Dell India Private Ltd.,, Bangalore vs Jcit, Bangalore on 18 August, 2022

IN THE INCOME TAX APPELLATE TRIBUNAL
"C" BENCH : BANGALORE

BEFORE SHRI GEORGE GEORGE K., JUDICIAL MEMBER
AND
Ms. PADMAVATHY S, ACCOUNTANT MEMBER

IT(TP)A No.562/Bang/2015
Assessment year : 2010-11

M/s.Dell International Services India Private Limited, (for the merged entity Dell India Private Limited), Divyashree Gardens, No.12/1, 12/2A, 13/1A, Challghatta Village, Varthur Hobli, Bangalore - 560 071.
PAN : AABCD 8839L

Vs. The Joint Commissioner of Income Tax, LTU, Bangalore.

APPELLANT RESPONDENT

IT(TP)A No.400/Bang/2015
Assessment year : 2010-11

The Joint Commissioner of Income Tax, LTU, Bangalore.

Vs. M/s.Dell International Services India Private Limited, (for the merged entity Dell India Private Limited), Bangalore - 560 071.
PAN : AABCD 8839L

APPELLANT RESPONDENT

Revenue by : Shri Praveen Karanth, CIT(DR)(ITAT), Bengaluru.
Assessee by : Shri T. Suryanarayana, Senior Advocate

Date of hearing : 22.07.2022
Date of Pronouncement : 18.08.2022

ORDER

Per Padmavathy S., Accountant Member

These cross appeals by the assessee and revenue are directed against final assessment order dated 29.01.2015 passed u/s 143(3) r.w.s. 144C of the Income-tax Act, 1961 [the Act]. The relevant assessment year is 2010-11.

2. The brief facts of the case are that the Assessee is engaged in the manufacture and trading of IT hardware products and provides technical and marketing support services to its Associate Enterprises (AEs). For the relevant assessment year 2010-11, the assessee had certain international transactions inter alia being purchase of stock in trade (trading segment), provision of technical and marketing support services to its AEs, reimbursement and recovery of expenses to/from its AEs. We shall discuss the functions performed under each of the segments while discussing the adjustment determined by the TPO.

3. In the TP study maintained for the year under consideration, the Assessee treated all the international transactions as being at arm's length. During the year, the Assessee also recovered certain advertisement expenses from Intel USA ("Intel") and Microsoft USA ("Microsoft"). Since the transactions were with unrelated parties, the assessee did not benchmark the same. During the course of assessment proceedings, reference was made to the Transfer Pricing Officer (TPO). The TPO passed an order dated 30.01.2014 under Section 92CA of the Income-tax Act, 1961 ("the Act") determining a TP IT(TP)A Nos.400 & 562/Bang/2015 adjustment aggregating to Rs. 14,50,39,631/-, comprising of the following:

> A. Adjustment determined by bifurcating the marketing and business support services segment into ITES segment (adjustment of Rs. 2,47,46,975/-) and MSS segment (adjustment of Rs. 2,75,92,656/-); and B. Adjustment of Rs. 9,27,00,000/- determined in respect of the warranty expenses.

4. Pursuant to TP adjustment, a draft assessment order dated 25.03.2014 was passed by the AO in which the aforesaid TP adjustments were incorporated. Further, the A.O. also made various additions / disallowance on corporate tax issue.

5. Aggrieved, the Assessee filed its objections before the DRP. The DRP vide its directions dated 30.12.2014, granted partial relief. Pursuant to the directions of the DRP, the AO passed the final assessment order dated 29.01.2015 in which the aggregate TP adjustment was reworked to Rs. 14,51,54,329/-. Aggrieved by the final assessment order, the Assessee has filed the IT(TP)A No.562/Bang/2015 before Tribunal. To the extent the DRP granted relief to the Assessee, the Revenue too has filed an appeal [IT(TP)A No.400/Bang/2015]. We shall first adjudicate assessee's appeal.

IT(TP)A Nos.400 & 562/Bang/2015 IT(TP)A No.562/Bang/2015 (Assessee's appeal)

6. The assessee in the memorandum of appeal has raised 24 grounds. We will first adjudicate the transfer pricing grounds raised through ground no.14 to 24 which reads as follows "14. The learned Joint Commissioner of Income Tax(LTU), Bangalore ("Assessing Officer" or "learned AO") and the learned Additional Commissioner of Income Tax (Transfer Pricing-I), Bangalore ("Transfer Pricing Officer" or "learned TPO") grossly erred in determining an adjustment to the Arm's Length Price ("ALP") of the Appellant's international transactions with Associated Enterprises ("AEs") of Rs. 14,51,54,329/,

15. The learned AO/ learned TPO erred in not following the directions given by the Hon'ble DRP while passing the final assessment order.

16. The learned AO / learned TPO / Hon'ble DRP erred in rejecting the Transfer Pricing (`TP') documentation maintained by the Appellant on invoking provisions of sub-section (3) of 92C of the Act contending that the information or data used in the computation of the arm's length price is not reliable or correct.

17. The learned AO / learned TPO / Hon'ble DRP erred in ignoring the analysis demonstrating the arm's length nature of international transactions entered into by the Appellant in the Transfer pricing documentation and in the submission made before the TPO from time to time.

18. The learned AO / learned TPO / Hon'ble DRP erred in not considering the multiple year prior year financial data of comparable companies while determining the arm's length price.

19. The learned AO / learned TPO / Hon'ble DRP erred in not considering provision of doubtful debts as non-operating item.

20. The learned AO / learned TPO / Hon'ble DRP erred in using data as at the time of assessment proceedings, instead of IT(TP)A Nos.400 & 562/Bang/2015 that available as on the date of preparing the TI documentation for comparable companies while determining arm's length price.

21. Business Support Services 21.1 The learned AO / learned TPO / Hon'ble DRP erred in arbitrarily arriving at segmental profit/loss with respect to business support services segment and bifurcating it in technical support services and marketing support services.

21.2 The learned AO / learned TPO / Hon'ble DRP erred in analyzing the business support services segment and accordingly, erred in not appreciating the fact that the services cannot be segregated as the activities of the same are intertwined.

22. Technical Support Services 22.1 The learned AO / learned TPO / Hon'ble DRP erred in arbitrarily arriving at segmental profit wish respect of technical support services segment.

22.2 The learned AO / learned TPO / DRP erred in rejection of comparability analysis carried in the TP documentation and in conducting a fresh comparability analysis by introducing various filters in determining the arm's length price.

22.3 The learned AO /learned TPO / Hon'ble DRP erred in not applying the turnover filter in selecting the comparable companies.

22.4 The learned AO / learned TPO / Hon'ble DRP erred in including companies that do not sat.4), the test of comparability. Specifically, the Appellant believes that the following companies selected as comparable by the learned AO/ learned TPO should be rejected:

• Accentia Technologies Limited • Fortune Infotech Limited • Acropetal Technologies Limited • E-Clerx Services Limited • ICRA Online Limited • Infosys BPo Limited • Cosmic Global Limited IT(TP)A Nos.400 & 562/Bang/2015 • Sundaram Business Services Limited"

• Informed Technologies India Limited • Jeevan Scientific Technology Limited 22.5 The learned AO / learned TPO erred in not following the directions of the DRP and erred in not giving the relief for allowing working capital adjustment.

22.6 The learned AO / learned TPO / Hon'ble DRP erred in not considering the directions of the DRP and ignoring the limited risk nature of the contractual services provided by the Appellant and in not providing an appropriate adjustment towards the risk differential, even when the full- fledged entrepreneurial companies are selected as Comparable companies.

23. Marketing Supt Services

23.1 The learned AO / learned TPO / Hon'ble DRP erred in arbitrarily arriving at segmental profit with respect of marketing support services segment.

23.2 The learned AO / learned TPO / Hon'ble DRP erred in not considering the directions of the DRP and ignoring the limited risk nature of the contractual services provided by the Appellant and in not providing an appropriate adjustment towards the risk differential, even when the full- fledged entrepreneurial companies are selected as Comparable companies.

23 . 3 The learned AO / learned TPO / Hon'ble DRP erred in including companies that do not satisfy the test of comparability . Specifically, the Appellant believes that the following companies selected as comparable by the learned AO / learned TPO should be rejected :

• Asian Business Exhibition & Conferences Limited; • HCCA Business Services Private Limited • Priya International Limited Housing Co. Ltd. 23.4 Without prejudice, the learned AO / learned TPO / Hon'ble DRP erred in excluding companies are functionally comparable to the assessee. Specifically, the Appellant believes that the IT(TP)A Nos.400 & 562/Bang/2015 following companies should be accepted by the learned AO/learned TPO:

• New Age Entertainment Limited • Concept Communication Limited • India infoline Marketing Services Limited • Marketing Consultants & Agencies Limited • Coloscemn Media Private Limited 23.5 The learned AO / learned TPO erred in not following the directions of the DRP and erred in not giving the relief for allowing working capital adjustment.

