of any rate in the agreement, the rate should be below 300 bps. Therefore, the TPO is directed to adopt the Six month average LIBOR plus 250 basis points.

11. On perusal of the above, we find that the Ld. DRP benchmarked the interest on ECB loans at LIBOR + 250 basis

points on the premise that the loans were for a tenure of less than five years. However, on perusal of the loan agreements placed at page nos. 210, 231 and 252 of the paper book, it is evident that the tenure of the ECB loans is seven years. Thus, the factual basis adopted by the Ld. DRP is incorrect. We have also gone through para nos. 8 to 11 of the order of this Tribunal, in the case of Shakti Hormann Pvt. Ltd. vs. ACIT (supra), which is to the following effect:

8. We have considered the rival submissions as well as the material on record. For the assessment year 2017-18, the TPO has determined the ALP of interest on ECB by adopting LIBOR+200 basis points for bench marking the interest paid by the assessee at LIBOR+500 basis and consequently proposed adjustment of Rs.34,31,724/-. The DRP, though agreed in principle, that in case loan is taken for more than 5 years, then the rate provided by the RBI in Circular as LIBOR+500 basis is applicable. However, the DRP has taken the tenure of the loan from the date of agreement to the assessment year under consideration in para 2.2.6 as under :

"2.2.6. Since the external commercial borrowing loan is taken from the AE located abroad the interest payments are made in foreign currency. In our considered view, the loans are categorized as long term and short term i.e. working capital loan. We observe that the banks are adopting the 200 bps on working capital loans as spread and higher rates beyond 500 bps on the long term loans such as term loans. The RBI in its prudential norms has given windows for the pricing of interest and the spread. Based on the RBI guidelines, the term upto 5 years can have spread of 300 bps and beyond 5 years, it can be 500 bps. In this case as per the agreement the effective date of loan was considered 11 October 2014. Considering the fact that the term of assessee's loan is less than 5 years, the rating should be below 300 basis points. Further, in the case of *DCIT v. Devgen Seeds and Crop Technology Private Limited* (ITA No.399/Hyd/2016) the Hon'ble ITAT observed that "in our considered view, the relevant issue is to change the interest on international transaction based on the LIBOR or any other rates which are the basis for negotiation between the contracting parties and the rates of interest or spread cannot be the same for all the international loans irrespective of their terms, risk etc." In view of the above going by the RBI guidelines the rate should be below 300 bps. Therefore, the TPO is directed to adopt the Six month average LIBOR plus 250 basis points."

9. Once the tenure of the loan as per the agreement between the assessee and the AE is more than 5 years, then this view of the DRP, considering the tenure of the loan from the effective date of agreement till the assessment year under consideration is highly arbitrary and unjustified. The tenure of the loan as agreed between the parties is clearly manifested from the agreement itself and therefore, there is no reason to alter the tenure of the loan, when there is no payment or foreclosure of the loan during the year under consideration. We further note that for the assessment year 2014-15, the TPO *vide* order dated 31.10.2017 passed u/s 92CA(3) of the Act has accepted the interest paid on ECB at arms length in para 11 as under :

"11. With regard to interest on External Commercial Borrowings the tax payer has paid interest @LIBOR +5% half yearly. As per RBI Master Circular No.12/2013-14 (Updated till June 16, 2014) dated July 01, 2013, the existing all-in-cost ceilings for ECB are as under :

Average Maturity Period	All-in-cost ceilings over 6 month LIBOR*
Three years and upto five years	350 basis points
More than five years	500 basis points

Here, as the maturity period of the tax-payer is 96 months, and as the tax payer adopted 6 month LIBOR+500 points on the interest payment towards ECB, the transaction is considered to be at arm's length."

10. Thus, it was found by the TPO that maturity period of loan is 96 months and therefore, as per the rate provided by the RBI Master Circular 12/2013-14 dated 01.07.2013, the same is considered at arms length. For the year under consideration, there is no change either in the transaction of loan (ECB) or payment of interest as provided in the loan agreement, therefore, the TPO was not justified to apply a different rate of interest as arms length price from the view taken for the A.Y.2014-15. Even otherwise, this issue has been considered by the coordinate bench of this Tribunal in the case of *Devgen Seeds & Crop Technology (P) Ltd. (supra)* in para 9 and 10 as under :

"9. Considered the rival submissions and perused the material facts on record as well as the decisions cited. While passing the order, the AO/TPO relied on the following decisions of the ITAT, Hyderabad.

