

IT(TP)A No.1844/Bang/2024&

SA No.35/Bang/2025

Koch Business Solutions India Pvt. Ltd., Bengaluru

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C”BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER  
AND  
SHRI KESHAV DUBEY, JUDICIAL MEMBER**

IT(TP)A No.1844/Bang/2024
Assessment Year : 2020-21

Koch Business Solutions India Pvt. Ltd. Pine Block, Kalyani Platina Kundalahalli Village K.R. Puram Hobli Bengaluru 560 066 Karnataka  <b>PAN NO :AACTS7624Q</b>	<b>Vs.</b>	DCIT Circle 4(3)(1) Bengaluru
<b>APPELLANT</b>		<b>RESPONDENT</b>

SA No.35/Bang/2025 (Arising out of IT(TP)A No.1844/Bang/2024)
Assessment Year: 2020-21

Koch Business Solutions India Pvt. Ltd. Pine Block, Kalyani Platina Kundalahalli Village K.R. Puram Hobli Bengaluru 560 066 Karnataka  <b>PAN NO :AACTS7624Q</b>	<b>Vs.</b>	DCIT Circle 4(3)(1) Bengaluru
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Shri Chavali Narayan, A.R.
<b>Respondent by</b>	:	Dr. Divya K.J., D.R.

<b>Date of Hearing</b>	:	27.01.2026
<b>Date of Pronouncement</b>	:	30.03.2026

**O R D E R**

**PER KESHAV DUBEY, JUDICIAL MEMBER:**

This appeal at the instance of the assessee is directed against the order of ld. AO dated 29.7.2024 vide DIN: ITBA/AST/S/143(3)/2024-25/1067104239(1) passed u/s. 143(3)

r.w.s. 144C(13) r.w.s. 144B of the Income Tax Act, 1961 (in short "the Act") for the AY 2020-21.

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

Based on the facts and circumstances of the case and in law, Koch Business Solutions India Private Limited (hereinafter referred to as "KBSIPL" or "the Company" or "the Appellant"), respectfully craves leave to prefer an appeal against the order passed by the National Faceless Assessment Centre, New Delhi ("Learned Assessing officer" or "Ld. AO"), under section 143(3) read with section 144C(13) read with section 144B of the Income Tax Act, 1961 ("the Act") dated 29 July 2024 for the Assessment Year ("AY") 2020-21 ("impugned order"). The said order has been passed in pursuance of the directions issued by the Hon'ble Dispute Resolution Panel (hereinafter referred to as the "DRP"), Bangalore dated 29 May 2024 under section 144C(5) of the Act:

In the facts and circumstances of the case and in law, the learned AO/ Transfer pricing officer ("Ld. TPO") and the Hon'ble DRP has:

**General Ground:**

1. Erred in determining and assessing the total income of the Appellant at INR 42,29,49,042 as against returned income of INR 11,87,46,830 computed by the Appellant.
2. Erred in making an addition of INR 30,42,02,212 to the total income of the Appellant on account of adjustment in the arm's length price ("ALP") for international transactions entered by the Appellant with its Associated Enterprises ("AEs") as follows:
  - 2.1 INR 30,07,60,489 in respect of provision of Information technology ("IT") support services and
  - 2.2 INR 34,41,723 in respect of interest on delayed receivables.

**Transfer Pricing Grounds:**

3. **Adjustment on account of re-determination of ALP for IT support services rendered by the Appellant to its AEs amounting to INR 30,07,60,489.**
  - 3.1 Erred by not accepting the economic analysis undertaken by the Appellant in accordance with the Act and the corresponding Rules, conducting a fresh economic analysis for the determination of the ALP and holding that the Appellant's impugned international transactions are not at arm's length.
  - 3.2 Erred by not furnishing all the relevant details of the economic analysis performed by the Ld. TPO, thereby leading to a gross violation of principles of natural justice.
  - 3.3 Erred by erroneously treating 'gain/loss on foreign exchange fluctuation' as operating in nature while computing the operating margins of tested party and comparable companies.
  - 3.4 Erred by incorrectly applying the following quantitative and qualitative filters:
    - (a) Applying a filter of 75% of operating revenue from software development services for rejecting



comparable companies.

- (b) Applying the current year data filter while undertaking search for comparable companies, thereby accepting only those companies whose data is available for FY 2019-20.
- (c) Applying different accounting year filter as a comparability criterion (i.e., rejecting companies having accounting year other than March 31 or companies whose financial statements were for a period other than 12 months)
- (d) Rejecting certain comparable companies using export earnings greater than 75% of the sales as a comparability criterion.
- (e) Applying incorrect/ modified related party transaction filter to reject companies.
- (f) Rejecting companies reporting loss in two out of three years as persistent loss makers.
- (g) Rejecting certain comparable companies using employee cost greater than 25% of the total operating revenue as a comparability criterion.
- (h) Applying only the lower turnover filter of less than INR 1 crore as a comparability criterion and not applying a higher threshold limit for turnover filter.

3.5 Erred by rejecting certain functionally comparable companies based on unreasonable comparability criteria.

- (i) DCIS Dot Com Solutions India Private
- (ii) Harbinger Systems Private Limited
- (iii) Kcube Consultancy Services Private Limited
- (iv) Rheal Software Private Limited
- (v) CES Limited
- (vi) Ace Software Exports Limited

3.6 Erred by rejecting certain functionally comparable companies additionally identified by the Appellant during the assessment proceedings, based on unreasonable comparability criteria.

- (i) Synfosys Business Solutions Limited
- (ii) Orangescape Technologies Limited
- (iii) Kireeti Soft Technologies Limited
- (iv) IDS Infotech Limited
- (v) Microland Limited

3.7 Erred by accepting certain functionally non-comparable companies based on unreasonable comparability criteria.

- (i) Mindtree Limited
- (ii) Daffodil Software Private Limited
- (iii) Great Software Laboratory Private Limited
- (iv) Larsen & Toubro Infotech Limited
- (v) Wipro Limited



- (vi) Nihilent Limited
  - (vii) Tata Elxsi Limited
  - (viii) Infosys Limited
  - (ix) Tata Consultancy Services Limited
  - (x) Cybage Software Private Limited
  - (xi) Consilient Technologies Private Limited
- 3.8 Erred by not making suitable adjustments to account for differences in the working capital position of the Appellant vis-à-vis the comparable companies.
- 3.9 Erred by not making suitable adjustments to account for differences in the risk profile of the Appellant vis-à-vis the comparable companies.
- 3.10 Erred in recomputing the operating the operating margin of the Appellant and comparable companies.
- 3.11 Erred by wrongly computing the operating margins of following comparable companies:
- (i) Kals Information System
  - (ii) Evoke Technologies Private Limited
  - (iii) Infomile Technologies Limited
  - (iv) Mindtree Limited
  - (v) Wipro Limited
  - (vi) CG-VAK Software & Exports Limited
  - (vii) Tata Consultancy Services Limited
  - (viii) Cybage Software Private Limited
  - (ix) Indianic Infotech Limited
4. **Adjustment on account interest on outstanding receivables amounting to INR 34,41,723**
- 4.1 Erred in determining a transfer pricing adjustment on account of the interest on outstanding receivables amounting to INR 34,41,723
- Without prejudice to our ground of objection 5.1 above:
- (a) Erred by not appreciating that the outstanding trade receivables from AEs are arising from provision of IT support services and should be considered as closely linked to the said service transaction and not be tested separately from arm's length perspective.
  - (b) Erred by computing the interest on receivables from AEs till the date of collection instead of restricting the interest till 31 March 2020.
  - (c) Erred by ignoring that working capital adjustment subsumes the delay in receivables and payables and hence, no separate adjustment on outstanding receivables is required.
  - (d) Erred by ignoring that weighted average receivable period of the Appellant is 25.41 days, which is less than the weighted average receivable period of the final list of comparable of the Ld. TPO i.e., 57.48 days.



- (e) Without prejudice to our above arguments, if outstanding receivables are considered as unsecured loans, benefit must be given of Circular dated 01.04.2020 through which Reserve Bank of India provides for a collection period of 9 months for export receivables which had been extended up to 15 months due to the COVID-19 pandemic.
- (f) Erred in application of LIBOR @ 2.317% and 450 basis points spread to LIBOR on ad doc basis without providing any rationale/reason.

**Levy of Interest:**

- 5. Erred by levying interest of INR 1,41,378 under section 234C of the Act despite interest under section 234C of the Act being leviable on the returned income and not on assessed income.
- 6. Erred by computing and levying excess total interest of INR 7,19,944 due to arithmetical error (INR 7,19,944 is excluding interest under section 234C of the Act).

**Invoking penalty proceedings under Section 270A of the Act:**

- 7. Erred in law and on facts by initiating penalty proceedings under section 270A of the Act, pursuant to the erroneous adjustments made to the total income of the Appellant, which is consequential to the aforementioned addition.
- 8. As the facts, evidence and judicial decisions indicate erroneous additions/ adjustment made by the Assessment Unit, no penalty proceedings should be initiated under section 270A of the Act.

The Appellant submits that each of the above grounds is independent and without prejudice to one another. The Appellant craves leave to add, alter, amend, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of the appeal, so as to enable the Hon'ble Tribunal to decide on the appeal in accordance with the law.

For Koch Business Solutions India Private Limited



**3.** The assessee in the present case has also filed a petition on 21.3.2025 seeking admission of additional grounds, which are reproduced below for ease of reference & convenience:

O/c

**K KOCH™** Koch Business Solutions India Private Limited

20 March 2025

To,  
The Assistant Registrar,  
The Income Tax Appellate Tribunal,  
No.51, Behind Jal Bhavan,  
1st Cross, 4th T Block East,  
Tilak Nagar, Jayanagar, Bangalore-560041, Karnataka

**Appellant** : Koch Business Solutions India Private Limited ("Appellant")

**Appeal No.** : ITA 1844/Bang/2024  
**Assessment Year** : 2020-21

**Subject** : Application seeking admission of additional/ clarificatory/ supplementary Ground of Appeal under Rule 11 of Income-Tax Appellate Tribunal Rules, 1963

The Appellant has filed appeal, ITA 1844/Bang/2024, on 20.09.2024 before this Hon'ble Tribunal for AY 2020-21, challenging additions made by the Ld. Assessment Unit, Income Tax Department, vide order dated 29 July 2024 ("impugned order") passed under section 143(3) read with section 144C(13) read with section 144B of the Income-tax Act, 1961 ("Act").

In addition to the various grounds of appeal raised in the above-mentioned appeal, Appellant craves leave of this Hon'ble Tribunal to raise the following additional/ clarificatory/ supplemental ground of appeal and prays that the same may be admitted and be heard and considered as part of the captioned Appeal while adjudicating the same.

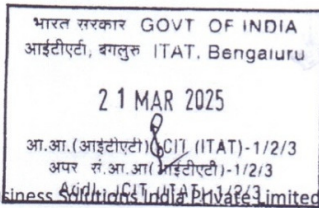
In view of the above, we request your Honour to take the above on record and place it before Hon'ble Tribunal for appropriate consideration, while deciding the appeal on merits.

Thanking You.

Yours faithfully,

For Koch Business Solutions India Private Limited

*Atul Agrawal*  
Name: Atul Agrawal  
Designation: Director



२१/०३/२५  
आपका सहायक अधिकारी  
Income Tax Appellate Tribunal  
1st & 2nd Floor, No. 51, 1st Cross,  
4th T Block East, Tilak Nagar,  
Jayanagar, Bengaluru - 560041

BEFORE HON'BLE INCOME TAX APPELATE TRIBUNAL, BENGALURU BENCH

KOCH BUSINESS SOLUTIONS INDIA PRIVATE LIMITED ("APPELLANT")

ITA 1844/Bang/2024

ASSESSMENT YEAR ("AY"): 2020-21

ADDITIONAL GROUND OF APPEAL

In addition to the various grounds of appeal raised in the above-mentioned appeal, the Appellant craves leave of this Hon'ble Tribunal to raise the following additional Ground of Appeal and prays that the same may be admitted and be heard and considered as part of the captioned Appeal while adjudicating the same:

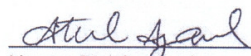
*"1A. Impugned order dated 29<sup>th</sup> July 2024 is passed beyond the statutory time limit prescribed under section 144C(13) of the Act and is time-barred, null and void."*

The Appellant craves to consider the above ground of appeal without prejudice to other grounds of appeal.

The Appellant humbly submits that the above-mentioned ground may kindly be admitted as it does not require any fresh examination of facts and can be adjudicated on the basis of material on record. It goes to the root of the matter and is required to be adjudicated in order to determine the correct tax liability of the Appellant. Reliance is also placed on the decision of the Apex Court in the case of **National Thermal Power Corporation Limited v. CIT (1998) 229 ITR 383 (SC)**.

In view of the aforesaid and in the interests of equity and justice, it is respectfully prayed, that the aforesaid additional ground of appeal, by virtue of the discretion vested with this Hon'ble Tribunal under Rule 11 of the Income-tax (Appellate Tribunal) Rules, 1963, be admitted and taken into consideration while adjudicating the above appeal, after granting Appellant an opportunity of hearing in the appeal.

For Koch Business Solutions India Private Limited

  
Name: Atul Agrawal  
Designation: Director



**3.1** We have heard both the parties on admission of additional ground. The Lucknow bench of the Hon'ble Allahabad High Court in the case of CIT Vs. Sahara India (2012) 347 ITR 331 held that a legal issue can be raised at any stage but there shall be good reason for admitting the additional ground. In our Opinion all the facts are already on record and there is no necessity of investigation of any fresh facts for the purpose of the adjudication of above ground.

Further we are also of the opinion that the additional ground raised in the present case are purely legal in nature & therefore these are critical for a fair adjudication of the matter. The Hon'ble Madras High Court in the case of CIT Vs Indian Bank (2015) 230 Taxman 635 (Madras) held that Rule 11 of the I.T. Rules makes it clear that the assessee has the right to raise additional grounds and if the same is beneficial to the assessee, the same should be considered by the Tribunal.