24. Warranty Cost

24.1 The learned AO / learned TPO / Hon'ble DRP erred in not following the directions given by the Hon'ble DRP and arbitrarily identifying the warranty cost recoverable and imposing a mark- up on the said warranty cost.

24.2 The learned AO / learned TPO / Hon'ble DRP erred in not considering the fact that the cost of providing warranty had already recovered with a mark-up and therefore, any further adjustment is unwarranted.

24.3 The learned AO / learned TPO / Hon'ble DRP erred in not appreciating the fact that the adjustment on account of warranty costs leads to duplication as in overall adjustments."

7. Ground No.14 to 20 are general in nature and does not warrant separate adjudication.

Bifurcation of marketing and business support services segment into ITES and MSS segments (Ground Nos.21-23)

8. The Assessee provides business support services to Dell Global B.V. Singapore Branch (DGBV) in relation to the products sold by the said entity to its customers in India. The business support services comprise of the following services:

IT(TP)A Nos.400 & 562/Bang/2015

- Telephonic support services;

- Marketing support services; and
- Logistic support services.

9. The Assessee provides telephonic support services for standard problems to the customers who purchase the products sold by DGBV in India. In case an on-site service is required, the Assessee send third party service provider for such services. The technical support services include services in relation to products sold by DGBV which are under warranty period. In relation to warranty services, the cost of third party service provider and spares are borne by the Assessee, and recovered from DGBV.

10. The TPO held that the services under the technical and marketing services segment is essentially dissemination of information and the Assessee is acting as communication channel between the customers and the AEs, using IT medium. Thus, the services rendered by the Assessee are to be considered as ITES. Upon holding so, the TPO bifurcated the segment into ITES segment and MSS segment and benchmarked them separately. In arriving at this conclusion, the TPO relied on the order passed in the Assessee's case for the assessment year 2009-10. The DRP confirmed the TPO's order. Aggrieved the assessee is in appeal before the Tribunal.

> 11. The ld.AR submitted that under the technical and marketing support services segment, the Assessee does not render any services in the nature of ITES. The services rendered are in the nature in the nature of marketing support services and incidental technical services.

IT(TP)A Nos.400 & 562/Bang/2015 On the erroneous basis that what the Assessee does is merely dissemination of information using IT media, the TPO held that the services are in the nature of ITES. The ld AR also submitted that even if the services rendered are considered to be ITES, the services that are being classified as ITES are rendered by the Assessee to third party customers of the AE on behalf of the AE. Since the so called ITES are being rendered to third parties, it cannot be subject matter of TP assessment. The ld AR also submitted that the major post-sales support in relation to the warranty support and co-ordination, i.e., call centre support is not being provided by the Assessee directly to its AEs. The Assessee has outsourced these services to another Group Entity in India which is compensated at an arm's length mark-up of cost plus 15%. The ld AR drew our attention to the decision of this Tribunal in the Assessee's own case for the assessment year 2009-10 (Order dated 18.03.2022 passed in IT(TP)A Nos. 269 and 217/Bang/2014) and submitted that the above issue is squarely covered by this decision.

12. The ld DR supported the orders of lower authorities

13. We heard the rival submissions and perused the material on record. We will look at the definition of ITES as defined in Rule 10TA(e) of the Income-tax Rules, 1962, which reads as under:-

> "information technology enabled services" means the following business process outsourcing services provided mainly with the assistance or use of information technology, namely:--
>
> IT(TP)A Nos.400 & 562/Bang/2015
>
> (i) back office operations;
>
> (ii) call centres or contact centre services;
>
> (iii) data processing and data mining;
>
> (iv) insurance claim processing;
>
> (v) legal databases;
>
> (vi) creation and maintenance of medical transcription excluding medical advice;
>
> (vii) translation services;
>
> (viii) payroll;

(ix) remote maintenance;

(x) revenue accounting;
(xi) support centres;
(xii) website services;
(xiii) data search integration and analysis;

(xiv) remote education excluding education content development;

or

(xv) clinical database management services excluding clinical trials, but does not include any research and development services whether or not in the nature of contract research and development services;"

14. From the above definition, it is evident that merely because services are rendered using IT medium, they cannot be termed as ITES. We also notice that the coordinate bench of the Tribunal in assessee's own case has considered the same issue and held that -

"7.8 We have heard rival submissions and perused the material on record. The TPO held that services under the technical and marketing services segment is essentially dissemination of information and the assessee is acting as communication channel between the customers and the AEs using IT medium. According to the TPO, those services rendered by the assessee are to be considered as ITES. After holding so, the TPO bifurcated segment into IT segment and MSS segment and bench marked them separately.

7.8.1 In this context, it is pertinent to note that for assessment year 2013-2014, the DRP granted relief to the assessee by holding that services rendered are in the nature of marketing IT(TP)A Nos.400 & 562/Bang/2015 support services. Copy of the DRP's order for assessment year 2013-2014 is placed on record at page 770 Vol.4 of the case law compilation. The DRP has given the above directions at page 10. The relevant finding of the DRP in assessment year 2013-2014 reads as follows:-

"Having considered the submissions, and on perusal of the details filed, we note that as per the Services Agreement entered between the assessee and Dell Global BV (Singapore branch) dated 01.01.2009, the assessee is required to prove certain technical support to the customers who purchase products from the assessee, to provide logistics support to ensure delivery of products and services to the customers and also provide marketing support and Sales promotion services. The technical services are provided to the customers of products, and as such cannot be compared to the function of provision of ITES service. Therefore. we are no in agreement with the TPO's view in comparing such services to call entre activity, and there is no information for the TPO to take such a view. Besides, we note that all these functions is provision of logistics support, marketing support and technical support have

interrelation in the facts & circumstances of the case. Therefore, it would not be appropriate to segregate them into Technical Services & Marketing Supports services.

Accordingly, the TPO's action in such segregated analysis is disapproved. The TPO is directed to consider the Marketing support and Technical Support as an integrated function and such integrated revenue of these two activities may be benchmarked as Marketing Support Service. Accordingly, the TPO's benchmarking analysis with regard to Marketing Support Service would be considered applicable for this integrated Market Support & Business Support Services. The TP analysis made by the TPO by taking comparables relating to IES segment are here by rejected. The TPO is accordingly directed to recompute the-adjustment in line with the above direction.

We also note here, that in view of the above, the objections raised in 22-26, against comparability analysis of comparables relating to ITES functions are rejected as infructuous."

IT(TP)A Nos.400 & 562/Bang/2015 7.8.2 The functions performed by the assessee under this segment are prima facie identical for the concerned assessment year and for the assessment year 2013-2014. For assessment year 2013-2014, when the DRP had held that services rendered by the assessee are in the nature of marketing and support services and since no appeal preferred by the Revenue to the ITAT, the matter had attained finality. Therefore, we are of the view that the entire TP issue raised under marketing support services segment needs to be examined afresh by the AO / TPO in the light of the DRP's directions for assessment year 2013-2014. It is ordered accordingly."

15. In the year under consideration, the facts are similar to that of assessment year 2009-10 and therefore respectfully following the decision of the coordinate bench of the Tribunal, we remit the issue back to the AO/TPO for fresh consideration in the light of the DRP's directions for assessment year 2013-2014. It is ordered accordingly.

16. Since assessee's main issue relating technical and marketing support segments raised in ground no. 21 is restored to the AO / TPO for fresh consideration, the other grounds in this segment also are restored to the TPO for fresh adjudication (as the same would be relevant if TPO rejects the assessee's contentions in ground 21). The grounds 21 to 23 are allowed for statistical purposes.

Adjustment determined in respect of warranty cost

17. The relevant grounds are reproduced above. The Assessee provides telephonic support services for standard problems to the customers who purchase the products sold by DGBV in India. The technical support services include services in relation to products sold by DGBV which are under warranty period. In relation to warranty IT(TP)A Nos.400 & 562/Bang/2015 services, the cost of third party service provider and spares are borne by the Assessee, and recovered from DGBV. The warranty obligation as regards the sales made by the AEs directly in India is wholly on the AEs and the Assessee only provides co-ordination and support services as regards the same, for which it is compensated on cost plus 5%. The co-ordination and support services includes call centre support,

cost for third party services for assistance to customers of the AEs, etc. The cost of spares and parts to be replaced under the warranty are borne by the AEs.

18. The TPO made an adjustment on the basis that the Assessee had not made any recovery towards the warranty services and the out of pocket warranty charges paid to third parties and the same was upheld by the DRP.

19. The ld AR submitted that the Assessee has in fact recovered the expenses incurred in respect of the warranty services, with a mark-up of 5%. Therefore, no further adjustment is warranted. The ld AR also submitted that the above issue is squarely covered by the decision of this Hon'ble Tribunal in the Assessee's own case for the assessment year 2009-10 (supra).

