

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'I-2', NEW DELHI
BEFORE SHRI J.S. REDDY, ACCOUNTANT MEMBER
&
SMT. BEENA PILLAI, JUDICIAL MEMBER**

**I.T.A .No. 1478/Del/2015
(ASSESSMENT YEAR-2010-11)**

Bechtel India Pvt. Ltd., 418, Naurang House, 21, K.G. Marg, New Delhi. AAACB0298A	vs	DCIT, Circle 4(2), New Delhi.
Appellant by	Shri Rahul K. Mitra, CA	
Respondent by	Smt. Mitali Madhusmita, CIT(DR)	

Date of Hearing	07.10.2015
Date of Pronouncement	21.12.2015

ORDER

PER BEENA PILLAI, JUDICIAL MEMBER:

This is an appeal filed by the assessee against the assessment order dated 30.01.2015, of Id. DCIT Circle 4(2) u/s 143(3) r.w. sec 144C of I.T. Act, 1961 for A.Y. 2010-11.

2. Brief facts of the case are as under:

The assessee filed its return of income declaring total income of Rs.33,42,28,149/-. Subsequently the same was revised to Rs.33,39,32,080/-.

3. The assessee is a captive service provider, providing (a) engineering design and related services, (b) financial and accounting

support ('FAS') services and (c) IT Infrastructure support services ('IT Infra') to its Associated Enterprises ('AEs'), to support the oversea office's turnkey project execution. The international transactions entered into by the assessee are as under:

<i>S. No.</i>	<i>International Transaction</i>	<i>Amount (in Rs.)</i>
1.	<i>Engineering services/Other services</i>	<i>114,37,93,036/-</i>
2.	<i>Financial and accounting support services</i>	<i>4,57,02,508/-</i>
3.	<i>IT infrastructure support services.</i>	<i>5,50,04,596/-</i>
4.	<i>Reimbursement of expenses(paid)</i>	<i>6,70,973/-</i>
5.	<i>Reimbursement of expenses(received)</i>	<i>21,97,07,529/-</i>

4. For benchmarking the international transactions, assessee selected TNMM as the most appropriate method (MAM), with Operating Profit to Total Cost(OP/TC) as Profit level Indicator (PLI). The approach followed by the assessee in the TP Study has been encapsulated in the table below:

<i>Nature of International Transaction</i>	<i>Amount (In INR crores)</i>	<i>Most Appropriate Method & Profit Level Indicator ('PLI')</i>	<i>Results</i>		
			<i>Appellant's PLI</i>	<i>No. of Comparables</i>	<i>Margin of Comparables in TP Study*</i>
<i>Provision of engineering design and</i>	<i>114.38</i>	<i>Method: TNMM PLI: OP/TC</i>	<i>13.04%</i>	<i>6</i>	<i>11.79%</i>

<i>related services</i>					
<i>Provision of FAS services</i>	4.57	Method: TNMM PLI: OP/TC	15.00%	10	14.37%
<i>Provision of IT infrastructure support services</i>	5.50	Method: TNMM PLI: OP/TC	17.56%	4	17.26%
<i>Reimbursement of expenses (paid)</i>	0.07	Method: TNMM PLI: OP/TC	<i>Not applicable</i>		
<i>Reimbursement of expenses (received)</i>	21.97	Method: TNMM PLI: OP/TC			

5. The Id. TPO disagreed with the various filters used by the assessee in the TP study. The detailed submissions, workings and evidences provided during the course of the TP assessment proceedings, was considered by the Id. TPO, and thereafter he selected the final set of comparables based on the application of additional/modified filters in all three segments. The final comparable adopted by Id. TPO are as under:

I. Engineering design and related services

<i>S. No.</i>	<i>Company Name</i>	<i>OP/Cost (%)*</i>
1.	<i>Kirloskar Consultants Ltd.</i>	15.64%
2.	<i>Mahindra Consulting Engineers Ltd.</i>	23.50%
3.	<i>TCE Consulting Engineers Ltd.</i>	25.88%
4.	<i>IBI Chematur Ltd.</i>	52.66%
5.	<i>Kitco Ltd.</i>	14.01%
6.	<i>Cades Digitech Private Ltd.</i>	-5.71%
	<i>Mean</i>	21.00%

II. Financial and accounting support services

<i>S. No.</i>	<i>Company Name</i>	<i>OP/Cost (Forex as operating) (%)*</i>
1.	<i>Accentia Technologies Ltd.</i>	43.62%

2.	<i>Cosmic Global Ltd.</i>	18.28%
3.	<i>E4e Healthcare Ltd.</i>	32.67%
4.	<i>Fortune Infotech Ltd.</i>	19.62%
5.	<i>iGate Global Solutions Ltd.</i>	18.21%
6.	<i>Infosys BPO Ltd.</i>	31.61%
7.	<i>TCS E-Serve International Ltd.</i>	51.51%
8.	<i>TCS E-Serve Ltd.</i>	66.35%
9.	<i>Jindal Intellicom Ltd.</i>	14.19%
10.	<i>Microland Ltd.</i>	-3.11%
	Mean	29.30%

III. IT Infrastructure support services

S. No.	Company Name	OP/Cost (Forex as operating) (%)*
1.	<i>Accentia Technologies Ltd.</i>	43.62%
2.	<i>Cosmic Global Ltd.</i>	18.28%
3.	<i>E4e Healthcare Ltd.</i>	32.67%
4.	<i>Fortune Infotech Ltd.</i>	19.62%
5.	<i>iGate Global Solutions Ltd.</i>	18.21%
6.	<i>Infosys BPO Ltd.</i>	31.61%
7.	<i>TCS E-Serve International Ltd.</i>	51.51%
8.	<i>TCS E-Serve Ltd.</i>	66.35%
9.	<i>Jindal Intellicom Ltd.</i>	14.19%
10.	<i>Microland Ltd.</i>	-3.11%
	Mean	29.30%

6. The d. TPO further observed that the payment received from the AE was not as per the terms of the service agreement. The Ld.TPO therefore held that the assessee has provided benefit to its AE, by way of advancement of interest free loan in the garb of delay of receipt of receivable. The ld.TPO used CUP method by selecting credit period of 30 days and applying the rate of 14.88%.

7. The adjustment made by Id. TPO has been presented below:

<i>S. No.</i>	<i>Nature of international transaction</i>	<i>Appellant's margin</i>	<i>Arm's length margin determined by Id. TPO</i>	<i>Adjustment u/s 92CA (in INR)</i>
1.	<i>Provision of engineering design and related services</i>	13.04%	21.00%	8,05,09,189
2.	<i>Provision of FAS services</i>	15.00%	29.30%	54,91,653
3.	<i>Provision of IT Infrastructure support services</i>	17.56%	29.30%	56,83,008
4.	<i>Outstanding Receivables</i>	N.A.		3,10,93,116
Total				12,27,76,966

8. Aggrieved by the draft assessment order of the Id.TPO, the assessee filed its objections before the DRP.

The DRP directed as follows:

I. Engineering design services:

The Id. DRP accepted the approach and the comparable set considered by Id. TPO. The DRP also directed the Id. TPO to include a comparable selected by the assessee being UB Engineering Limited if it passed the filters applied by the Id. TPO. Since the comparable was passing the filters, it was subsequently accepted in the final assessment order.

II. IT infra support services and FAS services:

The DRP accepted the approach and the comparable set considered by Id. TPO. All additional comparables proposed by the assessee in the fresh search were rejected. Also, the DRP accepted the approach of the Id. TPO which was to adopt the same set of comparables for both these segments. The DRP directed the Id. TPO/Ld. Assessing Officer to make working capital adjustment. The DRP also confirmed the TP adjustment made by the Id. TPO on account of interest on intercompany receivables.