**3.2** Further, the Hon'ble Karnataka High Court in the case of Gundathur Thimmappa & Sons vs. CIT, Mysore, reported in (1968) 70 ITR 70 held that when the point raised by the assessee is a point which went to the root of the matter and affected not merely his liability to pay tax but also jurisdiction of the Tribunals and Authorities themselves to subject the amount concerned to tax, the Appellate Tribunal had the discretion to permit point of law to be raised for the first time in appeal because the question went to the root of the case. The Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd. Vs CIT (1998) 229 ITR 383 held that undoubtedly, the Tribunal will have the discretion to allow or not allow a new ground to be raised. But where the Tribunal is only required to consider a question of law arising from the facts which are on record in the assessment proceedings, we fail to see why such a question should not be allowed to be raised when it is necessary to consider that question in order to correctly assess the tax liability of an assessee. Accordingly, we are inclined to admit the additional legal grounds for the purpose of adjudication as there was no investigation of any fresh facts otherwise on record and these are critical for a fair adjudication of the matter.

**4.** Since the assessee has raised the additional ground of appeal which is purely legal in nature, we deemed it fit & proper to first adjudicate this legal ground as raised by the assessee and if the necessity so desire, we will further proceed to adjudicate other grounds of appeal as raised by the assessee.

**5.** Now the brief facts of the case are that the assessee company is a wholly owned subsidiary of Koch Capabilities International Holdings, LLC. During the assessment year 2020-21, the assessee company provided IT support services to the entities within the Koch Group. The assessee company is compensated on a cost-plus markup of 10%. The assessee company filed its original return of income for the assessment year 2020-21 on 9.2.2021 declaring total income of Rs.11,87,46,830/-. The said return was thereafter processed u/s 143(1) of the Act. Subsequently, the case was selected for scrutiny under CASS and accordingly notices u/s 143(2) as well as 142(1) of the Act along with show cause notice were issued and duly served upon the assessee. In response to these notices, the assessee company filed its submissions from time to time. The arguments and details furnished by the assessee company were carefully perused and taken into consideration by the AO.

**5.1** During the course of assessment proceedings, a reference u/s 92CA of the Act was made to the TPO after obtaining the approval of the Pr. CIT for determination of Arm's Length Price with reference to all the transactions reported by the assessee. The TPO vide order u/s 92CA(3) of the Act dated **15.7.2023** proposed adjustment of Rs.36,15,02,027/- was made. Subsequently, the AO passed draft assessment order on **19.9.2023** against which the assessee filed its objection before the ld. DRP. The ld. DRP after considering the

objection of the assessee by providing opportunity of being heard had passed an order by issuing direction on **29.5.2024** by granting partial relief to the assessee by providing inclusion/exclusion of some comparable companies and directing adoption of LIBOR rate to compute interest on delayed receivables. The AO thereafter proceeded to pass the final assessment order on **29.7.2024** by making addition of Rs.30,42,02,212/- and completed the assessment proceedings on a total income of Rs.42,29,49,042/-.

**6.** Aggrieved by the order of the AO dated 29.7.2024, the assessee company has filed the present appeal before this Tribunal. The assessee has also filed large volume of paper books on merits of the case along with the synopsis in support of its case.

**7.** Before us, the ld. A.R. of the assessee CA Chavali Narayan strongly relied on the additional legal ground raised with regard to validity of the final assessment order passed on **29.7.2024** and vehemently submitted that the said order dated 29.7.2024 is barred by limitation. The ld. A.R. further submitted that as per the provisions of section 144C(13) of the Act, the AO was required to pass the final assessment order within **one month** from the end of the month in which the direction of the ld. DRP is received. Further, the ld. A.R. submitted that the AO should have passed the final assessment order by 30.6.2024. However, in the present case, the AO had passed the final assessment order only on 29.7.2024 and accordingly, same is in direct violation of the time limit prescribed u/s 144C(13) of the Act and liable to be quashed. The ld. A.R. submitted that on **29.5.2024**, the ld. DRP's directions were uploaded on the portal and the DIN was also generated on the same day and hence, admittedly the last date to pass the final assessment order was 30.6.2024 and therefore, the final

assessment order passed on 29.7.2024 is clearly barred by limitation and liable to be quashed.

**8.** The ld. CIT-D.R. Dr. Divya K.J on the other hand heavily supported the order of the AO and vehemently submitted that the Faceless Assessing Officer(FAO) had not received any such directions issued by the DRP till 25/07/2024 & the FAO felt the need to pass the assessment order within one month from the end of the month in which such direction is received by holding that following the provisions of section 144C(12) of the Act, the DRP directions were supposed to be passed on or before 30/06/2024. It is in view of this, that FAO had passed the Order within July, 2024 as contended in the letter dated 25/07/2024 as the FAO had left with no alternative but to pass the final order on draft assessment order only. Further, the ld. DR Submitted that the directions of the ld. DRP was received neither by the JAO nor FAO & that's why the FAO had made a request to ascertain the details of receipt of DRP directions. Lastly the ld. DR submitted that the FAO had considered the order passed by the TPO while giving effect to the directions of the Hon'ble DRP. The ld. DR also submitted the copy of the request letter dated 25/07/2024 by the FAO regarding the non-receipt of directions from ld. DRP as well as report of the JAO on the additional grounds as raised by the assessee which are reproduced below for ease of reference & convenience:-



सत्यमेव जयते

सहायक आयकरआयुक्तकार्यालयसर्कल-4(3)(1)बेंगलुरु  
**OFFICE OF THE DEPUTY COMMISSIONER OF INCOME-TAX, CIRCLE-4(3)(1)**  
कमरानंबर 437 चौथातल, बीमटीसी भवन, छठा खंड कोरामंगला बेंगलुरु-560095  
**ROOM NO 437, 4<sup>th</sup> FLOOR, BMTC BUILDING 6<sup>th</sup> BLOCK, KORAMANGALA,  
BENGALURU-560095**  
टेलीफोन/TELEPHONE- 080-25625093  
**E-mail: Bangalore.dcit4.3.1@incometax.gov.in**

F.No.DCIT/Appeal/C-4(3)(1)/2025-26

Dated: 23.01.2026

To,  
The Commissioner of Income Tax  
ITAT-3, Bengaluru

Madam,

Sub: Report on Additional Ground of Appeal No. 12 & 13 filed by the assessee-KOCH BUSINESS SOLUTIONS INDIA PVT LTD, PAN: AAGCK8362E, A.Y. 2020-21, ITA 1844/BANG/2024-Reg.

Ref: 1. Letter received from Commissioner of Income-Tax, ITAT-3, Bangalore in F.No.3/CIT/ITAT-3/BANG/2025-26/290 dated 09.07.2025

2. Letter recived in e mail vide GI.Ä F.No. 3/CIT/ITAT-3/Bang/2025 - 26 dated 06/01/2026.

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Kindly refer to the above.

2. In connection with the above subject, report on Additional Ground of Appeal No. 12 & 13 filed by Appellant is as under:-

3. The assessee company filed its original return of income for the A.Y. 2020-21 declaring total income of Rs 11,87,46,830. The return of income was processed u/s 143(1) of the Income Tax Act, 1961. Later on, the case was selected for scrutiny under CASS along with below mentioned reasons:-

- i) Purchases shown in the ITR is less than the Invoice value of Imports shown in the Export Import Data
- ii) Large value of international transactions in services including transactions u/s 92B (2) in comparison to Revenue from Sale of Services for ITES and low profitability (TP Risk Parameter)
- iii) High risk International Transactions (Entity reported in CbCR data) (TP Risk Parameter)
- iv) International transaction(s) in respect of lending or borrowing of money (TP Risk Parameter)
- v) Large refund claimed out of advance tax (Business ITR)

- vi) Claim of Large Value Refund.
- vii) High liabilities as compared to low income/receipts.

4. The assessee company filed its original return of income for the A.Y. 2020-21 declaring total income of Rs 11,87,46,830. The return of income was processed u/s 143(1) of the Income Tax Act, 1961. Later on, the case was selected for scrutiny under CASS. KOCH BUSINESS SOLUTIONS (KBS) India was established in November 2017, to undertake certain parts of the information technology related services (Business support services) of its AEs as a contract service provider. The Company is engaged in the business of providing information technology support services (Business support services) to its group companies. The work outsourced to KBS India is the decision of various businesses, in consultation with AEs. The Company has entered into a master service agreement with its group companies to receive a service fee computed at an agreed mark-up on cost for services provided to respective companies.

Therefore, a reference u/s 92CA(1) of the Income Tax Act, 1961 was made in the case of assessee M/s KOCH BUSINESS SOLUTIONS INDIA PRIVATE LIMITED for the AY 2020-21 for the computation of arm's length price in relation to International Transactions.

#### **5. REFERENCE to TPO**

A. Reference to TPO was made by the Assessing Officer of the Assessment Unit on 16.11.2021 and the proposal was accepted and necessary approval was given by the CIT(Assessment) on 17.11.2021 as could be seen from the case history in the assessment proceedings for AY 2020-21 in the case of Koch Business Solutions India Private Limited.

B. Hence, in view of the above, it is clear that the necessary prior approval for referring the case to TPO by the Assessment Unit was obtained by submitting a proposal for TPO reference on 16.11.2021. The CIT/PCIT of the Assessment Unit approved the proposal submitted for TPO reference on 17.11.2021 duly. Consequent upon, the TPO passed order u/s 92CA(3) of the Act on 15/07/2023. Consequent on receipt of the TPO order, the AU(Faceless) passed draft assessment order u/s 144 C(1) on 19/09/2023. Aggrieved with the draft assessment order dated 19.09.2023, the assessee filed objections before the Ld. DRP on 18.10.2023 and submitted the copy of objections alongwith Form 35A.

#### **6. Grounds raised by the Assessee:**

The assessee has raised the objections as below:

A. The appellant has filed the appeal for A.Y. 2020-21 with the Additional Ground of Appeal No. 12 & 13 filed by the Appellant are reproduced as under:-

B. Impugned order is time barred as no valid reference appears to have been made to the Learned Transfer Pricing Officer ("Ld. TPO"), as prescribed under section 92CA of the Act.

C. The Ld. AO erred in not appreciating that the time limit prescribed under section 153 of the Act is the outer time limit for passing the final assessment order and hence, the final assessment order dated 29.07.2024 is time barred and liable to be quashed.

#### **7. Comments on the Grounds:**

In response to the above, it was submitted as below ;

A. It is asked to report on the issue regarding the issue of the directions of DRP dated 29.05.24 and the final assessment order dated 29.07.24. In this connection, earlier report was submitted requesting time to gather relevant information with respect to the date of receipt of directions of Hon'ble DRP by the AO.

#### **8. Further Details:**

A. In continuation with the earlier report submitted efforts were made to gather relevant information with respect to the date of receipt of directions of Hon'ble DRP by the AO. The details available in the case history notings in the case of the above assessee for AY. 2020-21 were perused. Based on the details gathered the earlier report is modified and submitted as below.

B. However, it is seen that the date of receipt of DRP directions by the Faceless A.O is not available in the case history notings of this office being JAO. But on perusal of the case history notings, the comments uploaded by the Faceless A.O on 25.07.2024 are available which is very relevant in this context. The same is discussed below and also enclosed with this report for kind perusal.

C. In view of the time barring date for passing assessment order in this case the faceless AO has uploaded the comments as below:

*" In view of the provisions of section 144C(12), wherein it is stated that "No direction under sub-section (5) shall be issued after nine months from the end of month in which the draft order is forwarded to the eligible assessee" but this office has not received directions from DRP till date. Since, the directions from Ld. DRP were supposed to be passed on or before 30.06.2024 as per the provisions of section 144C(12) of the Act but no such directions have been received to this unit till date, whereas , final assessment order needs to be passed within one month from the end of month in which such direction is*

*received, therefore, it is requested to kindly provide the order of Ld. DRP, so that final assessment order can be passed as per the time-limit specified in the Act.*

*In case the order of DRP is not received till 27.07.2024, it will leave no alternative but to pass the final order passed on draft assessment order only."*

9. On perusal of this comment by the Faceless AO, it is seen that the Faceless A.O had not received such directions as issued by the DRP in this case till 25.07.2024 as the faceless AO felt the need to pass the assessment order within one month from the end of the month in which such direction is received by holding that following the provisions of section 144C(12), the DRP directions were supposed to be passed on or before 30.06.2024. It is in view of this, that the faceless AO has passed the order within July, 2024 as contended in the letter as he was left with no alternative but to pass the final order on draft assessment order only. It is also relevant to note here that the TPO has passed the order on 26.06.2024 vide DIN & Order No. ITBA/COM/F/17/24-25/1066041661(1) which is in the end of June, 2024.

10. Further efforts were made to ascertain the date of receipt of Hon'ble DRP directions by the TPO who has passed the order consequent to DRP directions on 26.06.2024 vide DIN No. ITBA/COM/F/17/2024-25/1066041661(1). It was noticed that the Hon'ble DRP directions vide ITBA/DRP/S/91/2024-25/1065234962(1) dated 29.05.2024 were received in the office of TPO only on 03.06.2024. A copy of the "Intimation letter for Order u/s 144C(5)" was received in the office of TPO-2(1)(1), Bengaluru on 03.06.2024 bearing the office tapal seal is enclosed herewith for kind perusal.

Efforts were made to ascertain the date of receipt of the directions of Hon'ble DRP in this office by the JAO. Due to these efforts, it was noticed that no DRP direction tapal was received in the month of May, 2024.

11. Enquiries were made with TPO office to ascertain the date of receipt of DRP directions in their office. From the enquiries, it was learnt that the directions of the Hon'ble DRP were received in the month of June(03.06.2024). Copy of the proof of receipt of DRP directions by the TPO are enclosed herewith for kind perusal.

12. Verifications were made to ascertain the date of receipt of DRP directions in this office. It was noticed that the DRP directions were not received in this office either in physical Tapal or by email. Even from enquiry with the TPO, it was noticed that the DRP directions

were not received in electronic form( not even in ITBA) but only by physical from on 03.06.2024 as discussed above.