20. We heard the DR. We notice that the coordinate bench of the Tribunal in assessee's own case (supra) for has considered the issue of adjustment towards warranty cost and held as under :-

> "8.7. We have heard rival submissions and perused the material on record. The assessee had submitted that the amount of IT(TP)A Nos.400 & 562/Bang/2015 Rs.211.42 crore does not pertains to the sales made by the AEs in India and it pertains solely to the sales made by the assessee. The DRP in its directions held that the assessee was to show that expenses in relation to providing support services for AEs warranty obligation are either reduced from the cost or accounted for separately. The DRP in fact directed that since the services in relation to the warranty obligations are provided by third party service providers and the assessee is only coordinated for the same, no mark up is warranted. The relevant finding of the DRP in this regard reads as follows:-
>
> "6.6.6 The assessee is directed to demonstrate to the TPO that the above reimbursement has either been reduced from the costs or accounted for separately. In absence of such demonstration, the TPO can take the above to be a part of the warranty costs debited to the P&L account and effect suitable adjustment. Since the services related to warranty are being handled by a third party and the assessee is being used only as a medium, the TPO is not correct in charging a markup on this amount. Hence, the objection relating to markup on the warranty cost is upheld. The TPO cannot charge a markup on warranty amount as such services are not rendered by the assessee to its AE."

8.7.1. In the light of the above directions of the DRP, which we are in consonance with the TPO, is directed to reexamine the issue raised in ground 10 afresh. It is ordered accordingly."

21. Respectfully following the above decision we direct the TPO to re-examine the issue raised in ground no.24 afresh. It is ordered accordingly. This ground is allowed for statistical purposes.

CORPORATE TAX ISSUES Addition of deferred revenue - Ground No.1

22. Ground No.1 is extracted below :-

> IT(TP)A Nos.400 & 562/Bang/2015 Deferred revenue-- Rs. 1,248,869,986 Accrual of income • The learned Assessing Officer ("AO") has erred in disallowing an amount of Rs. 1,248,869,986 contending that income has accrued to the assessee during the current financial year and hence, should be assessed to tax during the current year.
>
> • The learned AO ought to have appreciated that as the contracts extend beyond the current year, the revenue accrues over the period of time which obligates the Company to render services.
>
> No cost incurred The learned AO has erred in contending that, the Company has deferred only revenue and no corresponding cost has been deferred.
>
> The learned AO ought to have appreciated the fact that the outflow of cost/resources would occur only in subsequent period when the actual service are rendered and no cost would be incurred in the current period which requires deferral.
>
> The learned AO and the Honourable DRP ought to have appreciated that recognizing the entire consideration as income during the current year would tantamount to taxing the gross receipts and not the profits or gains arising from such sale.
>
> Right to receive The Honourable DRP has erred in stating that the appellant has the right to receive the income as even when customers opt to cancel the contract, the unutilized balance was not refundable to the customers.
>
> The learned AO and the Honourable DRP ought to have appreciated that as per the terms of sale, the customer has an option to cancel the contract and seek refund of money, if any, already paid.
>
> Further, the learned AO and Honourable DRP ought to have appreciated that the said method of accounting has been consistently followed by the appellant year-on-year.
>
> IT(TP)A Nos.400 & 562/Bang/2015 Notwithstanding the above contention, if the deferred revenue is taxed in the current year, corresponding relief ought to be provided in the subsequent year where the same is offered to tax.

23. The Assessee is engaged in the business of sale of computer hardware, and also offers warranty service to the customers, which represents a contractual obligation on part of the Assessee to provide services for a defined period for a given consideration agreed. Though the entire sale price for warranty is invoiced to customers along with sale of products during the previous year, the obligation to provide services and the outflow of resources (cost of spares, labour and logistics) would happen over a period of time. Therefore, in line with the matching principles of accounting, the revenue for the same would be recognized proportionately in the year of providing the services.

Also, following the matching concept, the cost in relation to providing such services would also be recognized in the same year.

24. The AO brought to tax the deferred revenue of Rs.124,88,69,986/- by holding that the income not only accrued to the Assessee in the current year but was also received and admitted as revenue in the sales tax return and service tax return.

25. The DRP rejected the objections of the Assessee, by holding that the amount received by the Assessee is not refundable to the customers, and therefore the amount paid by the customers was towards outright purchase of services and not an advance to be appropriated against future use of services. On this basis, the DRP held IT(TP)A Nos.400 & 562/Bang/2015 that the Assessee acquired the right to utilize the amount and the income crystallizes as soon as the customer makes the payment. The DRP placed reliance on the directions issued by the DRP in the Assessee's case for the assessment year 2009-10. The Assessee filed an application for rectification of the mistake in holding that the amounts received are not refundable, which was also rejected. In the final assessment order, the AO confirmed the addition.

26. Ld AR submitted that -

• "The learned AO has erred in disallowing an amount of Rs. 1,248,869,986 contending the income has been accrued to the assessee during the current financial year and hence should be assessed to tax during the current year.

• The learned AO ought to have appreciated the submission of the assessee that, contracts for services extending beyond the current financial year, only the proportionate revenue pertaining to the current year can be assessed to tax. The portion of revenue in relation to the services to be provided in future. the income would accrue only during such period and not in current financial year.

• The above view has been upheld by many appellate authorities in various judicial precedents wherein it was held that, "Deposits or advances received by the assessee became trading, receipts when the assessee became entitled to appropriate the same to its income at the time of rendering the service-

• The learned AO also ought to have appreciated the upward and downward movement in the deferred revenue account for various financial year which demonstrate the fact that the income has been offered to tax in the respective year of accrual. The movement of deferred revenue account is submitted below:

> IT(TP)A Nos.400 & 562/Bang/2015 FY 08-09 FY 09-10 FY 10-11 FY 11-12 2,169.175,957 3,418,045,943 1,422,129,676 3,648,364,071 • The learned AO has erred in not accepting the matching concept of accounting enunciated by the Generally Accepted Accounting Principles.

The assessee Company, in line with the matching principles of accounting, has recognized the revenue in respect of contracts spanning over current financial year would be recognized proportionately in the year of providing the services and also following the matching concept, the cost in relation to providing such services has been recognized in the same year.

• The learned AO has erred in not considering the fact that recognizing, the entire consideration of the contract spanning over one financial year, as income during the current year would tantamount to taxing the gross receipts and not the profits or gain arising from such sale.

The learned AO ought to have appreciated the fact that, what is sought to be taxed under the head "Profits and Gains of Business or profession" is profits and gains and not gross receipts. When the services are to be rendered only in the subsequent period which necessitates out flow of resources, without recognizing the cost involved in rendering such services, assessing to tax the entire consideration of the contract is not correct.

• Notwithstanding our objection raised with respect to grant of credit for entire TDS (Ground of objection as per Annexure 1.4), the learned AO having denied the credit for the entire TDS, ought not to have assessed to tax the deferred revenue of Rs. 1,248,869,986.

• The learned AO has erred in contending that, the assessee has deferred only the revenue and no corresponding cost has been deferred.

IT(TP)A Nos.400 & 562/Bang/2015 The learned AO has failed to appreciate the fact that, the obligation to provide the services is not during the current period only. Thus the outflow of resources would occur only during subsequent period when the actual service takes place. When there is no cost incurred during the year for the remaining period of the service contract, question of deferring the cost for that part of contract does not arise.

• The learned AO has also alleged that, the liability created in respect of the deferred revenue is not disclosed in a transparent manner in the balance sheet and has been camouflaged under the head sundry creditors.

The learned AO ought to have appreciated the fact that, the financial statements disclosures are guided by the provision as per Schedule VI of Companies Act 1956. The Company has followed the disclosure requirement as per the prescribed provision of Schedule VI to Companies Act 1956 prevailing, at the time of finalization of financial statements for FY 09-10.

> • Notwithstanding our above contention, we submit that should the said deferred revenue be taxed in the current year, corresponding relief ought to be provided in the future years where the same is offered to tax."

27. The working for deferred service income was provided before the DRP vide submissions dated 12th November 2014 giving the order-wise listing of the consideration deferred to subsequent year out of current year sales and the consideration deferred during the earlier years recognized as revenue during the current year on accrual basis containing, inter-alia, the following details were made available :-

> i. Order number ii. Invoice date iii. Invoice period iv. The amount of income which falls outside FY 2009-10 and deferred and amount recognized during the year IT(TP)A Nos.400 & 562/Bang/2015 v. Sample invoice copies

28. The AO's observation is that there is no deferral of cost. There will be no deferred cost for such income as the same has not been incurred. Since the services are to be rendered in the future years, the Assessee has neither recognized revenue to this extent, nor the cost to be incurred in this regard. The cost will be incurred in the subsequent year and thus, booked in the respective year.

