124

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

ITA-65-2024 (O&M)
DECIDED ON: 12.08.2024

THE PR COMMISSIONER OF INCOME TAX FARIDABAD
.....APPELLANT

VERSUS

WILLIS TOWERS WASTON INDIA PRIVATE LIMITED
.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Mr. Varun Issar, Senior Standing Counsel,
for the appellant/Revenue.

SANJEEV PRAKASH SHARMA, J (ORAL)

1. Present appeal has been filed by the Revenue against the order passed by the ITAT (for short 'the Tribunal') dated 11.09.2023, assailing that the Tribunal has erred in upholding the CUP method followed by the assessee, and submits that the TNMM was the most appropriate method adopted by the AO for the assessment year 2018-19.

2. We find that the Tribunal, in the case of the assessee for the assessment years 2011-12, 2013-14 and 2014-15, held the CUP method to be the most appropriate method, and binding on the TPO, more so as the factual matrix reveals the same.

3. In relation to the same assessee, we have decided ITA No.85 of 2023, wherein we had duly examined the other aspects, relating to Rule 10 B (4) of the Income Tax Rules, 1962. However, so far as the most appropriate method adopted for the year 2009-10 in the relevant case, was the same as

adopted for the year 2011-12, 2013-14 and 2014-15 and we concurred with the order passed by the ITAT.

4. For the purpose of the present case, it would be apposite to quote the order passed by the ITAT in relation to the said aspect:-

> *"**9.** The Id. DR argued that based on the assessee's non- submission of documents/details, the TPO has made upward adjustments by rejecting the assessee's CUP method and adopted TNMM. The Id. DR argued that in earlier year, the assessee had established its case by submission of the invoices to AEs as well as non-AEs of the services rendered (as mentioned in the order of the Tribunal for AY 2011-12) and established comparison of the same. But in the instant case for F.Y. 2017-18, the assessee has not submitted invoices raised even after multiple opportunities were given to the assessee. It was further argued that the assessee company has failed to provide the details of the independent contracts/functions/ services rendered to different AEs and unrelated parties, hence, CUP method followed by the assessee was rejected by the TPO and instead TNMM was selected as Most Appropriate Method.*
>
> ***10.** We find that the Id. DRP has already allowed the CUP as MAM in the A.Y. 2011-12, A.Y. 2013-14 and A.Y. 2014-15 and the TPO sought to undertake the comparison "invoice by invoice" with the third party located in the same "geographical location" while rejecting the CUP undertaken by the assessee however, these facts are of no relevance as long as the amount/rate charges for hours incurred by an individual for a project is uniform and the services were provided to its AE as well as to third party by same employee located in India. Reliance is being placed on the judgment of Hon'ble Supreme Court in the case of CIT, Delhi-II Vs. Cargill Foods India Ltd. in CC No.19007/2016 dated 19.02.2016."*

5. Keeping in view that the consistent method has to be followed by the assessee which it has continued, there was no occasion for the TPO to

adopt a new method for the year 2018-19, treating the same as the most appropriate method.

6. Thus, we concur the order passed by the ITAT. No question of law, more to be substantial, arises in the present appeal.

7. Accordingly, present appeal stands dismissed.

8. Pending miscellaneous application(s), if any, shall stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SANJAY VASHISTH)
JUDGE

12.08.2024
Lavisha

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*