13. Hence, it is clear that the directions of the Hon'ble DRP were neither received by the JAO nor faceless Assessing Officer. The faceless Assessing Officer has made a request to ascertain the details of receipt of DRP directions. The FAO has considered the order passed by the TPO and passed the order giving effect to the directions of the Hon'ble DRP.

14. The relevant portion of the Assessment order passed by the A.O giving effect to the directions of the DRP are reproduced as below:

**Point-wise rebuttal of reply of the assessee including analysis of any case law relied upon.**

Regarding the TPO additions proposed, the assessee has simply cited the same reply which was provided during the TPO proceedings. Since the TPO has proceeded to make the variations and adjustments after taking into consideration the due reply of the assessee, there was no scope for disagreeing with the findings of TPO and hence the reply of the assessee could not be considered.

Considering the order of the TPO dated 15.07.2023, the draft assessment order under section 144C(1) of the Act was passed on 19.09.2023 after making addition with respect to total TP adjustments of Rs.36,15,02,027/- for the year under consideration. Aggrieved with the Draft

Assessment order dated 19.09.2023, the assessee filed its objections to the variations with Dispute Resolution Panel against the Draft Assessment Order dated 19.09.2023. Subsequently, the Ld. DRP passed its order under section 144C(5) which was given effect by the TPO vide DIN & Order No : ITBA/COM/F/17/2024-25/1066041661(1) dated 26.06.2024.

15. Hence it is clear that the FAO has referred to the order passed by the TPO while giving effect to the directions of the Hon'ble DRP. It is also clear that the FAO even though had not received the DRP directions as discussed above, gave effect to the directions of the Hon'ble DRP by considering the order passed by the TPO which was only available on or after 26.06.2024.

16. From the above verification of details in the case of the above assessee it is clear that the faceless A.O who passed the assessment order had not received the DRP directions in this case in the month of May, 2024 to consider the time barring date for passing the assessment order as 30<sup>th</sup> June, 2024, as contended by the assessee, since the A.O has clearly informed vide letter dated 25.07.2024 as discussed above that no directions by the DRP were received by the A.O till that date and also since, the tapal received in respect of TPO,

Bangalore as discussed above shows that the directions of the Hon'ble DRP were received in the month of June(03.06.2024) as discussed above. Hence the time barring date which is to be considered as one month from the date of which the directions are **received** by the A.O as specified by the Act could not be 30<sup>th</sup> June 2024 as contended by the assessee but after 30<sup>th</sup> June, 2024, within which the assessment order has been passed.hence, the assessment order passed is within the time allowed under the Act and hence not time barred. In view of this, it is requested to kindly uphold the order passed by the A.O in this case.

Enclosure :

Annexure 1 Letter from the FAO to the JAO regarding non-receipt of directions from Ld. DRP

Annexure 2 Case History Notings with Circle 4(3)(1)

Annexure 3 Case history notings of TPO

Yours faithfully,

  
(H Shreenivasa, IRS)

Deputy Commissioner of Income-tax  
Circle-4(3)(1), Bengaluru.

Copy submitted to :-

(i) The Pr.Commissioner of Income Tax, Bengaluru-2

(ii) The Addl. Commissioner of Income Tax, Bengaluru, Range-4(3), Bengaluru



GOVERNMENT OF INDIA  
MINISTRY OF FINANCE  
INCOME TAX DEPARTMENT

To, CIRCLE 4(3)(1), BANGALORE (BENGALURU) (JAGHADEESHWARAN R) 80 FEET ROAD, 6TH BLOCK NEAR KHB GAMES VILLAGE, KORAMANGALA BENGALURU 560095, Karnataka India
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PAN: AAGCK8362E	Assessment Year: 2020-21	Dated: 25/07/2024	DIN & Letter No : ITBA/AST/F/17/2024-25/1067026130(1)
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Sir/ Madam/ M/s,

Subject: Non-receipt of Directions from Ld. DRP under section 144C(5) of the Income Tax Act, 1961 in case of Koch Business Solutions India Private Limited (PAN:- AAGCK8362E), AY 2020-21-Reg.

Sir/Madam,

Kindly refer to the above-mentioned subject.

In this regard, it is to submit that the case of Koch Business Solutions India Private Limited (PAN:- AAGCK8362E) for AY 2020-21 was allotted to this unit for completion of assessment proceedings under section 143(3) rws 144B of the Income Tax Act, 1961. Subsequently, the case was referred to TPO as the case had involvement of TP Risk Parameters, consequent upon, the TPO passed order under section 92CA(3) of the Act on 15.07.2023. After receiving TPO order dated 15.07.2023, this unit passed draft assessment order under section 144C(1) of the Act on 19.09.2023. Aggrieved with the draft assessment order dated 19.09.2023, the assessee filed objections before the Ld. DRP on 18.10.2023 and submitted the copy of objections alongwith Form 35A.

In view of the provisions of section 144C(12), wherein it is stated that "No direction under sub-section (5) shall be issued after nine months from the end of month in which the draft order is forwarded to the eligible assessee" but this office has not received directions from DRP till date. Since, the directions from Ld. DRP were supposed to be passed on or before 30.06.2024 as per the provisions of section 144C(12) of the Act but no such directions have been received to this unit till date,

Note:- The website address of the e-filing portal has been changed from [www.incometaxindiaefiling.gov.in](http://www.incometaxindiaefiling.gov.in) to [www.incometax.gov.in](http://www.incometax.gov.in).

whereas, final assessment order needs to be passed within one month from the end of month in which such direction is received, therefore, it is requested to kindly provide the order of Ld. DRP, so that final assessment order can be passed as per the time-limit specified in the Act.

In case the order of DRP is not received till 27.July.2024, it will leave no alternative but to pass the final order passed on draft assessment order only.

Copy to: -

- 1.Addl/JC
2. PCIT/CIT

Assessment Unit/Verification Unit/Technical Unit/Review Unit  
Income Tax Department

NOTE: To know the originator Unit of this Communication, kindly see the Digital Signature.

Copy to:


- 1) RANGE 4(3), BANGALORE (BENGALURU) (D KIRAN)
- 2) PCIT, Bengaluru-2 (BENGALURU) (PRISCILLA SINGSIT)

Assessment Unit/Verification Unit/Technical Unit/Review Unit  
Income Tax Department

NOTE: To know the originator Unit of this Communication, kindly see the Digital Signature.

8. We have heard the rival submissions and perused the materials available on record. In the present case, undisputedly the direction u/s 144C(5) of the Act was issued by the DRP-2, Bengaluru on **29/05/2024**. The 1<sup>st</sup> page of the said Direction is reproduced below for ease of reference: -

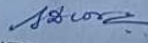
Dispute Resolution Panel-2, Bengaluru  
M/s. Koch Business Solutions India Pvt Ltd /AY 2020-21

  
भारत सरकार/ GOVERNMENT OF INDIA  
वित्त मंत्रालय/MINISTRY OF FINANCE  
आयकर विभाग / INCOME TAX DEPARTMENT  
सचिवालय, विवाद समाधान पैनल-2, बेंगलुरु  
SECRETARIAT, DISPUTE RESOLUTION PANEL-2, BENGALURU  
'A' Wing, 4<sup>th</sup> Floor, Kendriya Sadan, Koramangala, Bengaluru- 560034  
विवाद समाधान पैनल -2 बेंगलुरु की कार्यवाही  
PROCEEDINGS OF THE DISPUTE RESOLUTION PANEL-2, BENGALURU

F.No.130/DRP-2/BANG/2023-24

1	पात्र निर्धारिती का नाम और पता Name and Address of the eligible assessee	M/s. Koch Business Solutions India Pvt Ltd Pine Block, Kalyani Platina, Kundalahalli Village, K R Puram Hobli, Thubarahalli, Bangalore-560066
2	स्थायी लेखा संख्या Permanent Account Number	ΛAGCK8362E
3	आपत्ति दायर करने का निर्धारण वर्ष Assessment year in connection with which the objection filed	2020-21
4	ड्राफ्ट निर्धारण आदेश पारित करने वाले निर्धारण अधिकारी Assessing Officer passing the draft order of assessment	Assessment Unit/Verification Unit/ Technical Unit/ Review Unit, Income Tax Department
5	आयकर अधिनियम 1961 की धारा और उप धारा के अधीन निर्धारण अधिकारी ने वृद्धि प्रस्तावित करते हुए ड्राफ्ट आदेश भेजा है जिसके संदर्भ में दायर किया गया है Section and sub section of the income tax Act, 1961 under which the assessing officer proposing the addition has sent the draft order for which reference is filed	Section 143(3) read with section 144C(1) of the Income-tax Act, 1961
6	ड्राफ्ट निर्धारण आदेश तामील करने की तारीख The date of the service of the draft assessment order	19.09.2023
7	निर्धारिती द्वारा डीआरपी के समक्ष आपत्ति दायर करने की तारीख Date of filing of objection by the assessee before the DRP	18.10.2023
8	सुनवाई तारीख की (इयों) Date of hearing(s)	As per order sheet noting
9	निर्धारिती के लिए उपस्थित Present for the assessee	Ms. Kimberly Dsilva, Mr. Umesh Rao & Ms. Anamika Dey
10	विभाग के लिए उपस्थित Present for the department	None
11	निर्देश जारी करने की तारीख Date of issue of directions	29 /05 /2024
12	DIN and date of direction	ITBA/DRP/M/144C(5)/2024-25/1065226786(1) dated 29.05.2024

Page 1 of 75

  
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SAKSHI DEORA

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Further, undisputedly the direction issued by the Id. DRP-2, Bengaluru was also uploaded in ITBA Portal on 29/05/2024. The screen shots of ITBA Portal is also reproduced below for ease of reference-

The screenshot displays the 'View Notices for e-Proceedings' page on the e-Filing portal. The page header includes the e-Filing logo and navigation links for Dashboard, e-File, Authorised Partners, Services, AIS, Pending Actions, Grievances, and Help. The user is logged in as KOCH BUSINESS S... Company. The main content area shows the following details:

Proceeding Name <b>DRP Proceedings</b>	PAN <b>AAGGK8362E</b>	Name of Assessee <b>KOCH BUSINESS SOLUTIONS INDIA PRIVATE LIMITED</b>	Assessment Year <b>Not Available</b>
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Notice/ Communication Reference ID : 100080205890

Notice u/s  
**ITBA/DRP/S/91/2024-25/1065234962(1)**  
Document reference ID


Description : [ITBA]Intimation Letter  
Issued On : 29-May-2024

Search by DIN

Notice/Letter Pdf

Galaxy S25 Ultra

Further, all the process of generating **DIN** for the directions u/s 144C(5) of the Act, uploading e-directions and generating intimation letter for order u/s 144C(5) of the Act were also done on 29/05/2024. The relevant extracts as submitted by the AR of the assessee are reproduced below for ease of reference & convenience:-

 भारत सरकार/ GOVERNMENT OF INDIA विच मंत्रालय/ MINISTRY OF FINANCE आयकर विभाग/ INCOME TAX DEPARTMENT CIT(DRP-2) BANGALORE 3		
सेवा में/ To,		
KOCH BUSINESS SOLUTIONS INDIA PRIVATE LIMITED Pine Block, Kalyani Platina, Whitefield S.O Thubarahalli Bangalore, Karnataka, India, 560066,		
स्थायी लेखा संख्या/ PAN: AAGCK8362E	द.प.सं. एवं प्रपत्राक संख्या / DIN & Document No.: ITBA/DRP/S/91/2024-25/1065234962(1)	दिनांक/ Dated: 29/05/2024
<b>Intimation Letter for Order u/s 144C(5)</b>		
महोदय/महोदया/ मेसर्स, Sir/ Madam/ M/s,		
This is to inform you that Order u/s 144C(5) dated 29/05/2024 is having Document No. (DIN) ITBA/DRP/M/144C(5)/2024-25/1065226786(1).		
This is a system generated document and does not require any signature.		
<small>Note: If digitally signed, the date of digital signature may be taken as date of document. ,KENDRIYA SADAN, 4th FLOOR, KORAMANGALA, BANGALORE, Karnataka, 560034 Email: BANGALORE.CIT.DRP2.3@INCOMETAX.GOV.IN,</small>		
<small>Note:- The website address of the e-filing portal has been changed from <a href="http://www.incometaxindiaefiling.gov.in">www.incometaxindiaefiling.gov.in</a> to <a href="http://www.incometax.gov.in">www.incometax.gov.in</a>.</small>		

**8.1** We also take note of the fact that the final assessment order is passed only on **29.7.2024**. The contention of the assessee is that once the DRP's directions were uploaded and the DIN is generated on 29/05/2024, the same is received by the AO immediately and hence the time limit starts from 29.5.2024 in the assessee's case. Accordingly, the AR of the assessee argued that the final assessment order should have been passed on or before **30.6.2024** i.e. one month from the end of the month in which such directions was uploaded by the DRP on the ITBA portal and accordingly the assessment order passed on 29.7.2024 is barred by limitation. The revenue on the other hand is contending that the order of the DRP direction was **never received** either by the FAO or by the JAO. The FAO had only passed the final assessment order based on draft assessment order only & drew our attention to a letter dated 25/07/2024 in which the FAO had categorically stated the non receipt of directions from DRP. Further, the FAO passed the final assessment order in the month of July, 2024 in view of the provisions contained in section 144C(12) of the Act that the directions from ld. DRP were supposed to be passed on or before 30/06/2024. Accordingly, it is argued by the revenue that the order passed on 29.7.2024 is well within the time limit.