29. In AY 2009-10, when originally the difference between service tax returns and the financial statements were reconciled, the Assessee had erroneously classified Rs. 18.16 crores as deferred revenue. However, before the DRP a detailed reconciliation was given explaining that the same was on account of income considered on a gross basis in the service tax return as against net income in the financials. Thus, the issue of deferred revenue was never relevant in the proceedings under section 143(3) for AY 2009-10 and was not subject matter of appeal before this Hon'ble Tribunal in that year. Therefore DRP's findings in its directions for AY 2009-10 are also irrelevant.

30. The ld DR relied on the order of the lower authorities.

31. We heard the rival submissions and perused the materials on record. The main ground on which the DRP confirmed the order of AO is that the amount received towards warranty is not refundable IT(TP)A Nos.400 & 562/Bang/2015 even when the customer cancels the warranty agreement. The relevant extract from the DRP order reads as under -

> "Having heard the assessee we find that the assessee has stated that the amount so received on account of installation services and upsell warranty services was part of the goods sale process and not refundable to the payers even if the service could not be ultimately utilized by the customer. Even where such customer opts to cancel using the service being offered by assessee, the unutilized balance was not refundable. Thus, the amount paid was for outright purchase of services and not an advance to be appropriated against future use of the service. The assessee acquires the absolute right to utilize the amount so received. Thus, the income crystallizes as soon as a customer makes payment. The right to receive the income vests with the assessee as soon as the services are purchased by customers. Since, the assessee

employed mercantile system of accounting, income would accrue with receipt and it cannot be considered as advance income, which could be deferred for tax purpose."

32. However it is submitted that upon cancellation of the contract, the Assessee has to refund the entire consideration less cost of services already rendered. On perusal of a sample warranty terms (pages 2527- 2540, relevant page 2537, Volume 6 of the paperbook) we notice that the assessee would refund the money upon premature cancellation of warranty service. The extract of the clause in the agreement is reproduced below for reference:-

"Cancellation. Subject to the applicable product and services return policy for Customer's geographic location, Customer may terminate this Service within a defined number of days of Customer's receipt of the Supported Product by providing Dell with written notice of cancellation. If Customer cancels this Service within that period, Dell will send Customer a full refund less the costs of support claims, if any, made under this Service Description. However, if that period has transpired since Customer's receipt of the Supported Product, Customer IT(TP)A Nos.400 & 562/Bang/2015 may not cancel this Service except as provided by an applicable state/country/province law which may not be varied by agreement.

Dell may cancel this Service at any time during the Service term for any of the following reasons:

Customer fails to pay the total price for this Service in accordance with the invoice terms;

Customer refuses to cooperate with the assisting analyst or on-site technician; or Customer fails to abide by all of the terms and conditions set forth in this Service Description.

If Dell cancels this Service, Dell will send Customer written notice of cancellation at the address indicated on Customer's invoice. The notice will include the reason for cancellation and the effective date of cancellation, which will be not less than me 0-01 days from the date Dell sends notice of cancellation to Customer, unless state law requires other cancellation provisions that may not by varied by agreement. IF DELL CANCELS THIS SERVICE PURSUANT TO THIS PARAGRAPH, CUSTOMER SHALL NOT BE ENTITLED TO ANY REFUND OF FEES PAID OR DUE TO DELL."

33. The assessee recognizes that portion of consideration for which invoices have been raised pertaining to the year under consideration and the balance portion of the contract period that pertains to subsequent year is classified under "other liabilities". The revenue thus deferred is recognized in the year in which obligation to provide the services arise. In Assessee's case, as the obligation to provide the warranty services which could involve outflow of resources like goods(spares) and services are yet to occur and hence it is submitted that in line with the generally accepted accounting principles, the revenue is recognized on a straight line basis over the period of

IT(TP)A Nos.400 & 562/Bang/2015 contract. Under the Act, income accrues or arises when the assessee acquires a right to receive the same and the right to receive is coupled with the liability on the other party to make the payment. Further in relation to contracts for services extending beyond the financial year 2009-10 under consideration, the Assessee is under a contractual obligation to render the service to the customer in the subsequent years and the same would involve outflow of cost/resources for the Assessee. It is also important to note that, in case the contract is cancelled, the Assessee is liable to refund the consideration received originally, less cost of services already rendered. From the detailed working and sample invoices submitted before the DRP (pages 2294 and 2541 to 3192 of Volume 6 of the paperbook) that the when the services are rendered in a particular year, the revenue deferred to such year is recognized as revenue during such year (amortised) and offered to tax and therefore it is clear that the Assessee has been recognizing the revenue periodically on the basis of accrual and offered them to tax.

34. The coordinate bench of the Tribunal in the case in Schneider Electric IT Business India Pvt. Ltd. v. JCIT, LTU [ITA Nos. 299/Bang/2014 and 218/Bang/2014) dated 30.04.2019] has considered a similar issue and held that -

> "91. We have carefully considered the rival submissions. The first aspect which we would like to clarify is that it was not correct on the part of the AO to characterize the sum of Rs.5,38,22,153 as undisclosed income. The income is disclosed in the books of accounts but is not recognized for the purpose of income tax computation because of the Assessee's accounting policy which in turn is based on AS-9 of ICAI. The second aspect IT(TP)A Nos.400 & 562/Bang/2015 which has to be clarified is that the deferment of revenue as not pertaining to the relevant AY 2009-10 is also substantiated by the Assessee and the basis of deferral of revenue is clearly given in paper book no.7 pages 1620 to 1897. Therefore there can be no dispute that the income deferred did not pertain to AY 2009-10, if one were to accept that deferral of income, though it has accrued to an Assessee, is possible. The principal question therefore that needs to be addressed is regarding whether deferring revenue is permissible under the mercantile system of accounting followed by the Assessee where income that accrues or arises to an Assessee has to be regarded as income.
>
> 92. The learned counsel for the Assessee in his rejoinder submitted that the decision of the Tribunal rendered in the case of Optum Health & Technology (India) (P.) Ltd. (supra) is clearly distinguishable because in that case not only was the revenue received but also services were rendered and still the Assessee chose to defer revenue recognition and it was in those circumstances, the Tribunal held that deferring revenue was not proper and had to be regarded as income of the relevant year.
>
> 93. We have given a very careful consideration to the rival submissions. Similar issue had arisen for consideration in the case of Punjab Tractors Co-op. Multipurpose Society Ltd. (supra) before the Hon'ble Punjab & Haryana High Court. In that case the facts were that the assessee was engaged in the purchase and sale of tractors, motor cycles, etc., and doing their repairing. It had received advances from the

buyers of tractors to cover their service charges for a period of one year after the expiry of initial warranty period. It had shown same on the liability side in the balance sheet for the assessment year 1978-79 under the head 'Post-Warranty Service Advances' (PWS Advances). It used to make adjustment of the amount received from PWS Advances Account to the Workshop Income Account during the quarter in which the work of repairs and services was done, and included the amount so adjusted as income of the relevant year. Out of the aggregate amount shown in PWS Advances Account, the Assessing Officer treated proportionate sum for the period covered as the assessee's income for the assessment year in question. The Commissioner invoked section 263 and held that the entire amounts received in the previous year towards PWS IT(TP)A Nos.400 & 562/Bang/2015 Advances were trading receipts of the year directly connected with the business of servicing and repairs of tractors. He, accordingly, set aside the assessment. On appeal, the Tribunal upheld the Assessing Officer's action disagreeing with the finding of the Commissioner. On reference, the Hon'ble Punjab & Haryana High Court held as follows:

"The taxability of income normally depends upon the system of accounting followed by the assessee. Even in the case of an assessee following the mercantile system of accounting, a mere claim, by the assessee in respect of an amount without the right to claim cannot form the basis for taxability. Where the assessee follows the cash system of accounting, the taxability is to be based on receipt basis and not on accrual basis. Receipt, either accrued or deemed, is not made a condition precedent to taxability. Profits or gains are taxable if they have accrued or have arisen or are, under the Act, deemed to have accrued or arisen to the assessee in the accounting year. Generally, income must accrue first, receipt normally follows the accrual. In other words, the right to receive must come into existence before the actual receipt takes place. Receipt, by itself, is not sufficient to attract tax. It is only receipt as 'income' which would attract tax. Every receipt by the assessee is, therefore, not necessarily income in his hands. It bears the character of income at the time when it accrues in the hands of the assessee and then it becomes eligible to tax. What is relevant to determine whether money received is income or simply an advance, is the initial character of the receipt and not the head under which the amount is credited in the books of account. If no income has resulted, it cannot be said that income accrued merely on the ground that the assessee has been following the mercantile system of accounting."

The Hon'ble Court accordingly upheld the stand of the Assessee. Holding that the Assessee did not become owner of the money received unless the services are rendered and was not entitled to appropriate the same till service was rendered in lieu of which the same was received in advance.

