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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 17023/2024 and CM APPL. 72148/2024

STEELCASE ASIA PACIFIC HOLDINGS INDIA PRIVATE LIMITED .....Petitioner

Through: Mr Manuj Sabharwal with Mr Drona Negi and Mr Devvrat Tiwari, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME-TAX CIRCLE 22(2) DELHI & ORS. .....Respondents

Through: Mr Sunil Agarwal, SSC with Mr Shivansh B Pandiya, Mr Viplav Acharya, Ms Priya Sarkar and Mr Utkarsh Tiwari, Advocates.

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R

% **12.12.2024**

1. The petitioner has filed the present petition, *inter alia*, praying as under:

> "a. Issue a writ in the nature of certiorari or mandamus or any other appropriate writ(s), order(s), direction(s) setting aside impugned order and impugned notice of demand both dated 24.10.2024 passed/ issued by the Respondent No. 2 [Annexure P-1(Colly.)]; and impugned directions dated 20.09.2024 [Annexure P-2] issued by the Respondent No. 3."

2. The petitioner filed its return for the assessment year (AY) 2021-22 disclosing certain international transactions. The said return was picked up for scrutiny and a notice under Section 143(2) of the Income Tax Act, 1961 (hereafter *the Act*) was issued by the Assessing Officer (AO) which was

followed by a notice date 11.10.2022 issued under Section 92CA(2) of the Act by respondent no.4 Transfer Pricing Officer (hereafter *the TPO*) as the reference was made to it for determining the arm's length price (ALP) in respect of the international transaction.

3. The TPO passed an order dated 30.10.2023 under Section 92CA(3) of the Act directing an upward adjustment of ₹8,12,99,944/- on account of the determination of ALP in respect of the international transaction.

4. In the meanwhile, the Central Processing Centre (CPC) issued an intimation under Section 143(1) of the Act, which according to the petitioner was erroneous. Therefore, the petitioner filed an application for rectification of the said intimation.

5. Taking into account the directions issued by the TPO, the AO passed a draft assessment order on 22.12.2023, which included making an upward revision of ₹8,12,99,944/- on account of transfer pricing adjustment as directed by the TPO.

6. The petitioner filed its objections to the draft assessment order before respondent no.3, Dispute Resolution Panel (DRP) on 19.01.2024. Thereafter, the petitioner entered into an Advance Pricing Agreement (APA) on 27.03.2024. Undisputedly, the petitioner's return was required to be modified based on the APA. The petitioner also sent a letter dated 09.09.2024 to the DRP requesting that the return as modified be considered in view of the APA.

7. However, it appears that the petitioner's request was not considered

and the DRP passed an order dated 20.09.2024 under Section 144C(5) of the Act with the direction that the petitioner's rectification application which was pending, be decided.

8. Thereafter, the petitioner filed an application for rectification of the order dated 20.09.2024 passed by the DRP on the ground that it had entered into the APA and its modified return was not considered.

9. On 24.10.2024, the AO passed the final assessment order under Section 143(3) read with Section 144C of the Act and also issued a demand under Section 156 of the Act for a sum of ₹18,95,88,680/-.

10. The petitioner is aggrieved by the said order dated 24.10.2024 as well as by the intimation dated 29.11.2024, whereby the refund due to the petitioner in respect of AY 2024-25 is proposed to be adjusted against a demand raised in respect of AY 2020-21 and AY 2021-22.

11. Mr Sunil Agarwal, learned counsel appearing for the Revenue concedes, on instructions, that the petitioner's modified return was required to be considered as the petitioner has entered into an APA. He further requests that the matter be remanded to the concerned authorities for deciding afresh.

12. In view of the above, the order dated 20.09.2024 passed by the DRP as well as the final assessment order dated 24.10.2024 passed by the AO is set aside. The matter is remanded to the TPO for considering afresh in light of the APA entered into by the petitioner. Additionally, we direct that the petitioner's application for rectification dated 08.12.2023 be also considered.

13. We also consider it apposite to observe that as the final assessment order has been set aside, there is no question of adjusting any refund against the demand for AY 2020-21 and AY 2021-22 at the present stage.

14. The petition is disposed of in the aforesaid terms. Pending application also stands disposed of.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

DECEMBER 12, 2024/tr

Click here to check corrigendum, if any