

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DEHRADUN “DB” BENCH, DEHRADUN**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER
(Through Video Conferencing)**

ITA Nos.107 & 105/DDN/2024
Assessment Years: 2011-12 & 2012-13

DCIT, Intl. Taxation, Dehradun	Vs.	BG Exploration Production India Ltd., BG House, Lake Boulevard, Mumbai
PAN: AAACE4569K		
(Appellant)		(Respondent)

Assessee by	Sh. Ajay Vohra, Sr. Adv. Ms. Mansha Bhalla, CA
Department by	Sh. Mohan Lal Joshi, Sr. DR

Date of hearing	15.01.2026
Date of pronouncement	15.01.2026

ORDER

PER SATBEER SINGH GODARA, JM:

These Revenue’s twin appeals ITA Nos. 107 & 105/DDN/2024 for assessment years 2011-12 & 2012-13, arises against the Commissioner of Income Tax (Appeals) [in short, the “CIT(A)”], Noida’s-2 orders, both dated 21.03.2024 having DIN and order no. ITBA/APL/S/250/2023-24/1063103850(1) and ITBA/APL/S/250/2023-24/1063100977(1), involving proceedings

under sections 143(3) r.w.s. 254 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), respectively.

Heard both the parties. Case file perused.

2. It transpires during the course of hearing that there arises the first and foremost legal issue of validity of the learned CIT(A)'s identical impugned lower appellate order for the facts stated hereunder.

3. The assessee/respondent appears to have filed its twin returns on 30th November, 2011 and 30th November, 2012 declaring income(s) of Rs.8,90,50,35,760/- and Rs.9,61,7283,910/-; assessment year-wise, respectively. The Assessing Officer thereafter made section 92CA reference(s) to the Transfer Pricing Officer "TPO" in light of the fact that it had declared its international transaction with related parties in both these assessment years. And that the said latter authority passed his identical orders on 29th January, 2016 and 31st October, 2016 proposing intra-group services and interest payment adjustments involving varying sums. We further note that the Assessing Officer passed his twin draft assessment orders on 28th March, 2016 and 31st December, 2016 in tune with the TPO's foregoing proposed

assessments. This followed the assessee's identical objections filed before the Dispute Resolution Panel "DRP" whose respective directions upheld the foregoing adjustments. And that the Assessing Officer then framed his final first round assessments on 23rd February and 30th October, 2017; as the case may be, in conformity with the DRP's directions.

4. The assessee thereafter challenged the foregoing adjustments in its further appeals ITA Nos. 1478/Del/2017 (AY: 2011-12) and ITA No.6791/D1/2017 (AY: 2012-13); respectively. And that the learned coordinate bench(s) restored the same back to the DRP to adopt "TNMM" and not "CUP" method as done in the former round. Both the parties are very much *ad idem* that the DRP's second round directions failed to ensure due compliance of the tribunal's above remand orders and reiterated its former round adjudication. There is further no issue that the Assessing Officer framed his twin assessments both dated 28th May, 2021, once again repeating the very adjustments. The assessee/respondent therefore filed his twin lower appeals before the CIT(A) wherein the issue of the impugned adjustments stands decided against the department as per the tribunal's remand directions (*supra*).

This is what leaves the Revenue aggrieved.

5. We are of the considered view in this factual backdrop that the Revenue's instant twin appeals raise identical issue of the legality of the CIT(A)'s impugned lower appellate findings for want of a valid jurisdiction vested in him. This is for the precise reason that the Assessing Officer's both assessments in question had already been framed in furtherance to the DRP's direction (*supra*); and, therefore, hit by section 246A(1)(b) of the Act reading as "except an order passed in pursuance of the direction of the DRP".

6. Faced with this situation, Mr. Ajay Vohra, learned Senior Advocate, states very fairly that once the assessee's lower appeals before the CIT(A) could not have been held as maintainable, the impugned findings deciding the issue(s) against the department are *non-est* ones only. We appreciate the assessee's fair stand and quash both these CIT(A)'s impugned lower appellate orders for want of jurisdiction u/s 246A(1)(b) of the Act with a rider that the assessee shall take recourse to file fresh appeal(s) in both these assessment years before the prescribed authority/appellate forum, if so advised, and, delay in institution thereof as on date shall be deemed to have been condoned. We order accordingly.

All other remaining pleadings between the parties stand rendered academic.

7. These Revenue's twin appeals ITA Nos.107 & 105/DDN/2024 are allowed in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 15th January, 2026

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 4th February, 2026.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi