

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "A" : HYDERABAD
(THROUGH VIDEO CONFERENCE)**

**BEFORE SHRI S.S.GODARA, JUDICIAL MEMBER
AND
SHRI LAXMI PRASAD SAHU, ACCOUNTANT MEMBER**

I.T.A. No. 1709/HYD/2019

Assessment Year: 2013-14

M/s.Kony India Private Limited, HYDERABAD [PAN: AADCK2294C]	Vs	Deputy Commissioner of Income Tax, Circle-2(1), HYDERABAD
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(Appellant)

(Respondent)

For Assessee : Shri Vivek Sharma, AR
For Revenue : Shri Sunil Kumar Pandey, DR

Date of Hearing : 28-04-2021

Date of Pronouncement : 18-06-2021

ORDER

PER S.S.GODARA, J.M. :

This assessee's appeal for AY.2013-14 arises against the CIT(A)-6, Hyderabad's order dt.01-08-2019 in appeal No.10079/2018-19/B3/CIT(A)-6, involving proceedings u/s.143(3) r.w.s.92CA(3) of the Income Tax Act, 1961 [in short, 'the Act'].

Heard both the parties. Case file perused.

2. The assessee's sole substantive grievance pleaded in the instant appeal challenges correctness of the lower authorities' action making arm's length price 'ALP' adjustment of Rs.75,60,985/- *qua* interest on receivables involving its overseas Associated Enterprises 'AEs'. Suffice to say, it transpires at the outset that we need not delve much deeper

qua the relevant facts pertaining to the instant issue. We find that assuming but not accepting that the learner lower authorities have rightly found the assessee's interest receivables as beyond the period involving un-controlled transactions, the impugned adjustment is not liable to be sustained for the sole reason that the same has been made not as per 'LIBOR' rate applicable in case of international transactions but after taking State Bank of India's prime lending rate @14.45% on term deposits in the Transfer Pricing Officer's (TPO) order and upheld in the CIT(A)'s lower appellate order.

3. Learned CIT-DR's vehement contention is that the TPO as well as the CIT(A) have rightly treated the foregoing bench mark as per the short term deposit rate in the State Bank of India and therefore, the same deserves to be upheld.

4. We find no merit in Revenue's instant argument since such a short term deposit cannot be taken at par with an international transaction u/s.92B of the Act as the latter involves foreign currency and overseas market conditions. In addition to this, learned lower authorities have also not adopted any comparable transaction in the very segment as well so as to come to the conclusion that the assessee's receivables in case of overseas AEs involved more than the market practice of reasonable time period. We keep in mind all these clinching aspects and direct the TPO to delete the impugned 'ALP' adjustment of Rs.75,60,985/- in issue. The assessee's sole substantive ground to this effect stands accepted in the above terms.

4.1. In this connection, we rely on the following decisions of the co-ordinate benches:

- i. Progress Software Development Private Limited, ITA Nos.347 & 391/Hyd/2015, dt.15-03-2021;
- ii. Valuemomentum Software Services Private Limited, ITA No.2197/Hyd/2017, dt.19-05-2021;
- iii. Open Text Corporation India Private Limited, ITA No.152/Hyd/2017, dt.19-05-2021;
- iv. Hexagon Capability Center India Private Limited, ITA No.2032/Hyd/2017, dt.26-11-2020;

No other ground has been pressed before us in assessee's Form-36 filed in the tribunal.

5. This assessee's appeal is allowed in above terms.

Order pronounced in the open court on 18th June, 2021

Sd/-
(LAXMI PRASAD SAHU)
ACCOUNTANT MEMBER

Hyderabad,
Dated: 18-06-2021

TNMM

Sd/-
(S.S.GODARA)
JUDICIAL MEMBER

Copy to :

1.M/s.Kony India Private Limited, SEZ Unit II, 7th Office Level, Building No. H06, Phoenix Infocity Private Limited, Serilingampally, Hyderabad.

2.The Deputy Commissioner of Income Tax, Circle-2(1), Hyderabad.

3.Addl. Commissioner of Income Tax (Transfer Pricing), Hyderabad.

4.CIT(Appeals)-6, Hyderabad.

5.Pr.CIT-2, Hyderabad.

6.D.R. ITAT, Hyderabad.

7.Guard File.