94. The Hon'ble Madras High Court in the case of Coral Electronics (P.) Ltd. (supra) also dealt with similar case. The assessee is a private limited company carrying on business in IT(TP)A Nos.400 & 562/Bang/2015 television sets. In the previous year ending 31st March, 1983, and 31st March, 1988 corresponding to the assessment years 1983-84 and 1988-89, respectively, the assessee had

collected service charges, which were bifurcated into two items, one as pertaining to year and another pertaining to the subsequent assessment year and, therefore, excluded from consideration in determining the total income of year. The Assessing Officer treated it as income and taxed the same. The Tribunal has held that it is not taxable income. On a reference the Hon'ble Court held the amount that was received was only as charges for the services to be rendered in future. The services may be rendered or may not be rendered depending upon withdrawal of the money as and when the customer required. So, it is highly uncertain as to whether it would at all remain as income of the assessee. Only when the service is done the assessee has a right over the amount that was deposited. Till then, he has no right over the same. It is in that sense till then, it cannot be considered as an income of the assessee and is not eligible to tax.

95. The Mumbai ITAT in the case of IOT Infrastructure & Energy Services Ltd. (supra) had to deal with identical case. The facts of that case were that the Assessee had not offered for tax an amount being difference between progress billing as on 31-3- 2007 and cumulative revenue booked as per accounts as on 31-3- 2007 in respect of three contracts. The assessee explained to Assessing Officer that progress billing was inclusive of advances received from customers which amount did not reflect work performance. It was also explained that progress billing was done not only for amount of work done but also for mobilisation and other advances receivable by it as per terms of relevant contract and that mobilisation and other advances received by assessee by raising progress billings did not represent income of assessee at time of raising progress bills and same therefore had no effect whatsoever on income of assessee, which was recognised by method of percentage of completion. The Assessing Officer, however, held that amount due to customers as shown by assessee was nothing but understatement of its profits and added same to total income of assessee. On further appeal the question before the Tribunal was as to whether amount due to customers as shown by assessee was nothing but receipt of advance before accrual of income and, therefore, same could not be treated as IT(TP)A Nos.400 & 562/Bang/2015 income of assessee at point of receipt. The Tribunal held in favour of the Assessee.

96. As far as the decision of the Tribunal in the case of Optum Health & Technology (India) (P.) Ltd., is concerned, as rightly contended by the learned counsel for the Assessee the facts were that the sums were received in advance and in respect of the sums received services were also performed but still the Assessee did not recognize revenue but postponed recognition based on the bills raised on the clients for services performed. Though there are observations in the order of the Tribunal that postponement of recognition of income is not possible on the basis of AS-9 of ICAI when income accrues or arises under the mercantile system of accounting, those observations have to be confined as decision on the facts of that case. In the light of the decision of the Hon'ble High Courts of Punjab & Haryana and the Hon'ble Madras High Court, we are of the view that the claim made by the Assessee deserves to be accepted. Accordingly the addition made by the AO and confirmed by the DRP is directed to be deleted. Gr.No.19 is accordingly allowed."

35. In the light of the decision of the coordinate bench of the Tribunal and considering the facts of the case as discussed above, we are of the view that claim of the assessee deserves to be accepted and the addition made by the AO as confirmed by the DRP is hereby deleted. This ground accordingly is allowed in favour of the assessee.

Miscellaneous expenses (Ground No.2)

36. During the year, the assessee debited an amount of Rs.48,86,63,000 as miscellaneous expenses in the P&L account. The AO disallowed expenditure to the extent of Rs.15,99,17,645 for want of evidence. The DRP confirmed the disallowance.

IT(TP)A Nos.400 & 562/Bang/2015

37. The ld. AR submitted that the assessee has huge transactions and is therefore bound to have certain routine business expenses miscellaneous in nature. Despite huge data involved, the assessee has provided details for a substantial amount on sample basis of the financial statements and the lower authorities ought to have allowed the deduction for entire miscellaneous expenses. The ld AR also submitted that the DRP failed to take into consideration the details of expenditure to the extent of Rs.6,10,32,535 (at pages 2277-2279 & 8935-8937 Vol. 6 & 12 of PB). The ld AR further submitted that the supporting documents for the balance amount is submitted before the Tribunal in the form of additional evidence and prayed for the admission of the same.

38. The ld. DR supported the order of the lower authorities and objected to the admission of additional evidence.

39. We have considered the rival submissions and perused the material on record. We notice that the reason for disallowance of the expenditure by the lower authorities is that the assessee has failed to produce any evidence supporting the claim. The assessee has now submitted the additional evidence substantiating the claim of the expenditure which goes the root of the issue. For a proper adjudication of the issue and for substantial cause, the additional evidence is admitted and taken on record. We also notice that the DRP has not considered the evidences submitted by the assessee before the DRP. Therefore we remit this issue to the AO for verification of the evidence IT(TP)A Nos.400 & 562/Bang/2015 afresh and decision in accordance with law, after giving a reasonable opportunity of being heard to the assessee.

Advances written off (Ground No.3)

40. The assessee had debited an amount of Rs.12,24,49,541 as advances written off comprising of the following:-

- Fixed deposit to sales tax dept - Rs. 17,10,000

- Service tax receivable - Rs.10,76,66,451

- Receivable from Intel towards reimbursement of advertising expenditure - Rs.1,30,73,090.

41. The AO rejected the claim of the assessee on that ground that deposit with sales tax department and service tax receivable cannot be written off as these are due from Government. With regard to

Intel the AO did not allow the claim as no evidence of income admitted in the earlier year was furnished. The DRP allowed receivables from Intel based on further evidences submitted. However, the DRP confirmed the disallowance with regard to service tax receivable on the ground that the assessee has not demonstrated that the same was not claimed as an expenditure in the year of payment and expectation of refund of service tax cannot lead to write off of the amount. In the absence of document for claim of deposit, the DRP held that the fixed deposit with sales tax department cannot be allowed. Aggrieved, the assessee is in appeal before the Tribunal.

42. The ld. AR submitted that during the FYs 2007-08 and 2008-09 relevant to AYs 2008-09 and 2009-10, the management of the assessee IT(TP)A Nos.400 & 562/Bang/2015 company was of the view that the advances are not receivable and therefore created a provision in those years which was disallowed in the tax computations for the said years. In the current year, on actual write off of the advances, the provision is reversed and credited to the P&L Account and the actual write off is therefore claimed as deduction. Since in the previous year when the provision was created, no deduction was claimed, in the current year, the same is reduced in the computation of income as otherwise, there would be double taxation of the said amount (computation of income at page 9330 of the paperbook). It was further submitted by the ld AR that the AO relying on the mere nomenclature "Advances written off" in the books of accounts of proceeded on the mistaken basis that the amounts written off were in the nature of debts written off, when in fact it was never the case of the Assessee that the advances were in the nature of debts. The ld AR further submitted that the advances written off in assessee's case is in the nature of a business loss which is incurred in the normal course of business

43. The ld. DR supported the orders of the DRP.

44. We have considered the rival submissions and perused the material on record. The advances written off are towards fixed deposits which are no longer recoverable and the service tax not recoverable. We notice that the assessee has made submissions before the lower authorities in this regard. The contention of the AO / DRP treating this write off as bad debts is not right as these amounts are paid in the IT(TP)A Nos.400 & 562/Bang/2015 normal course of business and written off as it is no longer recoverable. In our considered view these are losses incurred in the normal course of business and cannot be termed as debts written off. Further the submission of the ld AR that the service tax amount as and when recovered is offered to tax has merits. It is submitted that the amount in the year under consideration is claimed basis the actual write off against the reversal of the provisions. The fact that provisions when created during the assessment year 2008-09 and 2009-10 are disallowed in the computation is substantiated by the computation statement relating to these years which were submitted as part of paper book. Given this the amount claimed as deduction on actual write off if disallowed will result in double disallowance provided the provisions are reversed and credited to the P&L account of the year under consideration. This fact needs to examined based on evidences submitted in order to decide on the allowability of the advances write off. We therefore remit this issue back to the AO to verify the claim of the assessee factually based on evidences and allow the claim accordingly after giving an opportunity of being heard to the assessee.

Provision for warranty and warranty expenses (Ground No.4)

45. The Assessee had created a provision of Rs. 171,64,00,000/- towards its obligation to provide warranty services, which it claimed as a deduction. Out of the same, Rs. 33,53,00,000/- represents the incremental provision for warranty for the year and the balance Rs.

IT(TP)A Nos.400 & 562/Bang/2015 138,12,00,000/- represents actual expenses towards servicing products under warranty.

46. The AO disallowed the entire provision for warranty on the ground that it is not scientific and also disallowed expenses towards utilization of warranty on the ground that no evidence was submitted in support of such warranty expenses.

47. The DRP confirmed the disallowance of provision for warranty on the ground that the scientific basis of the creating the provision was not established. However, the DRP directed the AO to allow the actual expenditure of Rs. 63,47,04,392/- incurred towards warranty expenditure for which evidence was submitted by the Assessee. Aggrieved, the assessee is in appeal before the Tribunal.