9.1 *M/s Four Soft Ltd., v. DCIT, ITA No. 1495/Hyd/2010* for AY 2006-07, order dated 9th September, 2011. The coordinate bench in this case has held as under:

"19. We have considered the rival submissions and perused the materials available on record. We do not find any merit in the arguments of the learned departmental representative as we find that the ALP is to be determined for the international transaction, that is, on international loan and not for the domestic loan. Hence, the comparable, in respect of foreign currency loan in the international market, is to be LIBOR based which is internationally recognised and adopted. In our considered view, the DRP rightly directed the assessing officer to adopt the LIBOR plus for the purpose of TP adjustment. Our view is fortified by the decision of the Madras Bench in the case of *Siva Industries [supra]*. We do not find any merit in the arguments of the learned counsel for the assessee that the DRP should have adopted the EURIBOR for the purpose of the TP adjustments, as we find that the mostly used and recognised benchmark rate for international loan is LIBOR based. Hence, the DRP rightly directed the assessing officer to adopt the LIBOR rates. We confirm the directions of the DRP."

9.2 *Aurobindo Pharma Ltd. v. ACIT, [2014] 42 taxmann.com 556/62 SOT 214 (Hyderabad - Trib.)* held that "A perusal of the order of the TPO clearly shows that the assessee had raised the funds by way of issuance of 0 per cent optional convertible preferential shares. Thus it is noticed that the funds raised by the assessee company for giving the loan to India Telecom Holdings Ltd., Mauritius, which is its Associated Enterprises and which is the subsidiary company, is out of the funds of the assessee company. It is not borrowed funds. The assessee has given the loan to the Associated Enterprises in US dollars. The assessee is also receiving interest from the Associated Enterprises in Indian rupees. Once the transaction between the assessee and the Associated Enterprises is in foreign currency and the transaction is an international transaction, then the transaction would have to be looked upon by applying the commercial principles in regard to international transaction. If this is so, then the domestic prime lending rate would have no applicability and the international rate fixed being LIB OR would come into play. In the circumstances, we are of the view that it LIB OR rate which has to be considered while determining the arm's length interest rate in respect of the transaction between the assessee and the Associated Enterprises. As it is noticed that the average of the LIB OR rate for 14-2005 to 31-3-2006 is 4.42 per cent and the assessee has charged interest at 6 per cent which is higher than the LIBOR rate, we are of the view that no addition on this count is liable to be made in the hands of the assessee. In the circumstances, the addition as made by the Assessing Officer on this count is deleted".

4.5 In the case of *CIT v. Tech Mahindra Ltd.* [2011] 12 taxmann.com 132/46 SOT 141 (Mumbai) tribunal held that " When there is a choice between the interest rate of a currency other than the currency in which transaction has taken place and the interest rate in respect of the currency in which transaction has taken place, in our considered view, the latter should be adopted. In Siva Industries & Holdings Ltd.'s case (supra), co-ordinate Bench was making a choice between the PLR (Prime Lending Rate in India) and the LIB OR (London Inter Bank Offered Rate). The coordinate Bench held that "once the transaction between the assessee and the Associated Enterprises is in foreign currency and the transaction is an international transaction, then the transaction would have to be looked upon by applying the commercial principles in regard to international transactions", and accordingly proceeded to take into account interest rate in terms of LIBOR basis. We have adopted the same approach by taking into account the commercial principles and practices with regard to a US Dollar denominated extended credit for arriving at the benchmark rate, and take LIB OR as the base. Accordingly, the LIBOR (US Dollar) has to be as benchmark for US Dollar transactions - rather than the rate of interest on domestic borrowings, even which is lower than the interest rate of 10 per cent taken as ALP by the TPO, or, for that purpose, rate of interest on any other currency loans."

4.6 In the case of *M/s Four Soft Ltd v. DCIT Circle-I (3)*, Hyderabad, ITA No. 1495/Hyd/2010 tribunal held that "We have considered the rival submissions and perused the materials available on record. We do not find any merit in the arguments of the learned departmental representative as we find that the ALP is to be determined for the international transaction, that is, on international loan and not for the domestic loan. Hence, the comparable, in respect of foreign currency loan in the international market, is to be LIBOR based which is internationally recognized and adopted. In our considered view, the DRP rightly directed the assessing officer to adopt the LIB OR plus for the purpose of TP adjustment. Our view is fortified by the decision of the Madras Bench in the case of Siva Industries".

4.7. Similar view has been taken in the case of *Tata Auto comp Systems Limited v. ACIT, ITAT Mumbai, ITA NO. 7354/MUM/11(A. Y. 2007-08)*.

4.8. On the legal principles there is no dispute that LIBOR specific percentage points has to be considered as ALP. There is also no basis, as rightly observed by the DRP, to adopt corporate bonds rate at 17.26%. Therefore, in principle we agree with Assessee's contentions that libor + percentage points is to be accepted. However, it is seen from the details furnished at page 91 of paper book, few of loans provided in AY 2003-04 and 2004-05 in the case of Arubindo and Arubindo Farmo industria Farmaceutica Ltda and loans obtained from Axis bank and Federal Bank where the rate of interest paid was LIBOR +2.1% and LIBOR +3.25%. On these loans Assessee seems to have advanced at LIBOR +3% to Aurbindo whereas rate of interest received in Aurobindo Farmo industria Farmaceutica LTDA is 13.06%. Therefore, to the extent of advances which were given at a rate lesser than the rate at which those are obtained, the AO is directed to examine and if so, the rate of interest paid should be considered as ALP in order to determine the interest received. With these directions, this ground considered partly allowed.

