

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "I": NEW DELHI
BEFORE SHRI CHALLA NAGENDRA PRASAD, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No. 1846/Del/2023
(Assessment Year: 2013-14)

DCIT, Circle-4(2), New Delhi	Vs.	Benetton India Pvt. Ltd, B-25, Gurgaon, Haryana
(Appellant)		(Respondent)
		PAN: AAACD1013F

ITA No. 1012/Del/2023
(Assessment Year: 2013-14)

Benetton India Pvt. Ltd, B-25, Gurgaon, Haryana	Vs.	DCIT, Circle-4(2), New Delhi
(Appellant)		(Respondent)
PAN: AAACD1013F		

Assessee by :	Shri Deepak Chopra, Adv Smt Mansvini Bajpai, Adv
Revenue by:	Shri Darm Veer Singh, CIT DR
Date of Hearing	04/02/2026
Date of pronouncement	02/04/2026

O R D E R

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No. 1846/Del/2023 filed by the revenue and ITA No. 1012/Del/2023 filed by the assessee for AY 2013-14, arises out of the order of the Id Commissioner of Income Tax (Appeals)-44, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] dated 10.02.2023 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 16.08.2016 by the Assessing Officer, ACIT, Circle-4(2), New Delhi (hereinafter referred to as 'Id. AO'). As these are cross appeals, they are taken up together and disposed of by this common order for the sake of convenience.

2. At the outset, we find that there is a delay in filing of appeal by the revenue by 66 days. Considering the reasons adduced in the condonation petition, in the interest of substantial justice, we are inclined to condone the delay and admit the appeal of the revenue for adjudication.

3. The revenue has raised the following grounds of appeal before us:-

"1. Whether on facts and circumstances of the case and in law, the Ld. CIT(A) was right in holding that the reimbursements of expenses are at arm's length and in deleting the adjustments made by the TPO despite the assessee not having benchmarked the services received separately and aggregating the services received.

2 Whether on facts and circumstances of the case and in law. The Ld. CIT(A) was right in deleting the adjustment on account of reimbursement of personnel costs, despite the assessee not having provided the proof of requisition of service on the basis of fees charged by experts

3. Whether on facts and circumstances of the case and in law, the Ld. CIT(A) was right in deleting the adjustment on account of reimbursement of IT related expenses despite the assessee not having provided any agreement for the same or any contemporaneous documentary evidence that it received these services

4. The appellant craves leave for reserving the right to amend, modify, after, add or forego any ground(s) of appeal at any time before or during the hearing of this appeal."

4. The assessee has raised the following grounds of appeal before us:-

"1. That on the facts and circumstances of the case and in law, the Ld. CIT(A) has erred in upholding an adjustment of INR 45,33,052 made by the Ld. Transfer Pricing officer ('Ld. TPO') on account of reimbursement of advertisement & publicity expenses.

2. On the facts and circumstances of the case and in law, the Ld. TPO as well as the Ld. CIT(A) erred in determining NIL price for the transaction of reimbursement of advertisement and publicity expenses. In doing so -

2.1 the Ld. TPO has failed to provide information on any comparable uncontrolled cases wherein NIL price would have been agreed for similar transactions;

2.2 the Ld. TPO has also failed to bring out any factual evidence(s) to show that a third party would provide such services free of cost

3. *On the facts and circumstances of the case and in law, the Ld. TPO as well as the Ld. CIT(A) erred in not appreciating the commercial expediency and business needs of the expense incurred and completely ignoring all submissions submitted by the Appellant in this regard.*

4. *On the facts and circumstances of the case and in law, the Ld. AO has erred in initiating penalty proceedings under section 271(1)(c) of the Act.”*

5. We have heard the rival submissions and perused the materials available on record. Benetton India Private Limited (BIPL) is a wholly owned subsidiary of Benetton International N.V, Netherlands which in turn is a subsidiary of Benetton Group SPA, Italy. BIPL is engaged in the business of production and sale of readymade garments in the name and style of 'Benetton' in India. The assessee has undertaken the following international transactions during the year:-

<i>International Transactions</i>	<i>Value (Rs.)</i>
<i>Import of finished goods</i>	<i>254899767</i>
<i>Export of finished goods</i>	<i>5152033</i>
<i>Provision of sourcing related services</i>	<i>129826131</i>
<i>Payment of royalty</i>	<i>214959886</i>
<i>Import of raw material</i>	<i>956244</i>
<i>Reimbursement of expenses to AEs</i>	<i>24746548</i>
<i>; Reimbursement of expenses from AEs</i>	<i>302685</i>

6. Only the following international transactions are in dispute before us in the present appeals:-

Payment of Royalty	- Rs 21,49,59,886
Reimbursement of expenses to AEs	- Rs 2,47,46,548

7. First let us take up Reimbursement of expenses to AEs. This comprises of three items as under:-

A) Reimbursement of Personnel Cost to Benind SPA / Benetton Group
SPA – Rs 1,35,10,009