**8.2** Now if we consider the argument advanced by the revenue that the order of the DRP directions was **never received** either by the FAO or by the JAO, then in our considered opinion on this count only the final assessment order passed by the FAO on 29/07/2024 was be illegal & bad in law. As per the provisions contained in section 144C(13) of the Act, it is upon **receipt** of the directions issued under sub-section (5), the AO **shall** in conformity with the directions complete the assessment. If we accept the contention of the revenue that no directions from the ld. DRP is

received either by the JAO or FAO, that means the final assessment order was passed not in conformity with the directions issued by the Id. DRP as the AO had never received the directions of the DRP at all. Further, on going through the report of the Id. DCIT, Circle-4(3)(1), Bengaluru dated 23/01/2026 reproduced above, we take note that on the one hand in paragraph 9 he stated that the FAO had not received directions as issued by the DRP till 25/07/2024 & as per the provisions of section 144C(12), the DRP directions were supposed to be passed on or before 30/06/2024 & In view of this the FAO has passed the order within July,2024 as the FAO was left with no alternative but to pass the final order **on draft assessment order only**. Further, in paragraph No. 13 of the said report it is stated that “ Hence, it is clear that directions of the Hon’ble DRP were neither received by the JAO nor faceless assessing officer. The faceless assessing officer has made a request to ascertain the details of receipt of DRP directions. The FAO has considered the order passed by the TPO & passed the order giving effect to the directions of the Hon’ble DRP.” In paragraph No. 15 of the said report it is stated that “Hence, it is clear that FAO has referred to the Order passed by the TPO while giving effect to the directions of the Hon’ble DRP. It is also clear that the FAO even though had not received the DRP directions as discussed above, gave effect to the directions of the Hon’ble DRP by considering the order passed by the TPO which was only available on or after 26/06/2024.”

**8.3** Thus, on going through the said report of Id. DCIT, Circle-4(3)(1), Bengaluru dated 23/01/2026, if we conclude that the FAO had passed the final assessment order without receiving the directions issued u/s 144C(5) & considered only the order of the TPO, on this count only the final assessment order is illegal & bad in law & liable to be quashed as it is passed contrary to the provisions contained in section 144C(13) of the AO. We are of the

considered opinion that it is the AO who upon the receipt of the directions shall in conformity with the directions complete the assessment without providing any further opportunity of being heard to the assessee. The AO will apply his own mind on the directions received from the ld. DRP while completing the assessment. The AO has no authority to pass a final assessment order based on the order passed by the TPO and accordingly the final assessment order is liable to be quashed on this count only. However, we are of the considered opinion that various Hon'ble High Courts including the Jurisdictional High Court had consistently held that once the DRP order is signed, DIN is generated & uploaded on the ITBA Portal, the same is received by the AO on the same date of uploading itself.

**8.4** We also heavily relied on the decision of the Hon'ble Madras High Court in the case of Commissioner of Income Tax v. Ramco Cements Ltd. reported in (2025) 474 ITR 9, which clearly held that limitation cannot depend on varying user functionalities, which is an internal process that cannot be entertained since the same would defeat the purpose of statutory limitation. Further, the limitation cannot be reckoned in a manner so as to give rise to more than one interpretation where either party can take benefit of a later date. Further, in the similar facts and circumstances, the coordinate bench of this Tribunal in the case of **ARRIS Group India Pvt. Ltd. Vs. ACIT reported in (2026) 182 taxmann.com 447 (Bang-Trib.)** held as under:

*“9. We have heard the rival submissions and perused the materials available on record. In the present case, undisputedly direction u/s 144C(5) of the Act was issued by the DRP-1 on 30.5.2022 and the same was uploaded in ITBA on 30.5.2022. Further, all the process of generating DIN for the directions u/s 144C(5) of the Act, uploading e-directions and generating intimation letter for order u/s 144C(5) of the Act were done on 30.5.2022. We take a note of the fact that final assessment order is passed on 27.7.2022. The contention of the assessee is that once the DRP's directions are uploaded and the DIN is generated on*

30.5.2022, the same is received by the AO immediately and hence the time limit starts from 30.5.2022 in the assessee's case. Accordingly, the assessee argued that the final assessment order should have been passed on or before 30.6.2022 i.e. one month from the end of the month in which such directions was uploaded by the DRP on the ITBA portal and accordingly the assessment order passed on 27.7.2022 is barred by limitation. The revenue is contending that the order of the DRP direction was received by the AO in his ITBA portal only on 1.6.2022 and therefore the time limit for passing final assessment order was 31.7.2022. Accordingly, it is argued by the revenue that the order passed on 27.7.2022 is well within the time limit.

**9.1** In order to decide the issue, the critical fact to be examined is whether the DRP order once signed and uploaded on the ITBA portal is automatically available to the AO i.e. received by the AO in the ITBA portal? We are of the considered opinion that the Hon'ble Madras High Court in the case of **Commissioner of Income Tax v. Ramco Cements Ltd.** reported in (2025) 474 ITR9 had examined the functionalities of the ITBA Portal with regard to DRP directions and has given the finding that the DRP directions are immediately available to the faceless AO (FAO) as well as (JAO). It was contended by the revenue in the said case that when the DRP user had initiated the DRP proceedings by using an option of Manually entering the details of section 144C(5) order in the screen, the DRP order does not reflect automatically in the case history noting (CHN) of the assessment proceedings. However, the Hon'ble High Court rejected the said contention of the revenue by holding as follows:

"26. According to the Report, the second option has been availed by the DRP user and hence though the order was uploaded by the DRP user in the ITBA on 31.01.2022 itself, such uploading was not noticed by the Assessing Officer. However, as far the Assessing Officer is concerned, an Advisory issued by the ITBA team on `Visibility of orders passed by DRPs to other ITBA users, is relevant. The Advisory reads thus:

*Visibility of orders passed by DRPs to other ITBA users*

*Kind Attn. All ITBA Users*

*Sub: Visibility of orders passed by DRPs to other ITBA users – Reg.*

*This is to inform that on passing order by the DRP in ITBA(DRP Module) [either through online system mode or through Manual to system mode], the DRP Directions/Order would be reflected automatically in the pending assessment work-item either with FAO or JAO – provided that at the time of initiating DRP proceedings, in ITBA DRP Module, DRP users had selected the Draft order u/s 144C in the system itself, rather than entering the details on the ITBA screen on its own. If, at the time of initiating DRP proceedings, the DRP user had not selected the Draft Order u/s 144C in the system, and had rather entered the details manually on the ITBA screen on its own, then the DRP Order will not reflect inside the pending / Assessment Proceedings work-item.*

*In either of the above scenarios, however, the DRP order would be visible in the '360 Degree' screen to the FAO if any assessment work item is pending with the FAO related to that PAN. The JAOs can view the DRP order in '360 Degree' screen for all the PANs existing in their jurisdiction. Besides, JAO can also get the details from DRP by offline letter/communication. FAOs can also call for any*

*details from JAOs by using the 'Issue Letter' functionality inside the work- item, and in response the JAOs can upload the details by using "Uploading of Documents based on the DIN/PAN-AY" screen in ITBA.*

*Regards,*

*ITBA Team*

*(Emphasis supplied)*

*27. Paragraphs 1 and 2 of the above Advisory stipulate the two methods/options for uploading of the order. However, whatever be the method chosen, the directions of the DRP would be visible in the 360 degree screen to the FAO, if any assessment work item were pending with the FAO, in relation to a PAN number.*

*28. In other words, in the event of pending assessment proceedings, an FAO would have to key in the concerned PAN number of the assessee, such that, panoramic, 360 degree visibility is available to the officer to view the DRP directions as and when uploaded, which, in this case, is on 31.01.2022. In the present case, order of assessment dated 22.03.2022 has been passed (per serial no.12 of assessment order dated 22.3.2022) under Section 143(3) read with Section 144C(13) read with Section 144B of the Act. This provision requires an assessment to be framed only in faceless mode by an FAO and in fact, it is the FAO who has framed the assessment.*

*29. The Advisory makes it clear that the FAO would be able to view the DRP order in the 360 degree screen, since the assessment was pending with that officer. This feature has evidently been provided to ensure that an officer can access/receive the directions of the DRP as soon as it is uploaded by the Secretariat of the DRP and the pending proceedings would be completed within the statutory limitation provided.*

*30. Hence, there is no protection available to the Department by the DRP user having selected the second manual option, as, an assessing officer, in order to ensure that the assessment proceedings are strictly in accordance with statutory limitation, has been given full and complete access to all inputs required for completion of the assessment including the directions of the DRP immediately on their uploading into the ITBA portal by the DRP.*

*31. Clearly, limitation cannot be dependent on varying user functionalities which are nothing but internal processes. If this argument were to be accepted, the commencement of limitation would vary depending on the option exercised by the user which would defeat the purpose of statutory limitation apart from being an acceptable proposition.*

*32. The starting point of limitation has thus to be reckoned from the earliest instance when the directions of the DRP would be visible to the officer and cannot be taken to fluctuate from one methodology to another depending on the option exercised by the user.*

*33. Mr. Narayanasamy has circulated a screen shot of the 360 degree view, that presents as follows:*

*matter not printed here*

*Since the fields in the above image are not clear, the screen shot as provided by the Department is inserted at this point as page 18.*

*34. Our understanding of the 360 degree view page is that on entering the details of the assessee including the PAN number and the assessment year, the form would auto populate in regard to all details relating to that assessee including present status of proceedings and all orders, letters and notices.*

35. *In this, we are supported by the concluding portion of the advisory that states that the DRP order would be visible in the 360 degree screen to the FAO for his ready access. Thus, all that is required to gain complete and up-to- date access to all relevant data in regard to an assessee`s assessment would available on the 360 degree screen.*

36. *Learned Standing Counsel draws attention to letter dated 12.12.2024 from the Secretariat of the DRP, specifically the portion where the DRP states that 'no separate mail had been sent to AO or FAO'. The Assessing Officer thus appears to have been awaiting personal intimation of the order to his e-mail ID.*

37. *The fact that the FAO has merely chosen to await intimation when the order had admittedly been uploaded on the ITBA by the DRP user, and his consequent belated response, cannot thus lead to a situation of disadvantage to the assessee, particularly when the Advisory provides a methodology by which the FAO can access the document uploaded by the DRP simultaneously, and real-time.*

38. *Lastly, Section 144C is a Code by itself that provides for very strict timelines for completion of an assessment. Hence the stipulation in regard to limitation cannot be reckoned in a manner so as to give rise to more than one interpretation, where either party can take benefit of a later date.*

39. *This issue has also attracted the attention of the Bombay and Delhi High Courts in Vodafone Idea Limited V. Central Processing Centre and others (459 ITR 413) and Louis Dreyfus Company India Private Limited V. Deputy Commissioner of Income Tax, Circle 13(1) and Others (Manu/DE/4671/2024). In both the cases, the very submissions as made before us, were advanced and have been rejected by those Courts."*

**9.2** *From the perusal of the advisory issued by the ITBA team on "Visibility of orders passed by DRP to other ITBA Users", it is clear that the JAO can view the DRP order in "360 degree" screen for the PANs existing in their jurisdiction. In our considered opinion, the DRP directions either through online system mode or through manual system mode once digitally signed and uploaded by the DRP users is available to the AO in the ITBA system and hence the clock starts ticking for the AO from the date of uploading the order by the DRP in the ITBA portal. Once the directions was uploaded in the ITBA portal, the same was received by the AO on the same date of uploading itself.*

**9.3** *In this regard, it is also relevant to take note of the following observations of Hon'ble High Court of Bombay in the case of **Vodafone India Ltd. Vs. CPC, Bengaluru** reported in (2023) 459 ITR 413 which held as under :-*

*"5. In the meantime, the TPO passed an order proposing an adjustment to the value of the international transaction of Petitioner. The Assessing Officer ("AO") passed a draft order dated 29th December 2019 under Section 144C(1) of the Act for the relevant AY and proposed various additions/disallowances. Petitioner filed objections under Section 144C(2)(b) of the Act before the Dispute Resolution Panel ("DRP") on 27th January 2020. A notice was issued by the DRP and Petitioner responded by filing relevant documents/evidence in support of objections raised by it. Finally the DRP issued directions dated 25th March 2021 under Section 144C(5) of the Act. The directions of DRP were uploaded on the Income Tax Business Application ("ITBA") portal on the same date and the said directions were served on Petitioner vide e-mail dated 6th April 2021. The*

*grievance of Petitioner essentially is that the AO failed to pass the final order in terms of the directions of DRP within 30 days, the period of limitation prescribed by Section 144C(13) of the Act and consequently prays that the ROI as filed originally has to be accepted and excess tax paid be refunded with interest.*

*6. After the petition was filed on 8th June 2023, the AO passed the assessment order dated 31st August 2023. The same has been placed on record as an additional document.*

*7. Mr. Mistri for Petitioner raised various grounds to justify seeking a refund from the department. He emphasized the admitted fact that despite the DRP issuing directions on 25th March 2021, no order was passed by the AO within the period prescribed by law. When no order is passed pursuant to the directions of DRP within the statutory period as prescribed under Section 144C(13) of the Act, the income declared by Petitioner is deemed to be accepted by the department and Petitioner is entitled to a refund of the amount paid by Petitioner in excess of the legitimate tax due from Petitioner. Mr. Mistri took us through the documents on record including the affidavits filed by the Chief Commissioner of Income Tax (International Taxation and Transfer Pricing) West Zone, Mumbai and also that filed by the Joint Commissioner of Income Tax, Ratlam, who was the JAO at the relevant point of time. Mr. Mistry also took us through the affidavits in sur-rejoinder filed by the Deputy Commissioner of Income Tax-5(2)(1), Mumbai (“DCIT”) and also the order sheet details filed by Respondents in support of the affidavit of DCIT. Mr. Mistri finally relied on a decision of this Court in the matter of Shell India Markets (P.) Ltd. v. Additional/Joint/Deputy/Assistant commissioner of Income-tax/ Income-tax Officer, National Faceless Assessment Centre, New Delhi [2022]139 taxmann.com 335(Bombay), to buttress his contention that the AO is duty bound to complete the assessment within the prescribed time set out under Section 144C(13) of the Act.*