9.3. In the case of *Dr. Reddy's Laboratories Ltd. v. Addl. CIT*, [2014] 48 taxmann.com 374/65 SOT 154/30 ITR(T) 434 , the coordinate bench has held as under:

"11. We have considered the rival contentions. Since the assessee has accepted 7 per cent. in the earlier years. The Tribunal felt that 7 per cent is reasonable and accordingly LIBOR linked interest was not considered. The issue in Four Soft Ltd. (*supra*) relied upon by the assessee is not about bank interest rate or fixed deposit interest rate. The issue contested was rate of LIBOR, the actual LIBOR rate as per the assessee was 4-12 per cent whereas the Dispute Resolution Panel has taken LIBOR at 5.7 per cent. The Tribunal has directed the Assessing Officer to examine the correct rate of LIBOR and adopt LIBOR + rate in that case. There are other judgments also where 6 per cent. interest received was considered as LIBOR + 157 base points, so, 7 per cent interest rate approved would be about LIBOR + 257 base points. The co-ordinate Benches are approving on different factual situation, LIBOR + 1 per cent to 3 per cent and considering that, we also feel that 7 per cent rate is reasonable which is equivalent to LIBOR + 2 per cent. Be that as it may, since the assessee has accepted 7 per cent in the earlier year and that is the basis for directing to adopt 7 per cent by the Tribunal, we do not see any reason to modify the directions of the Tribunal in this regard. Accordingly, this contention of the assessee is rejected."

9.4. From the above judicial pronouncements, the coordinate bench has adjudicated that in respect of foreign currency loan in the international market, the LIBOR based interest has to be adopted. In the case of Four Soft and Aurobindo (*supra*), the coordinate bench has only adjudicated that LIBOR based interest alone are to be considered for "ALP adjustment not the domestic PLR. In the case of Dr. Reddy Labs (*supra*), the coordinate bench has only confirmed the interest rate already accepted by the assessee at 7%, which was considered to be reasonable. Nowhere, it was adjudicated that the bench marking of interest at LIBOR + 200 bps. Moreover, all the interest rates were received by the assessee for making investment in AEs, in the given case, assessee had borrowed the loan and paid the interest. The bench marking has to be done keeping in mind the internal as well as external "CUP".

9.5. After careful analysis of the judicial pronouncements and RBI guidelines, we are of the view that the assessee has borrowed the loan from its AEs in terms of FCD and ECB. For the purpose of "FCD", the bench marking has to be done considering the internal as well as external "CUP". Obviously, the interest charged is better than internal "CUP". The external "CUP" are the rates available in the international market. The assessee has already submitted that the LIBOR rate at that point of time was 1.24% with the spread of 500 bps, it comes to 5.24%, which is less than 4% charged by the assessee. With regard to ECB, the bench marking has to be done on External "CUP" at the rate available in the international market. The assessee has already considered this aspect and compared the LIBOR and SIBOR rates at that point of time and considered the SIBOR based rate with 500 bps is favourable to the assessee. Accordingly, the assessee has adopted SIBOR + 500 bps as the ALP.

9.6. The Id. DR has vehemently put forth his argument for adopting 500 bps instead of adopting 200 bps as adopted by TPO. We found that there is no basis for adopting one spread of 200 bps in the judicial pronouncement nor it is prudent in the banking sector.

In our considered view, we cannot adopt the 200 bps as universal rate for all types of loan. The loans are categorized as long term and short term *i.e.* working capital loan. We observe that the banks are adopting the 200 bps on working capital loans as spread and higher rates beyond 500 bps on the long term loans such as term loans. The Pricing of Interest on term loans are determined based on the security, net worth, ratings, term of loan etc. The more risk involved, the pricing decision of the banks will change. The RBI in its prudential norms has given windows for the pricing of interest and the spread. Based on the RBI guidelines, the term up to 5 years, can have spread of 300 bps and beyond 5 years, it can be 500 bps. Taking the clue from this guideline, we can come to understand that the assessee has properly allowed its AEs to adopt the spread of 500 bps. In our considered view, the relevant issue is to charge the interest on international transaction based on the LIBOR or any other rates which are the basis for negotiation between the contracting parties and the rates of interest or spread cannot be the same for all the international loans irrespective of their terms, risk etc.