48. The ld. AR made detailed written submission in this regard the extract of which is given below

(i) The assessee has a scientific method of creating the provision and submits that the actual expenses incurred in servicing the customers under warranty period are being utilized from the warranty provision created for such purpose. The details are as follows:-

Particulars	Amount (INR)
Opening balance of provision for warranty (A)	95,72,66,403/-
Add: Provision for warranty created during the year (B)	171,64,60,288/-
Less: Actual expenses incurred during the year (C)	(138,11,78,860/-)
Closing balance of provision for warranty (D) = A+B-C	129,25,47,831/-

(ii) The methodology followed by the assessee in estimating the warranty cost and tracking the related expenses is briefly explained as under:-

a. The assessee has a specialized warranty accounting team which tracks the incidents reported and associated cost of providing warranty services for each of the product;

b. The total sales are divided into various categories of IT hardware products based on the warranty period attached to each such product. The faults are tracked on the basis of a unique identification number attached to each IT hardware so as to identify cases of faults;

c. Thus, the warranty cost is nothing but the product of number of incidents reported and cost involved in servicing each unit under various categories of products;

d. The system of tracking the faults and related warranty costs is extremely scientific with minimal margin of error as it is based on actual faults reported and costs incurred in servicing them. e. The assessee neither creates the provision customer wise nor the utilization of such provision for warranty would be tracked customer wise. The tracking is based on the products and not customers. The warranty service for products sold is carried out based on the service tag number ascribed to each such product. Hence, non-submission of the list of customers for whom the warranty expense has been incurred cannot be the basis to conclude that the assessee does not create provision for warranty on a scientific basis, as has been done by the AO. f. Further, there are automatic reversals of the provision when products go out of warranty period. For the purpose of estimating the warranty provision, the assessee takes into account only those units in respect of which the warranty period has not expired as on the date of estimating the provision.

g. Thus, the closing provision as on 31st March 2010 represents the cost involved for servicing the units for which the warranty period has not expired as on that day.

h. Accordingly, the system would automatically exclude those products for which the warranty period has expired and include IT(TP)A Nos.400 & 562/Bang/2015 only those products (i.e. products sold in past for which warranty period has not expired and products sold during the year with a warranty commitment) for which warranty period has not expired.

i. Thus, based on the above accounting methodology, as the reversals get adjusted with the provision required to be created in the subsequent years, it, in effect, leads to the same being credited to the Profit and Loss account in the subsequent year. j. Detailed submissions as regards the methodology of creating the provision is made before the AO in the submissions dated 21.01.2014 (at pages 1381-1391 of Volume 4 of the paperbook) and also before the DRP vide submission of additional evidence dated 12.11.2014 (Pages 2277-2279, 2333-2339 of Volume 6 read with Volumes 8, 9 and 10 of the paperbook) where complete back-up workings of the provision was provided.

(iii) It is submitted that this issue is covered by the decision of this Tribunal in the Assessee's own case for the AY 2009-10 (Order dated 18.03.2022 passed in IT(TP)A No. 269/Bang/2014).

49. Without prejudice, the ld. AR submitted that the complete details and workings of actual expenses incurred of Rs. 138,11,78,860 was submitted before the DRP (page 2337, Volume 6 read with Volumes 8, 9 and 10), and prayed therefore that to that extent the deduction ought to be allowed.

50. The ld. DR supported the order of the DRP.

51. We have considered the rival submissions and perused the material on record. We notice that issue of allowability of warranty expenses was considered by the Tribunal in assessee's own case for AY 2009-10 (supra) where it was held that -

IT(TP)A Nos.400 & 562/Bang/2015 "12.5 We have heard rival submissions and perused the material on record. As regards the provision for warranty, the learned AR explained that the methodology followed by the assessee for estimating warranty cost is on a scientific basis and it is based on past years experience. The detailed explanation of the learned AR is recorded in para 12.2 (supra), hence, the same is not reiterated. The Tribunal in assessee's own case for assessment year 2002- 2003, 2003-2004 and 2005-2006 had dismissed the appeal of the Revenue and held that the provision of warranty claimed is based on scientific basis and held that it is entitled for deduction. The relevant finding of the Tribunal in assessee's own case Dell International Services India (P.) Ltd. v. Dy. CIT [2018] 89 taxmann.com 44 (Bang. - Trib.), reads as follows:--

> "21. We have given a very careful consideration to the rival submissions. The basis on which provision for warranty was made by the assessee was that the Assessee has arrived at a model for ascertaining the warranty cost, based on the type of equipment, periodicity of warranty and nature of commitment. The Assessee has a specialized warranty accounting team which tracks the incidents reported for each product country-wise and associated cost of providing warranty services. The total sales are divided into various categories of IT hardware products based on the warranty periods attached to each such product. The faults are tracked on the basis of a unique identification number attached to each IT hardware so as to identify cases of faults. The warrant cost is a product of the Field Incident Rate i.e., the number of repairs and the Cost per Incident. Field Incident Rate is determined based on the actual faults reported over the earlier years, the Cost per Incident is determined a scientific basis based on the past experience, which is the sum of the following:
>
> - Cost of Spare Parts;
>
> - Cost of logistics; and
>
> - Labour cost The Assessee writes back the difference between the warrant provision made for a particular year and actual expenditure incurred in the subsequent year, in the subsequent year.
>
> IT(TP)A Nos.400 & 562/Bang/2015
>
> 22. It is not in dispute before us that the basis on which the provision for warranty was made was identical in AYs 2002-03 & 2003-04 as well as in AY 2005-06. The Tribunal has in the appeal for the AYs 2002-03 & 2003- 04 after considering the method of providing for warranty liability by way of a provision, specified that the

provision made was based on past history and was on scientific method of estimating liability on account of warranty claims. It is clear from the chart which has been extracted in the order of assessment that as and when the period of warranty expires, the assessee writes back the provision made in the books of account to the extent it relates to the warranty liability which the assessee does not incur and which was already provided by way of a provision and allowed as deduction in the past. It appears to us that the provision made by the assessee is scientific and is based on past history. We are also of the view that in view of the parity of basis of provision of warranty in AYs 2002-03 & 2003-04 and AY 2005-06, the ruling of the Tribunal in AYs 2002-03 & 2003-04 is squarely applicable to AY 2005-06 also. For the reasons stated above, we do not find any merit in ground No. 3 raised by the revenue and accordingly the same is dismissed."

12.5.1 Similar view has been held by the Tribunal in assessee's own case for assessment year 2002-2003 and 2003-2004 in ITA Nos.362 & 363/Bang/2007 (order dated 18-3-2016,). The relevant finding of the Tribunal reads as follows:--

'5. Learned AR of the assessee submitted that in the earlier order, though the Hon'ble Tribunal held that provision for warranty was made following scientific method and the past history, still the matter was remanded to the AO for verification. He submitted that when the entire material is on record, it is not in the fitness of things, to remand the matter to the file of the AO. Our attention was drawn to the material on record wherein the methodology and basis of estimating warranty provision was made out which reads as under:

"5. Warranty provisioning policy - Methodology and basis of estimating warranty cost:

The company has submitted a detailed methodology of estimating the warranty provision before the AO vide its IT(TP)A Nos.400 & 562/Bang/2015 submission on 17-3-2006 for AY 2003-04. An extract of the acknowledged copy of the same is attached herewith as Annexure 2. Please find below a summary of the same:

The company has arrived at a model for ascertaining the warranty cost, based on the type of equipment, periodicity of warranty and nature of commitment. The company has a specialized warranty accounting team which tracks the incidents reported of reach product country-wise and associated cost of providing warranty services. The total sales are divided into various categories of IT hardware products based on the warranty periods attached to each such product. The fault are tracked on the basis of a unique identification number attached to each IT hardware so as to identify cases of faults."

He also placed a chart in the paper book showing methodology of provision for warranty:

> From the above details, it is clear that provision for warranty is made following scientific method. From the chart it is also clear that as against provision of Rs. 144,114,000/- an amount of Rs. 11,97,00,000/- was utilized in the subsequent year which is almost near the provision. Therefore, it could be easily said that the provision was created based on past history. The methodology followed by the assessee-company cannot be IT(TP)A Nos.400 & 562/Bang/2015 faulted with. Therefore, we direct the A.O. to allow the provision for warranty as a deduction.' 12.5.2 There is no dispute before us that the basis on which the provision of warranty was made in assessment years 2002-2003, 2003-2004 and 2005-2006 as well as in the relevant assessment year is identical. The Tribunal in the above mentioned orders for assessment years 2002-2003, 2003-2004 and 2005-2006 after considering the method of providing for warranty liability by way of a provision, specified that the provisions made was based on past history and was a scientific method of estimating liabilities on account of warranty claims. For the relevant assessment year also, there are automatic reversals of the provision when products goes out of warranty period. For the purpose of estimating the warranty provision, the assessee takes into account only those units in respect of which the warranty period has not expired as on the date of estimation of provision. Accordingly, the system would automatically exclude those products for which the warranty period has expired and include only those products (i.e. products sold in past for which warranty period has not expired and products sold during the year with a warranty commitment) for which warranty period has not expired. Thus, based on the above accounting methodology, as the reversals get adjusted with the provision required to be created in the subsequent years, it, in effect, leads to the same being credited to the profit and loss account in the subsequent year. In view of the parity of basis of provision for warranty for assessment years 2002-2003, 2003-

2004, 2005-2006 and the relevant assessment year, the ruling of the Tribunal in assessment years 2002-2003, 2003-2004, 2005- 2006 is squarely applicable for this assessment year also.