*8. Mr. Devvrat Singh for the Revenue defended the acts of the department and that of the Faceless Assessing Officer (“FAO”) in passing the final order on 31st August 2023 upon receipt of the directions from the DRP. Mr. Singh’s contention is that the directions of DRP dated 25th March 2021 were received in the Case History Noting (“CHN”) of FAO only on 23rd August, 2023 and as the assessment in conformity with the directions of DRP was completed on 31st August 2023, it was within the one month prescribed under Section 144C(13) of the Act as the limitation period ran from the date of receipt by him of the order and not the date when the same were uploaded on the ITBA portal. Mr. Singh thus says that it was only on the receipt of the directions of DRP that the FAO was duty bound to complete the assessment, i.e., pass the final order. Mr. Singh thus prayed for dismissal of the petition.*

*9. Therefore, admittedly, the DRP issued the directions on 25th March 2021 whereas the assessment was completed and an order came to be passed on 31st August 2023.*

*10. At the outset it is important to note that the entire assessment proceedings are governed by the Faceless Assessment Mechanism under the scheme known as the e-Assessment Scheme (“eAS”), 2019 as notified by the Ministry of Finance (Department of Revenue) on 12th September 2019. The salient features of the scheme include defining the scope of scheme, jurisdiction of e-Assessment Centre, procedure for assessment, penalty proceedings for non-compliance amongst other features. The Central Government amended the FAS of 2019 and the first*

*amendment came into effect on 17th February 2021. Paragraph 5(1) of the original scheme was substituted by the amendment. The amended paragraph 5(1) reads thus :*

*“In the said Scheme, for sub-paragraph (1) of paragraph 5, the following sub-paragraph shall be substituted, namely,—*

*(1) The assessment under this Scheme shall be made as per the following procedure, namely:—*

*(i) the National e-Assessment Centre shall serve a notice on the assessee under sub-section (2) of section 143 of the Act;*

*(ii) the assessee may, within fifteen days from the date of receipt of notice referred to in clause (i), file his response to the National e- Assessment Centre.*

*(iii).……*

*(xxviii) the National e-Assessment Centre shall, -*

*(a) upon receipt of acceptance as per clause (xxvii); or*

*(b) if no objections are received from the eligible assessee within the period specified in sub-section (2) of section 144C of the Act,*

*finalise the assessment within the time allowed under sub-section (4) of section 144C of the Act and serve a copy of such order and notice for initiating penalty proceedings, if any, to the assessee, alongwith the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;*

*(xxix) where the eligible assessee files his objections with the Dispute Resolution Panel, the National e-Assessment Centre shall upon receipt of the directions issued by the Dispute Resolution Panel under sub-section (5) of section 144C of the Act, forward such directions to the concerned assessment unit;*

*(xxx) the assessment unit shall in conformity of the directions issued by the Dispute Resolution panel under sub-section (5) of section 144C of the Act prepare a draft assessment order in accordance with sub-section (13) of section 144C of the Act and send a copy of such order to the National e- Assessment Centre;*

*(xxxi) the National e-Assessment Centre shall, upon receipt of draft assessment order referred to in clause (xxx), finalise the assessment within the time allowed under sub-section (13) of section 144C of the Act and serve a copy of such order and notice for initiating penalty proceedings, if any, upon the assessee, alongwith the demand notice, specifying the sum payable by, or refund of any amount due to, the assessee on the basis of such assessment;*

*(xxxii) The National e-Assessment Centre shall, after completion of assessment, transfer all the electronic records of the case to the Assessing Officer having jurisdiction over the said case for such action as may be required under the Act.”*

*11. An analysis of eAS and the amendment indicate that various notices, summons and orders are received and issued by the National e-Assessment Centre (“NeAC”) set up to conduct e-assessment proceedings in a centralized manner. Paragraph 4(2) of the eAS provides as under :*

*“4(2). All communication among the assessment unit, review unit, verification unit or technical unit or with the assessee or with any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making an assessment under the scheme shall be through the National e-Assessment Centre.”*

*Thus, any notice, summons, order is deemed to have been received by the FAO once it is available to the NeAC.*

12. On 1st August 2023, when the matter was listed before this Court, a statement was made by Mr. Singh that because of the commencement of the Faceless Assessment Regime, the directions given by DRP were not received by the FAO and therefore, the FAO did not pass order under Section 144C(13) of the Act and DRP had forwarded the order to the Jurisdictional Assessing Officer (“JAO”). Per contra, Mr. Mistri showed us an e-mail dated 6th April 2021 addressed to Petitioner by “ITO HQ TO DRP2 WZ” forwarding a copy of the directions issued by the DRP. The said directions of DRP also form part of the attachment to the e-mail. This email being brought to our notice, we passed the following order/directions dated 1st August 2023 :

“1 Mr. Singh states that because of the Faceless Assessment Regime being started, the directions given by DRP was not received by the Faceless Assessing Officer and, therefore, the Faceless Assessing Officer did not pass order under Section 144C(13) of the Income Tax Act, 1961. Mr. Singh states that DRP had forwarded the order to the Jurisdictional Assessing Officer.

2 If that is the case, we wonder why the Jurisdictional Assessing Officer did not forward the order to the Faceless Assessing Officer. Moreover, if the Faceless Assessment Regime had already begun, we are certain that DRP would have been aware of that and should have, if what Mr. Singh stated is correct, forwarded a copy of their directions to the Faceless Assessing Officer as well.

3 We also have to note that there is an email, printout of which is at Exhibit “C” to the petition, which reads as under :

From : MUMBAI mumbai.ito.hq.drp2

[mailto:mumbai.ito.hq.drp2@incometax.gov.in]

Sent: Tuesday, April 6, 2021 3:21 PM

To: Jain, Surbhi (COR), Vodafone Idea <Surbhi.Jain@vodafo neidea.com>

Subject: DRP Directions in case of Vodafone Idea Limited (formerly ‘Vodafone Mobile Services Limited) (VMSL) which merged with Idea Cellular Ltd and consequently known as “Vodafone Idea Limited”)

Please find the attached directions in case of Vodafone Idea Limited (formerly 'Vodafone Mobile Services Limited) (VMSL) which merged with Idea Cellular Ltd and consequently known as 'Vodafone Idea Limited'). The same was issued through ITBA on 25.03.2021

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(ANITA VIJAYNATH KUNDER)

ITO HQ TO DRP 2 WZ

MUMBAI - 400005

022-22180539

4 Therefore, it will be more appropriate if the Chief Commissioner or Principal Chief Commissioner or whoever is the person heading the Dispute Resolution Panel files an affidavit explaining, inter alia, as to why when the Faceless Assessment Regime had already kicked in, DRP’s directions were sent to the Jurisdictional Assessing Officer instead of to the Faceless Assessing Officer. So also the Jurisdictional Assessing Officer, who had received the directions of DRP, and it will be the same officer who was in that post when the directions were received and not any successor, shall file an affidavit explaining why he/she did not forward the directions of DRP to the concerned Faceless Assessing Officer particularly when, as Mr. Singh states, the Faceless Assessment Regime had begun. These affidavits shall be filed and copy served by 10th August 2023.

5 Stand over to 22nd August 2023.”

13. Pursuant to our directions of 1st August 2023, two affidavits were filed, one by Mr. Satish Sharma, the Chief Commissioner of Income Tax (International Taxation and Transfer Pricing) West Zone, Mumbai and another by Ms. Anne Varghese, JCIT, Ratlam on 10th August 2023. The relevant portion of the affidavit of Mr. Satish Sharma reads thus :

“4. I respectfully say that I have called the factual position and the relevant records from the DRP and perused them in connection with the directions of the Hon’ble Bombay High Court in the aforesaid order dated 01.08.2023 and accordingly, based on the record, I am conversant with the facts of the issue and I am able to depose the same. I respectfully say that I am filing this affidavit on the direction of the Hon’ble Bombay High Court in the aforesaid order for the limited purpose of explaining as to why, when the Faceless Assessment Regime had already kicked in, DRP’s directions were sent to the Jurisdictional Assessing Officer (hereafter JAO) instead of the Faceless Assessing Officer (hereafter FAO).

5. That the DRP passed directions (with DIN) on 25.03.2021 in the name of Vodafone Mobile Services Pvt. Ltd. (VMSL) (predecessor of Vodafone Idea Ltd.-VIL) by uploading the same on the Income Tax Business Application System. A copy of the ITBA system generated noting/case history is hereto annexed and marked as EXHIBIT-1 . The DRP directions are automatically visible to FAO in the ITBA system, if any assessment work item is pending related to that particular PAN.

6. There is an additional feature on the ITBA system in the DRP segment from which communication through e-mail can be made through ITBA system. As precaution, the copy of direction was sent to the assessee and the JAO on their available e-mail IDs. The e-mails were sent on sameer.baig@vodafoneidea.com and mumbai.dcit5.2.2@ income tax.gov.in . These e-mails bounced and a copy of ITBA system generated delivery status is hereto annexed and marked as EXHIBIT-2.

7. Therefore, as a matter of abundant precaution, the DRP ascertained the details of JAO [DCIT(5)(2)(1)] under whose domain the VMSL PAN was placed and delivered to him/her a downloaded physical copy of the uploaded/passed direction on 30.03.2021 for consequential actions on his/her part. Here it is stated that since the entire process was automated on the ITBA system, therefore, the DRP was not mandated to send a physical copy of the direction to the FAO, whose identity is not known to any authority. As mentioned above, the physical copy of the direction was sent to the JAO also only as an abundant precaution because the Faceless Assessment regime was new.

8. Further, the DRP also e-mailed a copy of the direction to the Petitioner on a different e-mail ID on 06.04.2021. The same e-mail is mentioned in the referred order of the Hon’ble Bombay HC.”

(emphasis supplied)

14. The relevant portion of the affidavit of Ms. Anne Varghese reads thus :

“3. I say that at the relevant time I was working as Jurisdictional Assessing Officer in my capacity as Deputy Commissioner of Income Tax 5(2)(1), Mumbai.

4. I respectfully say that Physical copy/offline order of the Dispute Resolution Panel (D.R.P.) dated 25.03.2021 was received in tapal/inward register by the Jurisdictional Assessing Officer in its office on 30.03.2021 in the case of “Vodafone Mobile Services Limited”.

5. I respectfully say that the physical copy of the D.R.P. order was not forwarded to the Faceless Assessing Officer since it was ascertained that the said direction dated 25.03.2021 of the D.R.P. was available under the "View Download – Order/Letter/Notices Tab" Functionality of the Income Tax Business Application (I.T.B.A.). I say that the documents which are visible under the "View Download – Order/Letter/Notices Tab" Functionality of the Income Tax Business Application (I.T.B.A.) are also available to other officers (AO of Faceless Assessment Unit (F.A.U.) in this case) having jurisdiction over the PAN.

6. I respectfully say that Document Identification Number (D.I.N.) had been duly generated for the directions of the D.R.P. which is visible on the first page of the hard copy of the D.R.P. directions received by the undersigned which clearly indicated that the directions by D.R.P. were passed digitally on the Income Tax Business Application (I.T.B.A.).

7. I respectfully state that it was under these circumstances that the undersigned was not required to forward the directions of D.R.P. to the concerned Faceless Assessing Officer." (emphasis supplied)

15. Annexed to the affidavit of Mr. Satish Sharma is a screenshot of the CHN-Case History Notings of DRP proceedings uploaded on the ITBA portal. The screenshot is of the page as it appears on the ITBA portal. A perusal of the screenshot of CHN of DRP read with the affidavit filed by Mr. Satish Sharma, the CCIT and Ms. Anne Varghese, the JCIT, clearly indicate that once the DRP directions are uploaded and the Document Identification Number ("DIN") is generated, which is also visible on the first page of the hard copy of DRP directions, the said document is visible to the AO of the Faceless Assessment Unit ("FAU") having jurisdiction over the PAN of the assessee concerned. Thus, both the affiants agree that the DRP directions once uploaded on the ITBA portal are automatically visible to the FAO, if any assessment work item is pending related to a particular PAN. Admittedly assessment proceedings of Petitioner were pending. Thus, undoubtedly the DRP directions uploaded on the ITBA portal were readily and clearly visible and accessible to the FAO of assessee.

16. A reply affidavit in sur-rejoinder dated 14th September 2023 filed by Shri. L. A. Janbandhu, the Deputy Commissioner of Income Tax-5(2)(1), Mumbai also affirms that the DRP directions were uploaded on the ITBA portal on 25th March 2021. In fact Mr. Singh, in fairness admitted the directions of DRP were available on the ITBA portal. The defense of Respondents, however, was that the direction of DRP under Section 144C(5) of the Act were noted in the CHN of FAO only on 23rd August 2023 and hence, that is the day he should be deemed to have received it. On the Court putting a question to Mr. Singh as to how and under what mechanism are the directions of DRP noted in the CHN of FAO, Mr. Singh candidly stated that was entered by the FAO. The fact remains that the DRP directions were always visible and accessible to the FAO on the ITBA portal.

17. Mr. Singh made all attempts to persuade us that despite the ITBA portal displaying the DRP directions and the same being accessible to the FAO, it was only on 23rd August 2023 that the same were received by the FAO. We cannot accept this because, the E-assessment Scheme itself provides that all communication is deemed to have been received by the assessment units concerned once received through the NeAC. Thus, once the E-assessment Centre is in receipt of the DRP directions, the period of limitation runs from that day. There is no

*requirement of a deep dive in an analysis of the phrase 'upon receipt of directions' as it appears in Section 144C(13) of the Act. The fundamental principle of interpretation is to assign words their natural, original and precise meaning, provided that the words are clear and take into account the purpose of the Statute. It is settled law that a provision should be interpreted in its literal sense and given its natural effect. This is the elementary golden rule of interpretation of Statutes. Since there is no ambiguity pertaining to the phrase 'upon receipt of the directions issued under Sub-section 5 of 144C of the Act, the AO shall .....* there is no requirement of delving in a further in-depth analysis of the clear provision.