10. In view of the above discussion, we find no infirmity in the order of the DRP in deleting the adjustment made on interest on ECB/FRD and accordingly, we uphold the order of the DRP and dismiss the grounds raised by the revenue.

11. Thus, it is apparent from various decisions relied upon by the coordinate bench of this Tribunal that this Tribunal has taken a consistent view on this issue. Accordingly, in the facts and circumstances of the case and by following the earlier decisions of this Tribunal in the case of DCIT v. Devgen Seeds & Crop Technology (P) Ltd. (*supra*), we hold that the interest payment of ECB @ LIBOR+500 basis is at arms length and consequently no adjustment is warranted.

12. On perusal of the above, we find that this Tribunal for the same assessment year and for ECB loans having a tenure of seven years, has held that benchmarking of interest at LIBOR + 500 basis points is justified. In the present case, the assessee has

benchmarked the ECB loans at LIBOR + 500 / 450 basis points, which is not higher than the rate approved by the Tribunal. Therefore, respectfully following the said decision, we hold that the benchmarking adopted by the assessee is at arm's length. Accordingly, the addition of Rs.2,28,23,848/- made on account of interest on ECB loans is directed to be deleted.

13. With regard to the disallowance of Rs.20,32,596/- under section 43B of the Act, the Ld. AR submitted that the said amount pertains to provision for gratuity, which was already disallowed by the assessee itself while computing the total income in the return of income. However, due to incorrect reporting in the tax audit report, the said amount was once again disallowed by the Ld. AO, resulting in double disallowance. In this regard, the Ld. AR invited our attention to para nos. 2.8.1 and 2.8.2 of the directions of the Ld. DRP, wherein the Ld. DRP had directed the Ld. AO to verify the factual position and decide the issue as per law. It was prayed that the matter be restored to the file of the Ld. AO for verification in accordance with the DRP's directions.

14. Per contra, the Ld. DR did not object to such a remand.

15. We have considered the rival submissions and gone through the directions of the Ld. DRP. We find that the Ld. DRP had specifically directed the Ld. AO to verify the claim of the assessee regarding disallowance under section 43B of the Act. Since the said verification has not been carried out, we deem it appropriate, in the interest of justice, to restore this issue to the

file of the Ld. AO. The Ld. AO is directed to verify from the records whether the amount of Rs.20,32,596/- towards provision for gratuity has already been disallowed by the assessee in the return of income and to decide the issue in accordance with law, after giving due effect to the directions of the Ld. DRP and after providing adequate opportunity of being heard to the assessee.

16. In the result, the appeal of the assessee in ITA No. 130/ Hyd/2022 is allowed for statistical purposes.

ITA-TP No. 477/Hyd/2022 (A.Y. 2018-19):

17. At the outset, the Ld. AR submitted that the solitary issue involved in the present appeal relates to the benchmarking of the rate of interest on ECB loans. It was further submitted that the issue involved in this appeal is identical to the issue involved in ITA No. 130/Hyd/2022 for Assessment Year 2017-18. Accordingly, he submitted that the findings of the Tribunal in ITA No.130/Hyd/2022 on this issue may be mutatis mutandis apply to this appeal also.

18. Per contra, the Ld. DR did not dispute the factual position that the issue involved in the present appeal is identical to the issue involved in ITA No. 130/Hyd/2022.

19. As there is no dispute about the facts that the issue involved in this appeal is identical to the issue involved in ITA No. 130/Hyd/2022, therefore, we hold that our observations and findings in ITA No. 130/Hyd/2022 for Assessment Year 2017-18 apply mutatis mutandis to this appeal also. Accordingly, we hold

that the benchmarking adopted by the assessee is at arm's length and direct the Ld. TPO / Ld. AO to delete the addition made on account of benchmarking of interest on ECB loans.

20. In the result, the appeal of the assessee in ITA No.477/Hyd/2022 is allowed.

21 To sum up, the appeal of the assessee in ITA No. 130/Hyd/2022 is allowed for statistical purposes and the appeal in ITA No.477/Hyd/2022 is allowed.

Order pronounced in the Open Court on 21st January 2026.

Sd/-

Sd/-

(RAVISH SOOD) JUDICIAL MEMBER	(MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER
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Hyderabad, dated 21st January 2026

Vinodan/sps

Copy to:

S.No	Addresses
1	SGD Pharma India Private Ltd, SY Nos. 266, 267, 269, 271 / 1E 272-275, 277, 281/2, 283, 285, 289 Vemula Village, Moosapet Mandal, Mahabubnagar Distt. Telangana 509380
2	A.O Circle 3(1) Income Tax Office, Signature Towers, Kondapur Hyderabad 500084
3	Pr. CIT – Hyderabad/Director (IT & TP) Hyderabad
4	DRP – 1, Kendriya Sadan, C Wing, Bengaluru 560034
5	DR, ITAT Hyderabad Benches
6	Guard File

By Order