9. Thus, pursuant to the DRP's directions, the Id. AO issued the final assessment order. Following are the arm's length margins as per TPO:

Engineering design services

S. No.	Company Name	Working Capital adjusted OP/TC
1.	<i>Kirloskar Consultants Ltd.</i>	11.85%
2.	<i>Mahindra Consulting Engineers Ltd.</i>	23.55%
3.	<i>TCE Consulting Engineers Ltd.</i>	26.23%
4.	<i>IBI Chematur Ltd.</i>	58.24%
5.	<i>Kitco Ltd.</i>	36.18%
6.	<i>Cades Digitech Private Ltd.</i>	1.00%
7.	<i>UB Engineering Ltd.</i>	11.65%
	Mean	24.10%

IT infra support services and FAS services:

S. No.	Company Name	Working Capital adjusted OP/TC
1.	<i>Accentia Technologies Ltd.</i>	41.24%
2.	<i>Cosmic Global Ltd.</i>	18.80%
3.	<i>e4e Healthcare Ltd.</i>	30.41%
4.	<i>Fortune Infotech Ltd.</i>	20.89%
5.	<i>iGate Global Solutions Ltd.</i>	24.43%
6.	<i>Infosys BPO Ltd.</i>	30.80%
7.	<i>TCS E-Serve International Ltd.</i>	54.67%

8.	<i>TCS E-Serve Ltd.</i>	63.88%
9.	<i>Jindal Intellicom Ltd.</i>	13.43%
10.	<i>Microland Ltd.</i>	-1.05%
	Mean	29.75%

10. The final adjustments made by the ld. AO are as under:

S. No.	Nature of transaction	Adjustment (in RS.)
1.	<i>Provision of engineering design and related services</i>	11,18,75,610/-
2.	<i>Provision of FAS services</i>	58,61,844/-
3.	<i>Provision of IT Infrastructure support services</i>	57,02,197/-
4.	<i>Outstanding Receivables</i>	3,10.93,116/-
	Total	15,45,32,767/-

11. Aggrieved by the order passed by the ld. AO, the assessee is in appeal before us on the following grounds:

1. *“That on facts and circumstances of the case and in law, the ld. AO/ld. Transfer Pricing Officer/Ld. Dispute Resolution Panel erred in making an addition of INR 15,45,32,767/- to the returned income of the Appellant by re-computing the arm’s length price of the international transactions pertaining to all three segments of the Appellant Company viz. engineering services, financial support and IT infrastructure support u/s 92 of the Act. Thus, in passing the order, the ld. AO/ld. TPO/ld. DRP erred in:*
 - 1.1 *Rejecting the comparable companies adopted by the Appellant in its transfer pricing documentation on the basis of additional/modified quantitative filters which lacked valid and sufficient reasoning.*

- 1.2 *Accepting companies which were functionally not comparable to the Appellant.*
- 1.3 *Including companies with high/supernormal margins as comparables.*
- 1.4 *Not considering the correct computation of operating margins of certain comparables.*
- 1.5 *Denying the benefit of economic adjustments on account of difference in risk profile in arriving at the arm's length margin.*
- 1.6 *That on facts and circumstances of the case and in law, the ld. AO/TPO/ld. DRP erred in selecting the current year (i.e. financial year 2009-10) data for comparability despite the fact that at the time of preparation of Transfer Pricing Documentation by the Appellant, the complete data for financial year 2009-10 was not available within the public domain.*
2. *That without prejudice to the above, if comparables selected the ld. AO/TPO/DRP that do not meet the parameters of functional comparability are accepted, then the comparables selected by the Appellant that were rejected by ld. AO/TPO/DRP on account of functional comparability must also be accepted.*
3. *That on facts and circumstances of the case and in law, the ld. AO/ld. TPO/ld. DRP erred in making an addition of INR 3,10,93,116/- by imputing interest on receivables from the AEs beyond an adhoc credit period and applying an adhoc interest rate.*
4. *That the ld. AO has erred in charging interest u/s 234B of the Act amounting to INR 3,04,06,530/-.*
5. *That on the facts and in the circumstances of the case and in law, the ld. AO has erred in initiating penalty proceedings u/s 271(1)(c) of the Act.*

The Appellant craves leave to add, amend, alter, delete, rescind, forgo or withdraw any of the above grounds of appeal either before or during the course of the proceedings before the

Hon'ble Income Tax Appellate Tribunal in the interest of the natural justice. The aforesaid grounds are mutually exclusive and without prejudice to each other."