18. *Another important aspect is that the FAO himself has not filed any affidavit to affirm the date on which he purportedly 'received' the directions of DRP. But in the affidavit of Mr. Janbandhu, it is explained that the contents of his affidavit are the inputs from the PCIT (AU) and CCIT (IT & TP) along with all the relevant records available in the office in connection with the issue as also the comments of FAO invited by him through the National Faceless Assessment Centre. He says that the procedure of handling writ litigation regarding proceedings by FAO are contained in the SOP dated 1st August 2022 issued by CBDT which have been followed in dealing with the present proceedings. Since said Mr. Janbandhu has affirmed that the affidavit contains the comments of FAO, we safely presume that the FAO has said what he will through this affidavit.*

19. *Surprising to note is not what is stated, but that which remains unstated in this affidavit. The deafening silence in the affidavit of Mr. Janbandhu, to the affirmed statements of Mr. Satish Sharma and Ms. Anne Varghese as quoted above itself speak volumes. Though Mr. Janbandhu admits being aware of the affidavits of Mr. Satish Sharma and Ms. Anne Varghese, there is neither any rebuttal nor an explanation to the statements of Mr. Satish Sharma and Ms. Anne Varghese regarding availability of DRP directions on the ITBA portal. That the DRP directions were automatically visible to the FAO in ITBA system, JAO was not mandated to forward the directions to FAO whose identity was not known to any authority etc. Mr. Janbandhu states that only on 23rd August 2023 the JAO has uploaded the DRP order dated 25th March 2021 in response to his letter dated 23rd August 2023 and therefore, he received the order only on 23rd August 2023 and hence, the assessment was within time. This according to us is an unacceptable statement in view of what Ms. Anne Varghese in her affidavit has stated that the physical copy was not forwarded to the FAO since it was ascertained that the directions dated 25th March 2021 of the DRP were available under "the view Downloadorder/ letter/notices Tab" functionality of ITBA and those were visible to the FAO also who had jurisdiction over the PAN. Moreover, Mr. Satish Sharma states the DRP directions cannot be sent to the FAO directly because no authority will be aware of his identity. Though we had highlighted all these defects in Revenue's case in our order dated 5th September 2023, no attempt has been made to clarify. It is thus very difficult to agree with the proposition advanced by Mr. Singh that as per the CHN the DRP direction was received by the FAO only on 23rd August 2023. There is no whisper of any explanation as to why the FAO, who was seized with the pending assessment of Petitioner, remained inactive and silent for two long years and swung into action only when information about filing of this writ petition was uploaded on the CHN. Strangely enough a noting pertaining to this writ petition filed on 8th June 2023 appears on the CHN of 11th July 2023, but still the DRP directions of 25th March 2021 appear only on*

23rd August 2023. No explanation on behalf of the department is forthcoming. We have to draw adverse inference.

20. Section 144C of the Act is a self contained provision which carves out a separate class of assessee, i.e., 'eligible assessee'. Section 144C of the Act was inserted in the Finance Act of 2009 and came into effect from 1st October 2009. In the notes on clauses to the Finance Bill, 2009 (Budget 2009-2010), the reason for insertion of Section 144C is given as under :

*"The subjects of transfer pricing audit and the taxation of foreign company are at nascent stage in India. Often the Assessing Officers and Transfer Pricing Officers tend to take a conservative view. The correction of such view take very long time with the existing appellate structure.*

*With a view to provide speedy disposal, it is proposed to amend the Income-tax Act so as to create an alternative dispute resolution mechanism within the income-tax department and accordingly, section 144C has been proposed to be inserted so as to provide inter alia the Dispute Resolution Panel as an alternative dispute resolution mechanism."*

21. Thus, if the provisions of Section 144C as mandated by the Statute are not strictly adhered the entire object of providing for an alternate redressal mechanism in the form of DRP stand defeated. That is not the intention of the legislature when the provision was introduced in the Act. Section 144C(10) of the Act provide that the directions of DRP are binding on the AO. By failing to pass any order in terms of the provision, the AO cannot be permitted to defeat the entire exercise and render the same futile. When a Statute prescribes the power to do a certain thing in a certain way, then the thing must be done in that way and other methods of performance are forbidden. Once the statute has prescribed a limitation period for passing the final order, it is expected that the internal procedure of the department should mould itself to give meaning to and act in aid of the provision. Any procedural defect (there is none in this case) in the internal mechanism of the working of E-assessment Scheme, cannot operate against the interest of assessee. Hence, the FAO cannot be believed that the DRP direction was received by him only on 23rd August 2023 despite being uploaded on the ITBA portal on 25th March 2021. The failure on the part of department to follow the procedure under Section 144C of the Act is not merely a procedural irregularity, but is an illegality and vitiates the entire proceeding.

22. In a decision in the matter of *Turner International India Private Limited v. Deputy Commissioner of Income Tax, Circle-25(2), New Delhi 2017 SCC OnLine DEL 8441*, the Delhi High Court has held that the question "whether the final assessment order stands vitiated for failure to adhere to the mandatory requirements of Section 144C of the Act?", is no longer res integra and any order passed contrary to Section 144C of the Act cannot be sustained.

23. In a decision cited by Mr. Mistri in the matter of *Shell India Markets (P.) Ltd. (supra)*, this Court has also held as follows :

*"10. Sub-section (13) of Section 144C, therefore, is very clear inasmuch as the Assessing Officer shall, upon receipt of the directions issued under Sub-section (5), in conformity with the directions, complete the assessment within one month from the end of the month in which such direction is received. Sub-section (13) also provides that the Assessing Officer can complete the assessment without providing any further opportunity of being heard to the assessee. This means that the moment the Assessing Officer receives the directions under Sub-section (5), he has to*

*straightaway complete the assessment and he does not even have to hear the assessee. The Assessing Officer shall simply comply with the directions received from the DRP within one month from the end of the month in which such directions is received.”*

*24. In view of the aforesaid discussion, we have no hesitation in holding that the assessment order dated 31st August 2023 passed by FAO two years after the DRP directions, is time barred and cannot be sustained. Consequently, the ROI as filed has to be accepted. Petitioner is entitled to receive the refund together with interest, in accordance with law. The procedure to be completed within 30 days of this order being unloaded. This would, however, not preclude revenue, should the need arise, from reopening the assessment by following due process and in accordance with law.”*

**9.4** Further, in support of our contention we highly rely on the order of Hon'ble Telangana High Court in the case of **RAPISCAN SYSTEMS PVT. LIMITED V. ADIT (INT. TAX) -2, HYDERABAD AND OTHERS** reported in (2025) 473 ITR 485 wherein while considering the similar issue has placed reliance on the decision of Bombay High Court in the case of Vodafone Idea Ltd. (*supra*). The relevant findings of the Hon'ble High Court are extracted below: has held as under :-

**“FINDINGS:**

*13. Before dealing with rival contentions, it is apposite to consider Sections 144C(13) and 282(1)(c) of the Income Tax Act and Section 13 of the I.T. Act which reads thus:*

**“Section 144C: Reference to dispute resolution panel:-**

*(1) to (12)...*

*(13) Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in section 153 or section 153B, the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received.”*

**“Section 282: Service of notice generally:-**

*(1) The service of a notice or summon or requisition or order or any other communication under this Act (hereafter in this section referred to as “communication”) may be made by delivering or transmitting a copy thereof, to the person therein named,—*

*(a) and (b)...*

*(c) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000 (21 of 2000); or”*

**“Section 13: Time and place of despatch and receipt of electronic record.:-**

*(1) Save as otherwise agreed to between the originator and the addressee, the despatch of an electronic record occurs when it enters a computer resource outside the control of the originator.*

*(2) Save as otherwise agreed between the originator and the addressee, the time of receipt of an electronic record shall be determined as follows, namely:-*

*(a) if the addressee has designated a computer resource for the purpose of receiving electronic records,-(i) receipt occurs at the time when the electronic*

*record enters the designated computer resource; or(ii)if the electronic record is sent to a computer resource of the addressee that is not the designated computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee;*

*(b) if the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resource of the addressee.”*

*(Emphasis Supplied)*

*14. The E-Assessment Scheme, 2019 placed reliance on Section 13 of the I.T. Act for the purpose of delivery of electronic record. The relevant portion reads thus:*

**“Delivery of electronic record:**

*10. (1) Every notice or order or any other electronic communication under this Scheme shall be delivered to the addressee, being the assessee, by way of:-*

*(a) placing an authenticated copy thereof in the assessee’s registered account; or*

*(b) sending an authenticated copy thereof to the registered email address of the assessee or his authorized representative; or*

*(c) uploading an authenticated copy on the assessee’s Mobile App; and followed by a real time alert.*

*(2) and (3) xxx*

*(4) The time and place of dispatch and receipt of electronic record shall be determined in accordance with the provisions of Section 13 of the Information Technology Act, 2000 (21 of 2000).”*

*(Emphasis Supplied)*

*15. The Delhi High Court in Louis Dreyfus Company India Private Limited (supra) held as under:*

*“15. In terms of sub-section (13) of Section 144C of the Act, the AO is mandated to complete the assessment ?in conformity with the directions as framed by the DRP. That very provision commands the AO to complete the assessment within one month from the end of the month in which such a direction is received.*

*17. As is manifest from a reading of sub-section (13) of Section 144C of the Act, the AO is not accorded any discretion in the framing of an order of assessment once directions have come to be framed by the DRP. In fact, the provision requires the AO to frame an order of assessment in conformity with those directions and without providing any further opportunity of hearing to the assessee. This principle of law has been affirmed by the Bombay High Court in the aforementioned paragraphs of Vodafone Idea and in Shell India Markets Private Limited v. Additional Commissioner of Income Tax Officer, National Faceless Assessment Centre &Ors<sup>10</sup>. The relevant paragraph of the decision in Shell India are extracted hereinbelow:*

*‘10. Sub-section (13) of Section 144C, therefore, is very clear inasmuch as the Assessing Officer shall, upon receipt of the directions issued under sub-section (5), in conformity with the directions, complete the assessment within one month from the end of the month in which such direction is received. Sub-section (13) also provides that the Assessing Officer can complete the assessment without providing any further opportunity of being heard to the assessee. This means that the moment the Assessing Officer receives the directions under sub-section (5), he has to straightaway complete the assessment and he does not even have to hear the assessee. The Assessing Officer shall simply comply with the directions received*

*from the DRP within one month from the end of the month in which such direction is received.'*

*20. Undisputedly, the directive of the DRP came to be uploaded on the ITBA portal on 24 June 2022. It is additionally stated to have been dispatched through Speed Post to the third respondent (TPO) and the fourth respondent (Additional/Joint/Deputy/Assistant Commissioner of Income Tax, National Faceless Assessment Centre, New Delhi) on 27 June 2022. It is thereafter that the TPO appears to have passed the order dated 25 July 2022.*

*21. We, however note that paragraph 4(2) of the E-as, 2019 makes the following salient provisions:-*

*'4(2). All communication among the assessment unit, review unit, verification unit or technical unit or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making an assessment under this Scheme shall be through the National e-assessment Centre.'*

*22. It is thus manifest that as per the provisions of E-as, 2019, all orders, notices and decisions have to be necessarily uploaded on the ITBA portal and as part of the larger faceless assessment regime which now holds the field. The uploading of the directive of the DRP on the ITBA portal would thus constitute valid and sufficient service and the period of limitation as prescribed in Section 144C(13) of the Act would be liable to be computed bearing that crucial date in mind. Once the aforesaid position becomes clear, it is evident that the order of assessment, if at all could have been framed lastly by 31 July 2022. There has thus been an abject failure on the part of the first respondent to comply with the mandatory timelines as incorporated in the aforementioned provisions. Accordingly, the writ petition is liable to be allowed and the impugned order of assessment and the consequential penalty proceedings are thus liable to be set aside on this short score alone." (Emphasis Supplied)*

*16. The Bombay High Court in Vodafone Idea Ltd. (supra) opened as under:*

*"15. Annexed to the affidavit of Mr. Satish Sharma is a screenshot of the CHN-Case History Notings of the Dispute Resolution Panel proceedings uploaded on the Income-tax Business Application portal. The screenshot is of the page as it appears on the Income-tax Business Application portal. A perusal of the screenshot of Case History Notings of the Dispute Resolution Panel read with the affidavit filed by Mr. Satish Sharma, the Chief Commissioner of Income-tax and Ms. Anne Varghese, the Joint Commissioner of Income-tax, clearly indicate that once the DRP directions are uploaded and the Document Identification Number ("DIN") is generated, which is also visible on the first page of the hard copy of the DRP directions, the said document is visible to the AO of the Faceless Assessment Unit ("FAU") having jurisdiction over the permanent account number of the assessee concerned. Thus, both the affiants agree that the Dispute Resolution Panel directions once uploaded on the Income-tax Business Application portal are automatically visible to the Faceless Assessing Officer, if any assessment work item is pending related to a particular permanent account number. Admittedly assessment proceedings of the petitioner were pending. Thus, undoubtedly the Dispute Resolution Panel directions uploaded on the Income-tax Business Application portal were readily and clearly visible and accessible to the Faceless Assessing Officer of the assessee.*

*16...*

17. Mr. Singh made all attempts to persuade us that despite the Income-tax Business Application portal displaying the Dispute Resolution Panel directions and the same being accessible to the Faceless Assessing Officer, it was only on August 23, 2023, that the same were received by the Faceless Assessing Officer. We cannot accept this because, the E-assessment Scheme itself provides that all communication is deemed to have been received by the assessment units concerned once received through the National e-Assessment Centre. Thus, once the e-assessment Centre is in receipt of the Dispute Resolution Panel directions, the period of limitation runs from that day. There is no requirement of a deep dive in an analysis of the phrase "upon receipt of directions" as it appears in section 144C(13) of the Act. The fundamental principle of interpretation is to assign words their natural, original and precise meaning, provided that the words are clear and take into account the purpose of the statute. It is settled law that a provision should be interpreted in its literal sense and given its natural effect. This is the elementary golden rule of interpretation of statutes. Since there is no ambiguity pertaining to the phrase "upon receipt of the directions issued under sub-section (5) of section 144C of the Act, the Assessing Officer shall. . ." there is no requirement of delving in a further in-depth analysis of the clear provision.

18 to 20...