7.1. The assessee had employed expatriates with vast experience in the industry and Benetton Group to assist the assessee in some of its critical business activities. During the relevant year, certain portions of their salary, which included social security costs, was incurred by AE on assessee's behalf, purely for the sake of administrative convenience. The said costs were subsequently reimbursed by the assessee to its AEs. No markup was charged by the AEs on this transaction. Moreover, the salaries of expats involved in the sourcing segment have been marked up by the assessee at 12% while charging from the AEs in respect of 3 out of 5 people. Further, the employees were on the payroll of the assessee and the assessee has the sole responsibility towards that employee. Any incidental expenses incurred by reimbursed by the assessee in relation to availing of services from the expats or for the benefit of the assessee and were thus consequentially cost of the assessee's business, which was required to be reimbursed to the AE. Thus, the question of need- benefit for the same does not arise at all. The assessee submitted that the expats whose salaries were reimbursed by the assessee to its AEs were rendering services only to the assessee and the assessee gave the profile of each of such employee before the Learned TPO, duly explaining the need of requirement of services from those expatriates and also the benefits derived by the assessee through their services.

7.1.1. The assessee benchmarked the aforesaid transaction by using 'Other Method' as the Most Appropriate Method (MAM). The actual cost incurred by the AE was reimbursed by the assessee on cost to cost basis without any mark up. The Learned TPO determined the Arm's Length Price (ALP) of this transaction at Nil by applying Comparable Uncontrolled Price (CUP) method as the MAM alleging that no evidence of requisitioning of services, need for services, benefits derived by the assessee and cost –benefit analysis were provided by the assessee. The assessee apart from giving explanation for requirement of services from the expats, benefits

derived by availing such services etc also furnished the VISA Copies of the expats, passport copies of the expats, copies of Form 16 of expats and secondment agreement before the Learned TPO.

7.1.2. The Learned CITA deleted this transfer pricing adjustment by holding that the assessee had submitted the necessary documents to verify the nature of expenses and also gave a categorical finding that the reimbursement has been made on cost to cost basis. We find that the Learned CITA had placed reliance on the decision of this Tribunal in assessee's own case for the Asst Years 2007-08 to 2010-11 and 2012-13 on the impugned issue for granting relief. The Learned AR also placed on record the order of the Hon'ble Delhi High Court in assessee's own case in ITA 472/2018 , 1318/2018 & 1319/2018 dated 6-2-2025 for Asst Years 2007-08, 2008-09 and 2009-10 respectively wherein the same issue was decided in favour of the assessee. The Learned AR also submitted that the time limit for filing appeal by the revenue before the Hon'ble Supreme Court had already expired and the assessee was not in receipt of any appeal papers from the revenue to prove whether they had filed any appeal before the Hon'ble Supreme Court.

7.1.3. The Learned DR vehemently argued that this Tribunal in assessee's own case for Asst Year 2014-15 in ITA No. 7315/Del/2019 dated 7-11-2024 had restored this issue to the file of Learned TPO to consider the additional evidences in the form of consultancy agreement dated 1-7-2013 filed by the assessee before the Learned CITA which stood not examined by the Learned CITA. Per Contra, the Learned AR submitted that this consultancy agreement is dated 1-7-2013 is in connection with services rendered by Mr Daniel Leung who had not rendered any services to the assessee during the year under consideration. Further this consultancy agreement is dated 1-7-2013 and is not at all relevant for the year under consideration. Hence he submitted that the issue in dispute is squarely covered by the earlier year orders of Tribunal and the orders of Hon'ble Delhi High Court referred supra. In view of this, we do not deem it fit to interfere with the order of the Learned CITA.

B) Reimbursement of IT related expenses to Benind SPA - Rs 67,03,487

7.2. The assessee received information technology support services from its AE (Benind SPA). The support services are mainly in the nature of assistance in computer assistance designing technique which the assessee uses in its own manufacturing process. Further the assessee stated that the payments have been made for the usage of software and it would not be possible for the assessee to operate without availing the software. The assessee also submitted before the learned TPO on without prejudice basis that the reimbursement of IT related expenses includes various software services like CAD, Orchidie , Iris, Citrix and RTBenet etc. Such support was provided on cost to cost basis and no markup was charged by Benind SPA for the same. The assessee submitted that the said software was used for designing and related activities were indispensable to the garment manufacturing business of the assessee and no third party would have provided such software free of cost to the assessee.

7.2.1. The assessee benchmarked the aforesaid transaction by using 'Other Method' as the Most Appropriate Method (MAM). The actual cost incurred by the AE was reimbursed by the assessee on cost to cost basis without any mark up. The Learned TPO determined the Arm's Length Price (ALP) of this transaction at Nil by applying Comparable Uncontrolled Price (CUP) method as the MAM alleging that no evidence of requisitioning of services, need for services, benefits derived by the assessee and cost –benefit analysis were provided by the assessee. The assessee apart from giving explanation for requirement of software services submitted evidences before the Learned TPO in the form of screenshots of IT software used by assessee and these are enclosed in Pages 488 to 497 of the Paper Book.