11.1 We have heard the rival contentions. On a careful consideration of the facts of the case, perusal of the papers on record and the orders of the authorities below. The only issue that is argued before us is the correctness of the comparables considered in the final assessment order by the Assessing Officer.

12. We would now examine the facts and arguments of both the parties on each of the comparable companies in dispute.

1) Engineering design services

Comparables included by the Id.DRP/TPO:

1) Kitco Limited:

12.1 The company was established in 1972 by Industrial Development Bank of India, other national and state level financial institutions, Government of Kerala and 7 public sector banks for rendering services to government departments, public sector undertakings ("PSU's"), local bodies, entrepreneurs, etc. The company's main functions are to render professional technical consultancy assistance to banks (appraisal of projects in priority sectors) and to entrepreneurs operating in SME sector (preparation of project report, market studies and conducting training program's). However, over the years Kitco has evolved into a multi-functional and multi-disciplinary organization and has started offering

consultancy service from 'concept to commissioning'. As portfolio of services offered by Kitco currently includes the following:

- Project consultancy;
- Detailed design engineering and project execution;
- Technical services;
- Environmental Engineering; and
- HRD consultancy

12.2 The assessee fairly submits that Kitco is a 100% government owned undertaking, rendering services primarily to central/state government undertaking and PSUs.

It is not in dispute that most of the clients or projects undertaken by this company are either for state government or government run institutions. The majority revenue (and profitability) of this company comes from government (state or center) run projects and that the company derives benefit out of its parental relation with the Government in getting contract. In other words, the company is getting the benefit of preferential treatment in obtaining contracts from government/government undertakings. This inevitably impacts the profit margins of the said comparable and cannot be said to be indicative of a free market economy where the other comparables and the assessee operates.

12.3 In this regard the assessee placed its reliance on the ruling of *M/s ThyssenKrupp Industries India Private Limited ITA No. 6460/Mum/2012* wherein it has been held asunder:

*“We find it as undisputed that Engineers India Limited is a Government company. It has several segments which also include ‘Turnkey project’ page 700 of the paper book is a copy of annual report of Engineers India Limited on turnkey project. It can be seen that the revenue has arisen from completing paraxylene plant of IOCL and further that company is engaged in execution of other unit of IOCL’s Panipat Naphtha cracker project. In our considered opinion’ this case should not have been included in the list of final comparables for two reasons. First reason is that profit motive is not a relevant consideration in case of Government undertakings. Many Government Undertakings even operate on losses in furtherance of the social obligations of the government. **The second reason is that Engineers India Limited earned income from turnkey project by successfully completing the project of IOCL and other Public Sector Undertakings. In that sense of the matter, the related party transactions are much more than the filter of 25%. We, therefore, order for the exclusion of this case from the list of comparables.***

Unquote [Emphasis Supplied]”

12.5 In the above ruling, the comparable M/s. Engineers India Limited was rejected primarily on the ground that it was working for government/public sector undertakings and since the company also being a government owned enterprise; the transactions tantamount to related party transactions. The same is true for the said comparable as Kitco Ltd., transactions are primarily with government owned enterprises. Applying the preposition laid down in the case of *M/s ThyssenKrupp Industries India Private Limited* (supra), we hold that Kitco Ltd., cannot be accepted as a comparable company. Hence the same is directed to be eliminated.

2) TCE Consulting Engineers Ltd.