21. Thus, if the provisions of section 144C as mandated by the statute are not strictly adhered to the entire object of providing for an alternate redressal mechanism in the form of Dispute Resolution Panel stand defeated. That is not the intention of the Legislature when the provision was introduced in the Act. Section 144C(10) of the Act provide that the directions of Dispute Resolution Panel are binding on the Assessing Officer. By failing to pass any order in terms of the provision, the Assessing Officer cannot be permitted to defeat the entire exercise and render the same futile. When a statute prescribes the power to do a certain thing in a certain way, then the thing must be done in that way and other methods of performance are forbidden. Once the statute has prescribed a limitation period for passing the final order, it is expected that the internal procedure of the Department should mould itself to give meaning to and act in aid of the provision. Any procedural defect (there is none in this case) in the internal mechanism of the working of E-assessment Scheme, cannot operate against the interest of the assessee. Hence, the Faceless Assessing Officer cannot be believed that the Dispute Resolution Panel direction was received by him only on August 23, 2023 despite being uploaded on the Income-tax Business Application portal on March 25, 2021. The failure on the part of Department to follow the procedure under section 144C of the Act is not merely a procedural irregularity, but is an illegality and vitiates the entire proceeding."

17. The Madras High Court in *Taeyang Metal India (P) Ltd.* (supra) followed the principle laid down by the Delhi High Court in the aforesaid judgment.

18. The common string traveling through the judgments of the aforesaid three High Courts leaves no room for any doubt that the Courts have taken a uniform view that Section 144C(13) mandates the assessing officer to complete the assessment within one month from the end of the month in which such a direction is issued. Interestingly, the Bombay High Court considered paragraph No.4(2) of Scheme of 2019 which makes it clear that all communications among the assessment unit, review unit, verification unit or technical unit or with the assessee or with any other person shall be through the national e-assessment centre. The use of words

*'any other person' makes it very wide and shows the intention of the scheme makers that they intended to bring within its fold all nature of communications which shall be made through national e-assessment centre.*

19. *The Delhi High Court in Louis Dreyfus Company India Private Limited (supra) further held that it is obligatory under the scheme to necessarily upload the communication on the ITBA portal. Upon uploading the information on the portal, the period of limitation as prescribed under Section 144C(13) of the Income Tax Act would be liable to be computed bearing that crucial date in mind.*

20. *Importantly, the Bombay High Court in Vodafone Idea Ltd. (supra) poignantly held that as per the said scheme once e-assessment centre is in receipt of DRP directions, the period of limitation runs from that date. No further deep dive is required in view of language of Section 144C(13) of the Income Tax Act.*

21. *Sri Vijhay K Punna, learned Standing Counsel for revenue, placed reliance on the judgment of Supreme Court in the case of National Faceless Assessment Centre (supra). The said case is arising out of faceless assessment procedure envisaged in Section 144B of the Income Tax Act. The Apex Court while upholding the view of the High Court observed that faceless assessment scheme came into being recently and therefore, the revenue ought to have been given some leverage to correct themselves and take corrective measures. The said observation of the Supreme Court is related to the faceless regime and cannot be stretched and made applicable in this case. This is trite that the precedential value of a judgment relates to the point which has been actually decided and not what is logically flowing from it (see Dr. (Mrs.) Chanchal Goyal v. State of Rajasthan 2003 (3) SCC 485). It is equally settled that a singular different fact or point may change the precedential value of a judgment (see Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd. (2003) 2 SCC 111).*

22. *So far, the judgment in the case of Commissioner of Income Tax, Chennai (supra) is concerned on which reliance is placed by Sri Vijhay K Punna, it is profitable to note that in the said case, the Supreme Court considered Section 263(2) of the Income Tax Act, in the said Section the word used is 'made' and not 'receipt of the order'. The Supreme Court emphasized the cardinal principle of the law that provision of statute is to be read as it is and nothing is to be added or taken away from the provision of the statute. In other words, this is well settled that when language of statute is clear and unambiguous, it has to be given effect to irrespective of its consequences (see Nelson Motis vs. Union of India 1992 (4) SCC 711).*

23. *The pivotal question is whether in view of the language employed in Section 144C(13) whether directions of DRP can be said to be received by the assessing officer on 30.06.2022. A conjoint reading of Section 144C (5) and (13) makes it clear that upon receipt of directions issued under Section 144C(5), it is imperative for assessing officer to complete the proceedings within one month from end of the month in which such a direction is received. Thus, key words used in Section 144C(13) are 'upon receipt of directions issued under Sub-Section (5)'.*

24. *Although, Delhi, Bombay and Madras High Courts have already taken a view and we respectfully agree with that once such directions of DRP are uploaded on the portal, the DRP lost control over it and date on which it entered the portal, the recipient i.e, the assessing officer comes to know about it.*

25. *To elaborate, it is profitable to refer to Section 13(1) of the I.T.Act. This Sub-Section deals with 'despatch of electronic record' and envisages that 'despatch' of*

*an electronic record is when it enters the computer resource outside the control of originator. Indisputedly, in this case, the 'originator' is the DRP. Sub-Section (za) of Section 2 of the I.T.Act defines the word 'originator' and reads thus:*

**“Section 2: Definitions**

*(za) ?originator means a person who sends, generates, stores or transmits any electronic message or causes any electronic message to be sent, generated, stored or transmitted to any other person but does not include an intermediary;”*

*(Emphasis Supplied)*

*26. Once 'originator' enters a computer resource outside his control, 'despatch' takes place. Sub-Section 2 (a) of Section 13 of the I.T.Act deals with 'receipt' which makes it clear that 'receipt' occurs at the time when the electronic record enters the designated computer resource. Thus, the meaning of 'despatch' or 'receipt' is elaborately defined in aforesaid Sub-sections of Section 13 of the I.T.Act. The word 'computer resource' is also defined under Section 2(k) of the I.T.Act, which reads thus:*

**“Section 2: Definitions**

*(k) ? computer resource means computer, computer system, computer network, data, computer data base or software;”*

*27. In the instant case, parties have taken a diametrically opposite view on the aspect whether the directions uploaded on the portal on 30.06.2022 can be treated to be 'receipt' on the part of the assessing officer. Sri Vijhay K Punna, learned Standing Counsel for revenue contends that 'receipt' will be the date when the e-mail was received by the revenue containing the DRP directions i.e., on 05.07.2020.*

*28. As per the view taken by the aforesaid three High Courts there is no doubt that when the originator/DRP sends its directions in computer resource outside its control, it amounts to 'despatch' and similarly, 'receipt' takes place when said electronic record enters the computer resource.*

*29. Section 282 of the Income Tax Act on which reliance was placed by Sri Vijhay K Punna, learned Standing Counsel for revenue makes it clear that in Sub-Section 1(c) of Section 282, the communication through electronic record as per Chapter IV of the I.T.Act was recognized and treated to be service of notice generally. Chapter IV of the I.T.Act contains Section 13, which envisages time, place of 'despatch' and 'receipt' of electronic record.*

*30. In order to meticulously examine the aspect of 'despatch' and 'receipt', in the present case, it is apt to quote the relevant portion of letter dated 05.03.2024 filed along with I.A.No.1 of 2024 in the present matter, which reads as under:*

*“2. In this regard, it is hereby stated that the direction dated 30.06.2022 were uploaded on ITBA portal on 30.06.2022. Further, physical copy of the Directions was also sent to the Assessing Officer on 30.06.2022 through Speed Post.” ( EmphasisSupplied )*

*31. The Income Tax Department through communication dated 30.06.2022 (Annexure P-19) informed that the order under Section 144C(5) dated 30.06.2022 is having Document No.(DIN) ITBA/DRP/M/144C(5)/2022-23/1043689612(1). This is a system generated document and it does not require any signature. A conjoint reading of communications dated 30.01.2024 and 05.03.2024 (Annexure P-18) and communication dated 30.06.2022 (Annexure P-19) leaves no room for any doubt that DRP's directions were despatched on 30.06.2022 and also uploaded on the portal on the same date. Thus, the DRP/originator had lost*

control over it on the date and time the said directions were uploaded on the portal. Hence, same must be treated to be a 'receipt' by the recipient i.e., the assessing officer on the same day i.e., 30.06.2022. (See paragraph No.26.7 of *Suman Jeet Agarwal v. Income-tax Officer (2022) 449 ITR 517*, where the Delhi High Court poignantly held that the portal of the department is the 'computer resource in the control of the department').

32. In view of forgoing discussion, there is no cavil of doubt that assessing officer received the DRP's directions on 30.06.2022 and therefore, the limitation must be counted from that date and not from 05.07.2022. The impugned assessment orders dated 30.08.2022 and 01.09.2022 that were issued counting the limitation from 05.07.2022 in both the Writ Petitions are liable to be set aside as the same are issued beyond permissible period of limitation."

**9.5** The Hon'ble Delhi High Court in the case of **LOUIS DREYFUS COMPANY INDIA PRIVATE LIMITED V. DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 13 (1), DELHI & ORS** reported in (2024) 338 CTR 149, also held as under :-

"14. The determination which the AO makes in the first instance is recognized to be a draft of the proposed order of assessment by virtue of section 144C(1) of the Act. If the assessee be aggrieved by the proposed order of assessment, it is entitled to file objections before the DRP in accordance with Section 144C(2) of the Act. The power of the AO to complete the assessment on the basis of the draft order stands interdicted in case objections have come to be preferred within the 30 day period as contemplated in Section 144C(2) of the Act. It is the DRP which thereafter proceeds to decide the objections and frame directions to enable the AO to complete the assessment in accordance with Section 144C(5) of the Act.

15. In terms of sub-section (13) of Section 144C of the Act, the AO is mandated to complete the assessment ?in conformity with the directions? as framed by the DRP. That very provision commands the AO to complete the assessment within one month from the end of the month in which such a direction is received.

16. This is evident from Section 144C of the Act which is extracted hereinbelow:-

**"144-C. Reference to Dispute Resolution Panel.—**(1) The Assessing Officer shall, notwithstanding anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the eligible assessee if he proposes to make, on or after the 1st day of October, 2009, any variation which is prejudicial to the interest of such assessee.

(2) On receipt of the draft order, the eligible assessee shall, within thirty days of the receipt by him of the draft order,—

(a) file his acceptance of the variations to the Assessing Officer; or

(b) file his objections, if any, to such variation with,—

(i) the Dispute Resolution Panel; and

(ii) the Assessing Officer.

(3) The Assessing Officer shall complete the assessment on the basis of the draft order, if—

(a) the assessee intimates to the Assessing Officer the acceptance of the variation; or

(b) no objections are received within the period specified in sub-section (2).

(4) *The Assessing Officer shall, notwithstanding anything contained in Section 153 or Section 153-B, pass the assessment order under sub-section (3) within one month from the end of the month in which,—*

*(a) the acceptance is received; or*

*(b) the period of filing of objections under sub-section (2) expires.*

(5) *The Dispute Resolution Panel shall, in a case where any objection is received under sub-section (2), issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment.*

(6) *The Dispute Resolution Panel shall issue the directions referred to in sub-section (5), after considering the following, namely:—*

*(a) draft order;*

*(b) objections filed by the assessee;*

*(c) evidence furnished by the assessee;*

*(d) report, if any, of the Assessing Officer, Valuation Officer or Transfer Pricing Officer or any other authority;*

*(e) records relating to the draft order;*

*(f) evidence collected by, or caused to be collected by, it; and*

*(g) result of any enquiry made by, or caused to be made by, it.*

(7) *The Dispute Resolution Panel may, before issuing any directions referred to in sub-section (5),—*

*(a) make such further enquiry, as it thinks fit; or*

*(b) cause any further enquiry to be made by any income tax authority and report the result of the same to it.*

(8) *The Dispute Resolution Panel may confirm, reduce or enhance the variations proposed in the draft order so, however, that it shall not set aside any proposed variation or issue any direction under sub-section (5) for further enquiry and passing of the assessment order.*

*[Explanation.—For the removal of doubts, it is hereby declared that the power of the Dispute Resolution Panel to enhance the variation shall include and shall be deemed always to have included the power to consider any matter arising out of the assessment proceedings relating to the draft order, notwithstanding that such matter was raised or not by the eligible assessee.]*

(9) *If the members of the Dispute Resolution Panel differ in opinion on any point, the point shall be decided according to the opinion of the majority of the members.*

(10) *Every direction issued by the Dispute Resolution Panel shall be binding on the Assessing Officer.*

(11) *No direction under sub-section (5) shall be issued unless an opportunity of being heard is given to the assessee and the Assessing Officer on such directions which are prejudicial to the interest of the assessee or the interest of the revenue, respectively.*

(12) *No direction under sub-section (5) shall be issued after nine months from the end of the month in which the draft order is forwarded to the eligible assessee.*

(13) *Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in Section 153 or Section 153-B, the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received.*

*(14) The Board may make rules for the purposes of the efficient functioning of the Dispute Resolution Panel and expeditious disposal of the objections filed under sub-section (2) by the eligible assessee.*

*(14-A) The provisions of this section shall not apply to any assessment or reassessment order passed by the Assessing Officer with the prior approval of the Principal Commissioner or Commissioner as provided in sub-section (12) of Section 144-BA.*

*(14-B) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of issuance of directions by the dispute resolution panel, so as to impart greater efficiency, transparency and accountability by—*

*(a) eliminating the interface between the dispute resolution panel and the eligible assessee or any other person to the extent technologically feasible;*

*(b) optimising utilisation of the resources through economies of scale and functional specialisation;*

*(c) introducing a mechanism with dynamic jurisdiction for issuance of directions by dispute resolution panel.*

*(14-C) The Central Government may, for the purpose of giving effect to the scheme made under sub-section (14-B), by notification in the Official Gazette, direct that any of the provisions of this Act shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification: Provided that no direction shall be issued after the 31st day of March, 2024.*

*(14-D) Every notification issued under sub-section (14-B) and sub-section (14-C) shall, as soon as may be after the notification is issued, be laid before each House of Parliament.*

*(15) For the purposes of this section,—*

*(a) “Dispute Resolution Panel” means a collegium comprising of three Commissioners of Income tax constituted by the Board for this purpose;*