12.5.3 We noticed in the final assessment order, the A.O. had commented that the ITAT order in assessee's group case, namely, CIT v. Dell International Services India (P.) Ltd. (wrongly mentioned as assessee's group company) has been set aside by the Hon'ble High Court and restored to the Tribunal with a direction to examine the claim of warranty. In this background, it is necessary to recapitulate the background of the Tribunal order for assessment years 2002-2003 and 2003-2004. In the first round, the Tribunal vide its order dated 16-12-2017 (in ITA Nos.362/Bang/2007 & 363/Bang/2007) dismissing the appeals IT(TP)A Nos.400 & 562/Bang/2015 filed by the Revenue. The said order was challenged by the Revenue before the Hon'ble High Court of Karnataka in CIT v. Dell International Services India (P.) Ltd. [IT Appeal Nos. 448 and 449 of 2008. The Hon'ble High Court of Karnataka vide judgment dated 26-9-2012, remanded the matter to the Tribunal to decide the issue in the light of Hon'ble Supreme Court's judgment in Rotork Controls India (P.) Ltd. v. CIT [2009] 180 Taxman 422/314 ITR 62 (This is what is referred to by the AO in page 25, para 3 in the assessment order for assessment year 2009- 2010). After remand, this Tribunal further remanded the matter to the Assessing Officer vide order dated 13-2-2015. The same was challenged by the

assessee before the Hon'ble High Court of Karnataka in Dell International Services India (P.) Ltd. v. Asstt. CIT [2017] 88 taxmann.com 451/[2016] 382 ITR 37 (Kar.), set aside the remand order passed by the Tribunal and directed the Tribunal to decide the matter on merits. Pursuant to the judgment of the Hon'ble High Court of Karnataka dated 3-2-2016, the order dated 18-3-2016 was passed by this Tribunal in ITA Nos. 362 & 363/Bang/2007, dismissing the appeal filed by the Revenue (finding reproduced supra at para 12.5.1).

12.5.4 As regards ITAT's order for assessment year 2005-2006, the issue of provision warrant arose in the Revenue's appeal before this Tribunal in IT(TP)A No. 1838/Bang/2013. Vide order dated 13-10-2017, the Tribunal dismissed the Revenue's appeal (finding reproduced supra at para 12.5). In the appeal filed by the Revenue before the Hon'ble High Court of Karnataka against the said order, the Revenue did not raise any ground on provision for warranty (copy of Hon'ble High Court judgment CIT v. Dell International Services India (P.) Ltd. [IT Appeal No. 236 of 2018, dated 9-11-2018] is placed on record). In view of the aforesaid reasoning and following the orders of the Tribunal in assessee's own case for assessment years 2002-2003, 2003-2004 and 2005- 2006, we direct the A.O. to allow provision for warranty as a deduction. It is ordered accordingly.

52. We notice that the method of creation of warranty provision has not undergone change and is consistent with what is described in para 12.5.2 of the above order. Respectfully following the decision of the IT(TP)A Nos.400 & 562/Bang/2015 coordinate bench in assessee's own case we direct the AO to allow the provision made towards warranty. Since we have directed the AO to allow the entire provision made towards warranty, the alternate claim of the ld AR to consider the amount actually spent substantiated by evidences has become academic and does not warrant adjudication.

Disallowance under section 40(a)(ia) of rebates given to customers (Ground No. 5)

53. During the assessment proceedings, the AO called for details of taxes deducted at source on various payments including an amount of Rs. 20,37,71,038/- was in the nature of rebate given to distributors. The assessee submitted before the AO that taxes were not liable to be deducted at source on the rebate given to distributors. The AO made an overall disallowance of Rs. 41,56,91,891/- (including the above amount of Rs. 20,37,71,038/- towards rebate) for want of evidence, and on the ground that Section 40(a)(ia) of the Act is applicable on the payments. On the assessee's submission that out of the amount of Rs. 41,56,91,891/-, an amount of Rs. 20,37,71,038/- represented rebate which was not subject to TDS, the DRP directed the AO to verify the details submitted by the assessee and restrict the disallowance to the extent that tax has not been deducted or not paid within the stipulated period. In the final assessment order the AO made a disallowance of Rs.20,37,71,038 stating that the payments attract provisions of section 40(a)(ia) for non-deduction of tax at source u/s.194H.

IT(TP)A Nos.400 & 562/Bang/2015

54. The ld AR submitted that the sum of Rs. Rs.20,37,71,038 represents rebate payment to distributors on which the provisions of TDS are not applicable. It was further submitted that the Assessee is in the business of manufacture and trading of computers along with related accessories

that are sold goods through its distributors by adopting two models for distribution as described under:

> A. Bill to Order Under this model, the distributor undertakes to collate orders from the prospective customers on behalf of the Assessee and acts as an agent between the customer and Assessee for which the distributor earns commission at a prescribed rate on every successful order. The Assessee is ultimately responsible for all the risks and reward arising from such orders after the same is accepted. The entire obligation pertaining to fulfilment of orders is on the Assessee and not the distributor. The Assessee deducts applicable taxes at source on such commission paid to the distributors under bill to order model.
>
> B. Stock and Sell (SNS) In this model the distributors purchase final products from the Assessee at its own risk and in turn sell the same to the ultimate customer or a sub distributor at a predetermined price. The title in the goods is passed on to the distributor upon delivery of goods subsequent to sale by the Assessee. It is the responsibility of the distributor thereafter to sell such goods to the consumers and any unsold goods would not be returned back to the Assessee. Further, the distributor shall make the payments in relation to such purchases, within the time prescribed in the agreement irrespective of whether the same is sold by him or not. Further, upon achieving certain predetermined targets as set out by the Assessee, the distributors are eligible for rebate / volume discount at a predetermined rate. Therefore the nature of relationship between the Assessee and the distributors is that of a principal-to-principal and therefore there is no tax is liable to be deducted at source. This is evident from a reading of the agreement at page 2063 of Volume 5.
>
> IT(TP)A Nos.400 & 562/Bang/2015

55. The ld AR drew our attention to the various clauses of the agreement to substantiate that the transaction of the Assessee with its distributors in relation to rebate / discount is on principal-to-principal basis and hence the provisions of 194H are not applicable. Further the ld. AR relied on the following case laws in this regard -

- Harihar Cotton Pressing Factory v. CIT (Reported in [1960] 39 ITR 594 (Bombay)

- Ahmedabad Stamp Vendors Association v. UOI (Reported in [2002] 124 Taxman 628 (Gujarat))

- CIT v. Ahmedabad Stamp Vendors Association (Reported in [2012] 25 taxmann.com 201 (SC

- Bharti Airtel Ltd. v. DCIT (Reported in [2014] 52 taxmann.com 31 (Karnataka)

- CIT v. United Breweries Ltd. (Reported in [2017] 80 taxmann.com 123 (Andhra Pradesh and Telangana)

- CIT v. Intervet India (P.) Ltd. (Reported in [2014] 49 taxmann.com 14 (Bombay

- ACIT v. Acer India (P.) Ltd. (Order dated 05.10.2018 passed by this Hon'ble Tribunal in ITA No. 1940/Bang/2018)

56. The ld. DR relied on the orders of the lower authorities.

57. We have considered the rival submissions and perused the material on record. The assessee is distributing the products under two models i.e. Sales through distributors who act as agents and gets compensated on a commission basis. The second model is where the products are sold to the distributor and the distributer get a rebate in the products purchased based on the business volume. When the relationship between the assessee and the distributor is on a principal to principal basis, the rebate /volume discount given by the assessee on the price of products sold to distributer cannot be characterized as IT(TP)A Nos.400 & 562/Bang/2015 commission in order to attract section 194H of the Act thereby there is no liability to deduct tax at source. We notice that the Hon'ble jurisdictional High Court has expressed a similar view in the case of Bharti Airtel Ltd (supra) where it is held that -

> "51. From the aforesaid clauses, it is clear that there is no relationship of principal and agency. On the contrary, it is expressly stated that the relationship is that of principal to principal. Secondly the Distributor/Channel Partner has to pay consideration for the Product supplied and it is treated as sale consideration. There is a Clause, which specifically states that after such sale of Products, the Distributor/Channel Partner cannot return the goods to the assessee for whatever reason. It is the Channel Partner and the Distributor who have to insure the products and the godowns at their cost. They are even prevented from making any representation to the retailers unless authorized by the assessee. What is given by the assessee to its Distributor/ Channel Partner is a trade discount. It is not commission."