12.6 The Comparable Company is involved in activities beyond engineering design. It is engaged in activities that extend from concept to commissioning. Whereas the assessee provides services as a captive unit to its overseas AEs. The diversified functions of this comparable company include pre-project activities, procurement assistance, project management, commissioning and coordination, inspection, construction and supervision. Further, there is no segmental accounting in the annual report of the Company which provides profitability, for the engineering design segment. Hence the same cannot be accepted as a comparable.

3) IBI Chematur Ltd.

12.7 The comparable Company is involved in activities beyond engineering design which assessee provides. Apart from detailed engineering, the comparable company, also provides project planning, management services, procurement assistance, project management, commissioning and coordination, inspection, construction and supervision etc. Further, there is no segmental accounting available in the annual report of the Company which provides profitability for the engineering design segment. The comparable company undertakes substantial R&D activities (R&D expense 5.41% of turnover) which is not a function performed by the assessee. Hence this company cannot be accepted as a comparable.

Now we take-up the comparables selected by the assessee company but rejected by DRP/Id.TPO, which are in dispute:

4) Accuspeed Engineering Services India Limited

12.8 The Id. TPO in his order, has rejected the said comparable based on its functional profile, holding that the comparable company is involved in software services. The Ld.AR submitted that this comparable company is not into software services, instead, is engaged in providing consultancy activities in Engineering solutions and services covering design, detailed engineering, project construction & management. The Id.AR submitted that this comparable company provides engineering design solutions, and other related services, which is functionally similar to that of the assessee. We observe that the DRP has not given any reasons for rejecting this comparable. On examination of the papers on record, we are in agreement with the submissions of the Id. AR. Hence we direct the A.O to include this company as a comparable.

5) Development Consultants Private Limited

12.9 The Id.TPO/DRP rejected the comparable company on the ground that it is functionally different, without providing any reason thereof. The Ld.AR submitted that this comparable company provides engineering consultancy services for the entire gamut of project engineering and other pertinent activities namely, vendors design and drawing review, detailed engineering, project management, construction management and site supervision, site selection & site survey, etc. We observe that the DRP has not given any reasons for rejecting this

comparable. On examination of the papers on record, we are in agreement with the submissions of the Id. AR. Hence we direct the A.O to include this company as a comparable.

6) M N Dastur & Co. Private Limited

12.10 The Id. TPO/DRP rejected this comparable company on the ground that the Annual report for F.Y. 2009-10 is not available in public domain. The Id.AR submitted that though the annual report for F.Y. 2009-10 of this comparable company is not available, this comparable company is functionally similar as it provides services related to engineering projects like feasibility studies, design & engineering, construction management, project management, inspection, operational assistance and business & technology consulting. The Id.AR submitted that, annual report for F.Y.2010-11is available on the database of Capitaline Plus. It is relevant to note that the Ld. TPO/DRP has accepted M N Dastur & Co. Pvt. Ltd., as a comparable in the assessee's own case for assessment year 2009-10. Under such circumstances, we direct the A.O to include this company as a comparable.

7) Mott Macdonald Private Limited

12.11 The Id.TPO has rejected the company as a comparable on the ground of being widely diversified and that segmental information was not available. The Id.AR submitted that this comparable company is involved in the provision of multi-disciplinary management and engineering consultancy services like business advice for development planning to engineering design to project management. It is engaged in

planning, developing and delivering projects across many sectors such as energy, industry, water and environment to transport, buildings, urban infrastructure and social development. We observe that the Ld.DRP has not given any reasons for rejecting this comparable. We observe that the functions of this comparable company are diversified in nature. As we have rejected company like TEC on similar ground, this company also cannot be accepted as a comparable. Hence we direct the A.O not to include this company as a comparable

IT Infra & FA segment

13. In respect of IT Infra & FA segment, the comparables selected by the Id. TPO are common.

13.1 In the IT Infra segment the assessee monitors and manages various IT Infrastructure components such as servers, networks, storage equipment, managing etc. The services include data centre and system management, infrastructure management, web hosting and internet excess, desktop solution etc.