*(b) “eligible assessee” means,—*

*(i) any person in whose case the variation referred to in sub-section (1) arises as a consequence of the order of the Transfer Pricing Officer passed under sub-section (3) of Section 92-CA; and*

*(ii) any non-resident not being a company, or any foreign company.?*

*17. As is manifest from a reading of sub-section (13) of Section 144C of the Act, the AO is not accorded any discretion in the framing of an order of assessment once directions have come to be framed by the DRP. In fact, the provision requires the AO to frame an order of assessment in conformity with those directions and without providing any further opportunity of hearing to the assessee. This principle of law has been affirmed by the Bombay High Court in the aforementioned paragraphs of Vodafone Idea and in Shell India Markets Private Limited v. Additional Commissioner of Income Tax Officer, National Faceless Assessment Centre & Ors Judgment dated 14 February 2022 in WP No. 3298/2021. The relevant paragraph of the decision in Shell India are extracted hereinbelow:*

*“10. Sub-section (13) of Section 144C, therefore, is very clear inasmuch as the Assessing Officer shall, upon receipt of the directions issued under sub-section (5), in conformity with the directions, complete the assessment within one month from the end of the month in which such direction is received. Sub-section (13) also provides that the Assessing Officer can complete the assessment without providing any further opportunity of being heard to the assessee. This means that the moment the Assessing Officer receives the directions under sub-section (5), he has to*

*straightaway complete the assessment and he does not even have to hear the assessee. The Assessing Officer shall simply comply with the directions received from the DRP within one month from the end of the month in which such direction is received.”*

*18. In this backdrop, we note that both the judgments of the Bombay High Court in Shell India and Vodafone Idea construe the time lines as provided in Section 144C to be mandatory in character. In our considered opinion, this interpretation is in accord with the intent behind insertion of that provision and the bare text and spirit of that section. Thus, we accord our approval to the interpretation as set out in the aforementioned decisions of the Bombay High Court.*

*19. Further, the procedure of assessment as provided under Section 144C does not envisage or contemplate the interdiction or involvement of the TPO once a directive has been framed by the DRP. The role of the TPO comes to an end once an order as contemplated under Section 92 CA(4) of the Act has come to be framed and remitted to the AO. There was thus no occasion for the TPO having resumed proceedings post the passing of the direction by the DRP on 20 June 2022.*

*20. Undisputedly, the directive of the DRP came to be uploaded on the ITBA portal on 24 June 2022. It is additionally stated to have been dispatched through Speed Post to the third respondent (TPO) and the fourth respondent (Additional/Joint/Deputy/Assistant Commissioner of Income Tax, National Faceless Assessment Centre, New Delhi) on 27 June 2022. It is thereafter that the TPO appears to have passed the order dated 25 July 2022.*

*21. We, however note that paragraph 4(2) of the E-as, 2019 makes the following salient provisions:-*

*“4(2). All communication among the assessment unit, review unit, verification unit or technical unit or with the assessee or any other person with respect to the information or documents or evidence or any other details, as may be necessary for the purposes of making an assessment under this Scheme shall be through the National e-assessment Centre.”*

*22. It is thus manifest that as per the provisions of E-as, 2019, all orders, notices and decisions have to be necessarily uploaded on the ITBA portal and as part of the larger faceless assessment regime which now holds the field. The uploading of the directive of the DRP on the ITBA portal would thus constitute valid and sufficient service and the period of limitation as prescribed in Section 144C(13) of the Act would be liable to be computed bearing that crucial date in mind. Once the aforesaid position becomes clear, it is evident that the order of assessment, if at all could have been framed lastly by 31 July 2022. There has thus been an abject failure on the part of the first respondent to comply with the mandatory timelines as incorporated in the aforementioned provisions. Accordingly, the writ petition is liable to be allowed and the impugned order of assessment and the consequential penalty proceedings are thus liable to be set aside on this short score alone.”*

**9.6 The Jurisdictional High Court of Karnataka in the case of *M/s. Himalaya Drug Company V. The Deputy Commissioner Of Income Tax Central Circle-1 (1) Bengaluru* reported in (KAR-HC) 2025 ITL 5117 has held as under:-**

*9. The facts are not in dispute. The appellant/assessee filed returns for the year 2011-12 on 30.09.2011, within the time prescribed. On process of the returns, notice under Section 143(2) of the IT Act was issued to the appellant calling for certain information. Thereafter, the case of the appellant was referred to the*

*Transfer Pricing Officer under Section 92CA of the IT Act. The Transfer Pricing Officer passed order under Section 92CA of IT Act on 30.01.2015 for the assessment year 2011-12. Subsequently, the respondent-Revenue passed draft assessment order under Section 144C read with Section 143(2) of the IT Act on 27.03.2015. Against the said draft assessment order, appellant filed objections/appeal before the DRP and the DRP after hearing, passed order on 17.12.2015 under Section 144C(5) of the IT Act. The said order passed by the DRP was communicated to the Assessing Officer on 29.12.2015. On receipt of the order/direction of the DRP, the Assessing Officer is required to pass order in terms of Sub-section (13) of Section 144C of the IT Act. Section 144C(13) of the IT Act reads as follows:*

*“144C. (13) Upon receipt of the directions issued under sub-section (5), the Assessing Officer shall, in conformity with the directions, complete, notwithstanding anything to the contrary contained in section 153 or section 153B, the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received.”*

*10. In terms of the above provision, the Assessing Officer shall complete the assessment without providing any further opportunity of being heard to the assessee, within one month from the end of the month in which such direction is received. In the instant case, the Assessing Officer received the direction from the DRP passed under Sub-Section (5) of Section 144C of the IT Act on 29.12.2015 and the Assessing Officer was required to pass assessment order within one month from the end of December 2015 i.e., the Assessing Officer ought to have passed assessment order on or before 31.01.2016. However, the Assessing Officer passed assessment order only on 18.02.2016, beyond the prescribed time under Sub-Section (13) of Section 144C of the IT Act. Under Sub-Section (13) of Section 144C of the IT Act, the Assessing Officer is mandated to pass order within the time prescribed thereunder and no discretion is vested with the Assessing Officer. Under Sub-Section (13) of Section 144C of the IT Act, the Assessing Officer on receipt of direction under Sub-Section (5) from DRP, mandated to complete the assessment within one month from the end of the month in which such direction is received. In other words, immediately on receipt of direction from the DRP under Sub-Section (5), the Assessing Officer shall complete the assessment within the timeline. The timeline prescribed under Sub-Section 144C are to be construed as mandatory.*

*11. The High Court of Delhi in the case of LOUIS DREYFUS COMPANY INDIA (P) LTD., (supra) was considering an identical factual situation and at paragraphs 17, 18, 19 and 20, held as follows:*

*“17. As is manifest from a reading of subsection (13) of Section 144-C of the Act, the assessing officer is not accorded any discretion in the framing of an order of assessment once directions have come to be framed by the Dispute Resolution Panel. In fact, the provision requires the assessing officer to frame an order of assessment in conformity with those directions and without providing any further opportunity of hearing to the assessee. This principle of law has been affirmed by the Bombay High Court in the aforementioned paras of Vodafone Idea Ltd. case [Vodafone Idea Ltd. v. Central Processing Centre, (2023) 459 ITR 413 : 2023 SCC OnLine*

*Bom 2464] and in Shell India Markets (P) Ltd. v. CIT [Shell India Markets (P) Ltd. v. CIT, (2022) 443 ITR 366 : 2022 SCC OnLine Bom 379] judgment dated 14-2-2022 in WP No. 3298 of 2021. The relevant para of the decision in Shell India Markets (P) Ltd. case [Shell India Markets (P) Ltd. v. CIT, (2022) 443 ITR 366 : 2022 SCC OnLine Bom 379] are extracted hereinbelow:*

*“10. Sub-section (13) of Section 144-C, therefore, is very clear inasmuch as the assessing officer shall, upon receipt of the directions issued under sub-section (5), in conformity with the directions, complete the assessment within one month from the end of the month in which such direction is received. Sub-section (13) also provides that the assessing officer can complete the assessment without providing any further opportunity of being heard to the assessee. This means that the moment the assessing officer receives the directions under sub-section (5), he has to straightaway complete the assessment, and he does not even have to hear the assessee. The assessing officer shall simply comply with the directions received from the Dispute Resolution Panel within one month from the end of the month in which such direction is received.”*

*18. In this backdrop, we note that both the judgments of the Bombay High Court in Shell India Markets (P) Ltd. case [Shell India Markets (P) Ltd. v. CIT, (2022) 443 ITR 366 : 2022 SCC OnLine Bom 379] and Vodafone Idea Ltd. case [Vodafone Idea Ltd. v. Central Processing Centre, (2023) 459 ITR 413 : 2023 SCC OnLine Bom 2464] construe the timelines as provided in Section 144-C to be mandatory in character. In our considered opinion, this interpretation is in accord with the intent behind insertion of that provision and the bare text and spirit of that section. Thus, we accord our approval to the interpretation as set out in the aforementioned decisions of the Bombay High Court.*

*19. Further, the procedure of assessment as provided under Section 144-C does not envisage or contemplate the interdiction or involvement of the transfer pricing officer once a directive has been framed by the Dispute Resolution Panel. The role of the transfer pricing officer comes to an end once an order as contemplated under Section 92-CA(4) of the Act has come to be framed and remitted to the assessing officer. There was thus no occasion for the transfer pricing officer having resumed proceedings post the passing of the direction by the Dispute Resolution Panel on 20-6-2022.*

*20. Undisputedly, the directive of the Dispute Resolution Panel came to be uploaded on the Income Tax Business Application portal on 24-6-2022. It is additionally stated to have been dispatched through speed post to the third respondent (TPO) and the fourth*

*respondent (Additional/Joint/Deputy/Assistant Commissioner of Income Tax, National Faceless Assessment Centre, New Delhi) on 27-6-2022. It is thereafter that the transfer pricing officer appears to have passed the order dated 25 July 2022.”*

12. In *RAPISCAN SYSTEMS PVT. LIMITED (supra)*, the Division Bench of Telangana High Court while considering Section 144C of the IT Act at paragraph 32 and 33 has observed as follows:

*“32. In view of the forgoing discussion, there is no cavil of doubt that the Assessing Officer received the Dispute Resolution Panel's directions on June 30, 2022 and, therefore, the limitation must be counted from that date and not from July 5, 2022. The impugned assessment orders dated August 30, 2022 and September 1, 2022 that were issued counting the limitation from July 5, 2022 in both the writ petitions are liable to be set aside as the same are issued beyond permissible period of limitation.*

*33. In the result, both the writ petitions are allowed by setting aside the impugned assessment orders dated August 30, 2022 and September 1, 2022. There shall be no order as to costs. Miscellaneous applications, if any, shall stand closed.”*

13. The reason of the Tribunal while passing the impugned order placing reliance on the *RAIN CEMENTS LIMITED* is misplaced, as the said decision though arises from Section 144C of the IT Act, it was under a different context or different fact situation; in the said case, no direction under Sub-Section (5) of Section 144C of the IT Act was passed within the time prescribed therein. In the said circumstances, the said decision would have no application to the facts of the present case, as in the present case upon the direction issued by DRP, the order should have been passed within the time prescribed. under Section 144C(13) of the I.T. Act.”

**9.7** The ld. DR's reliance on the decision of Hon'ble Single Judge of Madras High Court in the case of *Extreme Networks India Pvt. Ltd. Vs. DCIT in W.P. No.25807 of 2022* is erroneous since it has not followed the decision of the Division Bench of the Madras High Court in the case of *CIT Vs. Ramco Cements Ltd. (supra)* nor distinguished it either.

**9.8** Further, we also rely on the decision of Hon'ble Madras High Court in the case of *Ramco Cements Ltd. (supra)* which has clearly held that limitation cannot depend on varying user functionalities, which is an internal process that cannot be entertained since the same would defeat the purpose of statutory limitation. It is further held by the Hon'ble High Court that the limitation cannot be reckoned in a manner so as to give rise to more than one interpretation where either party can take benefit of a later date. Therefore, by placing reliance respectfully on the above judicial pronouncement, we hold that the AO has received the DRP direction on 30.5.2022 i.e. on the date of uploading the directions on ITBA Portal and therefore, the final order of assessment which is passed on 27.7.2022 is barred by limitation as per provisions contained in section 144C(13) of the Act. Therefore, we annul the assessment order on the ground of barred by limitation. We make it clear that we have not adjudicated the other grounds on merits raised

*by the assessee in view of the order passed by us on legal plea and the same is left open.”*

**8.1** In view of the above discussion & respectfully following the above decision of the Coordinate bench of this Tribunal, we hold that the FAO had received the Id. DRP's directions on the date of uploading the direction in the ITBA portal on 29/05/2024 itself and therefore, the final order of assessment, which is passed on 29.7.2024 is barred by limitation as per provisions contained in section 144C(13) of the Act. Therefore, we annul the final assessment order on the ground of barred by limitation. We make it clear that since we have allowed the additional legal ground as raised by the assessee & accordingly we are not adjudicating other grounds on merits as raised by the assessee and accordingly, the same are left open.

**9. In the result, the appeal filed by the assessee is allowed.**

### **SA No.35/Bang/2005**

**10.** The assessee company has also filed a stay application vide SA No.35/Bang/2005 seeking stay of outstanding demand of Rs.10,14,59,904/- for the AY 2020-21 under Rule 35A of the I.T. Rules, 1963. Since we have already allowed the appeal in favour of the assessee and therefore, the Stay petition filed by the assessee becomes infructuous and accordingly dismissed.

**11. In the result, the appeal filed by the assessee is allowed and stay petition filed by the assessee is dismissed.**

Order pronounced in the open court on 30<sup>th</sup> Mar, 2026

**Sd/-**  
**(Waseem Ahmed)**  
**Accountant Member**

**Sd/-**  
**(Keshav Dubey)**  
**Judicial Member**

Bangalore,  
Dated 30<sup>th</sup> Mar, 2026.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,**  
**ITAT, Bangalore.**