7.2.2. The Learned CITA deleted this transfer pricing adjustment by holding that the assessee had submitted the necessary documents to verify the nature of expenses. We find that the Learned CITA had placed reliance on the decision of this Tribunal in assessee's own case for the Asst Years 2007-08, 2008-09, 2011-12 , 2012-13, 2014-15 and 2016-17 on the impugned issue for granting relief. The

Learned AR also submitted that the time limit for filing appeal by the revenue before the Hon'ble Delhi High Court had already expired and the assessee was not in receipt of any appeal papers from the revenue to prove whether they had filed any appeal before the Hon'ble Delhi High Court. In view of this, we do not deem it fit to interfere with the order of the Learned CITA.

C) Reimbursement of Advertisement & Publicity expenses to AE (United Colors of Communication SPA)– Rs 45,33,052

7.3. During the year, the AE (United Colors of Communication SPA) incurred certain advertisement expenses on behalf of the assessee, which were subsequently reimbursed by the assessee on cost-to-cost basis. These expenses were incurred by the AE specifically for the assessee for the purpose of administrative convenience. Accordingly, the sum of Rs 45,33,052 was reimbursed by the assessee to the AE. The assessee also submitted that it is not always possible to quantify or to determine the true value of benefits received from the services availed, and not all services can be evidenced as tangible. The case of the assessee is that these expenses were incurred for the marketing and publicity of assessee's products. Had these expenses not been borne by the AE, assessee would have had to incur a higher cost by engaging third party service providers for the same purpose. This does not include any provision of services by the AE's, and these are nothing but actual cost that is reimbursed by the assessee on cost-to-cost basis to its AE. It was also submitted that assessee had requested the AE to incur these expenses related to the promotion of assessee's products.

7.3.1. The assessee benchmarked the aforesaid transaction by using 'Other Method' as the Most Appropriate Method (MAM). The actual cost incurred by the AE was reimbursed by the assessee on cost to cost basis without any mark up. The Learned TPO determined the Arm's Length Price (ALP) of this transaction at Nil alleging that no evidence of requisitioning of services, need for services, benefits

derived by the assessee and cost –benefit analysis were provided by the assessee. The Learned CITA upheld the decision of the Learned TPO / AO in this regard after observing that relevant information and complete documentation could not be provided by the assessee to substantiate the need and incurrence of these expenses. The assessee is in appeal before us on this part of the transfer pricing adjustment.

7.3.2. Eventhough the Learned AR merely relied on the decision of the Hon'ble Delhi High Court in the case of CIT vs EKL Appliances Ltd reported in 24 taxmann.com 199, he could not place on record any documentary evidences to substantiate the claim of the assessee. Hence we do not deem it fit to interfere with the order of the Learned CITA in this regard. Accordingly, the grounds raised by the assessee in its appeal are dismissed.

7.4. The transfer pricing grounds raised by the revenue with regard to reimbursement of personnel costs and IT related costs are hereby dismissed and grounds raised by the assessee with regard to reimbursement of advertisement & publicity expenses are hereby dismissed.

8. **Payment of Royalty – Rs 21,49,59,886**

During the year, the assessee paid royalty as per the terms of the intercompany technical know-how agreement between assessee and its AE. The assessee used Internal CUP method to determine the ALP for the said transaction in its TP study report. The learned TPO rejected the Internal CUP pointing out certain differences in the above agreements with that of the assessee. During the course of TP proceedings, the assessee further submitted search results from public database (lexis-tm) as an External CUP analysis to corroborate the results of the Internal CUP. The analysis showed that even independent third parties have paid higher royalty rates for availing similar know-how during the same period. Further, the assessee submitted extensive documents in the nature of detailed design and technical specifications sheets received under the agreement to substantiate the

know-how received from the AE. The learned TPO rejected the External CUP approach used by the assessee on grounds like improper comparability, date of signing of agreement, etc. The learned TPO determined the ALP of royalty as Nil by applying the CUP method and thereby making a transfer pricing adjustment of Rs. 21,49,59,886.

8.1. The learned CITA deleted this transfer pricing adjustment by placing reliance on the orders passed by his predecessor and the order passed by this tribunal in assessee's own case in assessment year 2011-12 and deleted the addition. It was also pointed out that against the learned CITA order in assessment year 2014-15 wherein this issue was decided in favour of the assessee, the revenue had not even challenged the issue before the Tribunal and the same had attained finality. Since the issue involved is squarely covered by the order of this tribunal in assessment year 2011-12 in assessee's own case in ITA No. 31 /Del/ 2017 dated 30-8-2019 which has been relied upon by the learned CITA and reproduced in page number 47 and 48 of the appellate order, we do not find any infirmity in the order of the learned CITA in this regard. Accordingly, we hold that the transfer pricing adjustment on account of payment of royalty has been rightly deleted by the learned CITA.

9. In the result, the appeal of the revenue is dismissed and appeal of the assessee is dismissed.

Order pronounced in the open court on 02/04/2026.

-Sd/-

(CHALLA NAGENDRA PRASAD)
JUDICIAL MEMBER

-Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 02/04/2026
A K Keot

Copy forwarded to

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

ASSISTANT REGISTRAR
ITAT, New Delhi