13.2 In the FA segment, the functions of the appellant company are, invoice processing, help desk support, account closing and management reporting, tax advisory services, management of fund. The assessee contended that the Id. TPO/ DRP has accepted certain comparables, which perform altogether different functions as compared to assessee's FAS and IT Infra segment, and have extra-ordinary circumstances based on which they should not be included.

13.3 We would now examine each of the comparable company in dispute to arrive at a conclusion.

Comparables included by the Id.TPO/DRP but disputed by the assessee:

1) TCS E-Serve International Limited & TCS E-serve Limited

This company has been selected by the Id.TPO as a comparable. This company undertakes, customer service, transaction processes, collections, risk management, and analytics, and has created a lot of applications which are in the nature of intellectual property in terms of reconciliation software, fund transfers, etc. The company also undertakes software testing and validation activities. Possession of intellectual property rights has to be factored if such a company is to be taken as comparable. This cannot be done unless there is appropriate data. Further, from the TP study we observe that, this company is a wholly owned subsidiary of TCS E serve International Ltd. During the year under consideration, this company has made payments towards use of Tata brand. Consequentially use of the TCS brand has substantially increased the operating profits post acquisition. Hence we are of the opinion that this company cannot be taken as a comparable. We therefore direct to exclude this comparable.

2) Accentia Technologies Limited

This company has been included by the Id.TPO as a comparable. Functionally, Accentia Technologies Ltd., is into development of software products for healthcare. It is submitted by the Id.AR that

Accentia Technologies Ltd is also engaged into diversified activities such as Knowledge Process outsourcing(KPO), Legal process outsourcing(LPO), Data process Outsourcing(DTO), high end software services. It is also submitted by the Id.AR that segmental information in respect of this company is not available. It has been further brought to our notice that this company has been rejected by the Ld.TPO in the earlier year. The company has also had business restructuring during the year under consideration thereby giving rise to extraordinary circumstances. For all these reasons we direct the Assessing Officer to exclude this company as a comparable.

3) E4e Healthcare Business Services Private Limited

This company has been included by the Id.TPO as a comparable. Functionally the company is into health care outsourcing services and in addition it also renders software development services. It is also observed that segmental information in respect of this company is not available. The company is also a 100% EOU, under STPI guidelines. We are therefore inclined to accept the contention of the assessee that this company should be excluded as a comparable. Hence we direct the Assessing Officer to do so.

Comparable company selected by the assessee, but rejected by DRP/Id.TPO:

1) Omega Healthcare Management Services Pvt. Ltd.

Ld. TPO has rejected the company on the basis that the annual report is not available in public domain. However, we find that the data can be extracted from the Capitaline database.

The company is involved in the provision of offshore healthcare business outsourcing services, like medical coding, billing, accounts receivable management, claims processing, and healthcare revenue management. It also provides services to AR Management companies, and their hospital clients, for their credit balance account, regular accounts receivable and facility coding needs. It is noticed that this company is basically into ITES business. The ld. TPO has rejected the company on the ground that financial statement of the company was not available. However, the financial data of the company is available on the database. The ld. TPO however did not give proper opportunity to the assessee to substantiate the inclusion of this company as a comparable. The issue was carried further before the Ld.DRP, and the Ld.DRP also did not comment upon the economic analysis of the company. We therefore set aside this issue of selecting this company, to be considered by the TPO as a comparable, and to include the same in the event it satisfies all the filters applied by the ld.TPO.

2) Techprocess Solutions Ltd. (Processing Services segment)

Ld. TPO has rejected the company on the basis that current year database are not available. It is observed that the processing service segment of this company is involved in the provision of transacting processing services, document processing services, activation services

and system integration services and is also involved in the provision of comprehensive payments processing solutions like ECS processing and cheque processing services. It is further submitted that the Annual report for FY 2009-10 is available in public domain, and can be used for the purpose of margin computation. The Id. TPO has rejected the company on the ground that financial statement of the company was not available. The issue was carried further before the Ld.DRP, and the Ld.DRP also did not comment upon the economic analysis of the company. We therefore set aside this issue of selecting this company be considered by the TPO as a comparable, and to include the same in the event it satisfies all the filters applied by the Id.TPO.

Ground nos. 1 & 2 stands disposed off accordingly.

Adjustment on account of Receivables

14.7 During the course of the proceedings before TPO, he observed that payments on account of sales to the AE, is realized after a significant time period. The Id.TPO ascertained that payment for invoices raised by the assessee has not been paid within the stipulated time as provided in the service agreement and accordingly treated the delayed payments as loan facility advanced to the AE's. The Id.TPO charged 14.88% interest for the delayed period, beyond a period of 30 days. The Id. DRP upheld the adjustments made by the Id.TPO.

14.8. The Id.AR submitted that during the financial year, the assessee had entered into international transactions pertaining to provision of support services to its AE's. In this regards, the details of the invoices

raised and the payment received with dated were submitted before the TPO/DRP. The Id.AR has submitted that thought there was no credit period that was specified in the service agreement, however the assessee had agreed a credit period of 60 days with its AE's. The Id.AR submits that it has sufficient cash balance to manage its cash flow requirements.

14.9. He further submitted that the assessee does not earn any interest on the current account maintained with the bank. Except for interest earned from fixed assets, the assessee has not earned any interest, on any advances paid to third parties. The Id.AR further submitted that being a captive undertaking, the assessee does not render similar services to any other concern. He submitted that, excess credit period arises, only when there is a standard credit period for the services sold at the same price to independent enterprises. He submitted that the cost of funds blocked in the credit period was inbuilt in the sale price.

14.10. The Id.AR relies on the judgment of Indo American Jewellery in ITA no. 5872/M/2009, wherein it has been held that the transaction of sale and lending are distinctly set out as per section 92 of the Act. The Tribunal further held that interest income is associated more with lending or borrowing of money and not with sale. The Tribunal further held while determining the ALP of sale transaction, all relevant aspects, including credit period allowed, are taken into consideration and that interest aspect is embedded in the sale price. The Tribunal held that there can be no separate international transaction of interest, on outstanding receivables and that early of late realization of the sale

proceeds is incidental to transaction of sale. The ld.AR also places his reliance on the Delhi Tribunal decision in the case of Kusum Healthcare Pvt.Ltd., reported in TS-129-ITAT-2015(Del)-TP.

14.11. The ld. DR relied on the orders of the authorities below.

15. From the submissions of both the parties we observe as under;

15.1. It is brought to our notice that the assessee is a debt free company. In such circumstances it is not justifiable to presume that, borrowed funds have been utilized to pass on the facility to its AE's. The revenue has also not brought on record that the assessee has been found paying interest to its creditors or suppliers on delayed payments.

16. In lieu of the discussions and the ratio laid down in the case of Kusum Healthcare Pvt. Ltd., we direct that no separate adjustment for interest on receivables are warranted in the hands of the assessee.

Ground no. 3 of the assessee's appeal is there by allowed.

The assessee's appeal stands disposed off accordingly.

The order is pronounced in the open court on 21.12.2015

Sd/-
(J. S. REDDY)
ACCOUNTANT MEMBER

Dated: 21.12.2015

**Kavita, P.S.*

Sd/-
(BEENA PILLAI)
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant

2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI

		Date
1.	Draft dictated on	09.10.2015/16.11.2015
2.	Draft placed before author	12.10.2015/17.11.2015
3.	Draft proposed & placed before the second member	
4.	Draft discussed/approved by Second Member.	
5.	Approved Draft comes to the Sr.PS/PS	21.12.15
6.	Kept for pronouncement on	21.12.15
7.	File sent to the Bench Clerk	23.12.15
8.	Date on which file goes to the AR	
9.	Date on which file goes to the Head	

	Clerk.	
10.	Date of dispatch of Order.	