58. It is the contention of the assessee that the clauses of the agreement with its distributors demonstrate that the transactions in relation to rebate/discount are on a principal-to-principal basis not attracting the provisions of section 194H. We are of the view that the agreements with distributors require examination to verify the claim of the assessee. We therefore remit this issue to the AO for verification of the agreements which the assessee has entered into with the distributors in relation to discount/rebate transactions and decide the allowability based on the ratio laid down by the Hon'ble High Court after giving reasonable opportunity of being heard to the assessee. This ground is allowed for statistical purposes.

IT(TP)A Nos.400 & 562/Bang/2015 Disallowance of future lease rentals (Ground No. 6)

59. The Assessee is inter alia engaged in the business of giving computer systems on finance lease. In terms of Accounting Standard AS-19 dealing with the accounting for lease transactions, the principal amount of lease instalments to be received over the entire lease period was shown as sales

made during the year in the financial statements. Further, the cost relating to such sales was debited to the Profit and Loss account in the year of such sale. Therefore, in accordance with the requirements of the said accounting standard, the company had recognized the entire principal amount of lease instalments as sales income and debited the cost incurred towards the same as cost of goods sold.

60. For the purpose of Income Tax, the principal amount of lease rental was offered to tax as and when the same accrued. Therefore, portion of principal amount of lease rentals which will accrue only in the subsequent years was reduced in the computation of income of the current year.

61. The AO concluded that the Assessee has acquired assets on finance lease and that the Assessee has claimed deduction of lease rental which is a capital expenditure and disallowed an amount of Rs. 7,58,53,797. Following the directions issued in the Assessee's case for the AY 2009-10, the DRP confirmed the disallowance.

IT(TP)A Nos.400 & 562/Bang/2015

62. Before us, the ld. AR submitted that the AO has brought to tax the entire principal portion of lease rentals amounting to Rs. 7,58,53,797/-in the current year, although the entire lease rental income does not accrue in the first year and the same ought to be taxed as and when they accrue over the lease period. The lease is a cancellable lease at the option of the lessee (clause 21). Hence, considering the entire lease rental as income accrued for the year and taxing the same in the current year is incorrect. It was further submitted that the AO has accepted that the interest component of the lease would accrue as and when the same is due. The same ought to apply for the principal component as well. Thus, the entire principal portion of the lease rentals does not accrue in the current year but accrues over the period of the lease. The ld. AR further submitted that this issue is covered in the Assessee's favour by the decision of this Hon'ble Tribunal for the assessment year 2009-10 (supra). In the light of the above, it is prayed that the disallowance be deleted.

63. The ld. DR relied on the orders of lower authorities.

64. We have considered the rival submissions and perused the material on record. This Tribunal in assessee's own case for AY 2009- 10 (supra) has considered this issue and held as follows:-

"11.5.5 As regards the taxation of future lease rentals are concerned, we notice from clause 21 of the lease agreement states that the lease is a cancellable lease. According to the assessee, the A.O. has brought to tax the entire principal portion of the lease rentals amounting to Rs. 5,89,52,591 in the current assessment year. We are of the view that the entire lease rental income IT(TP)A Nos.400 & 562/Bang/2015 (subsisting during the lease period) does not accrue in the first year as the same ought to be taxed as and when they accrue over the lease period. When the A.O. has accepted that the interest component of lease would accrue as and when the same is due, the same principle would apply to the principle components as well. The stand of the assessee is supported by the judgment of the Hon'ble Punjab & Haryana High Court in the case of Punjab Tractors Co-op Multipurpose Society Ltd. (supra) and the judgment of the Hon'ble Madras High Court in the case of Coral

Electronics (P) Ltd. (supra). The learned AR, on directions from the Bench, had furnished primary entries for leasing. However, there is no clarity on the same. It is not clear how the A.O. has arrived at the figure of Rs. 5,89,52,591 to be disallowed in the current year and how it pertains to the future lease rentals. Therefore, in the interest of justice and equity, we restore the issue of taxation of future lease rentals (also raised in the ground

13), to the files of the A.O."

65. During the course of hearing the ld AR submitted the details of lease rentals (principal and interest) for the year under consideration along with scheme of entries in the books of accounts pertaining to lease rentals. On perusal of the details it is noticed that the said amount of Rs.7,58,53,797 relates to principal portion of the lease rentals, that relate to future years from FY 2010-11 onwards. Respectfully following the ratio laid down by the coordinate bench of the Tribunal in assessee's own case (supra), that the entire lease rental income does not accrue in the first year as the same ought to be taxed as and when they accrue over the lease period we hold that the amount of Rs.7,58,53,797 does not accrue to the assessee in the year under consideration and therefore delete the addition made by the AO in this regard. This ground is allowed in favour of the assessee.

IT(TP)A Nos.400 & 562/Bang/2015 Deduction of provision disallowed under section 40(a)(ia) in AY 2009-10 reversed in the current AY (Ground No. 7)

66. During the AY 2009-10, the Assessee had suo motu made a disallowance of Rs. 22,05,17,807/-, being provision created towards various items, on which taxes were not deducted at source. In the AY 2010-11 under consideration, the Assessee reversed the same in its accounts and claimed the expenditure on actual basis on which taxes were deducted at source. Since the aforesaid amount of Rs. 22,05,17,807/- had already been offered to tax in the previous AY, the Assessee claimed the deduction of the same in the computation of income for AY 2010-11. During the course of hearing the AO called on the assessee to furnish the details of tax deducted at source on the amount claimed as deduction. Since the assessee was able to furnish evidences of tax deducted at source to the extent of Rs. 16,69,09,884/- out of Rs. 22,05,17,807/-, the AO made a disallowance of Rs. 5,09,07,923/- for want of evidence, on the ground that under Section 40(a)(ia) of the Act deduction of the amount was allowable only if tax was deducted at source.

67. Before us, the ld. AR submitted that the impugned deduction is claimed not on the basis of subsequent tax deduction, but on the basis that entries are reversed in the current year and taxing the same would amount to double disallowance. The ld. AR therefore submitted that the amount claimed needs to be allowed as a deduction for tax computation purposes. The ld AR also submitted that the assessee, based on mercantile system of accounting, makes a provision for IT(TP)A Nos.400 & 562/Bang/2015 various expenses that have accrued at the end of the year but for which invoices are not received at the end of the year. The ld. AR further submitted that the provisions created was not only offered to tax during the year of creation, but in the AY 2010-11, these were either reversed or utilized for payment of the invoices, on which taxes were deducted at source at applicable rate of tax. It is submitted that the entire sum of provision created having suffered tax in the previous assessment year, ought to be allowed as a deduction during the year under consideration, on its

reversal/incurring of the expenditure on which taxes were deducted at source.

68. The ld AR also submitted additional evidence with the breakup of the provisions and the subsequent payments / reversals along with the listing of invoices and the tax deducted at source. The ld AR prayed for the admission of the additional evidence.

69. The ld. DR supported the orders of the lower authorities. The ld DR submitted that the additional evidences should not be admitted as the assessee had sufficient opportunity to submit the supporting evidence to substantiate the claim of deduction which the assessee failed to furnish and therefore prayed that the additional evidences should not be accepted.

70. With regard to the disallowance made towards the provisions made the additional evidences now produced goes the root of the issue and the core reason for not allowing the deduction by the lower IT(TP)A Nos.400 & 562/Bang/2015 authorities. For a proper adjudication of the issue and for substantial cause, the additional evidence is admitted and taken on record

71. We heard the rival submission and perused the materials on record. The chart showing details of the section 40(a)(ia) allowance claimed in the year under consideration which is submitted as additional evidence is extracted below Sl Nature of Amount of Listing Reversal entries Balance No expenses provision with the C=(A-B) made out of the (C-D) disallowed in actual amounts AY 2009-10 invoices mentioned in (A) u/s 40(a)(ia) raised in (D) (A) AY 2010-11 (B)

1. Advertising 7,26,35,204 7,15,90,630 10,44,574 6,80,93,152 Repairs and

2. Maintenance 2,70,56,573 - 2,70,56,573 2,66,24,360 4,32,213 Freight

3. Charges 11,66,34,963 11,48,59,720 17,75,243 - 17,75,243

4. Audit Fees 41,91,067 48,66,723 (6,75,656) 41,91,070 -

22,05,17,807 19,13,17,073 2,92,00,734 9,89,08,582 22,07,456

72. According to the ld AR the accounting practice of the assessee is to make the provision for expenses 31st March of the financial year and reverse the same on the 1st day of April of subsequent financial year. The assessee disallowed the provision made on 31st March of 2009 in the computation of income for the assessment year 2009-10. The same amount is claimed as a deduction in the subsequent in the computation of income as the year end provisions are reversed on 1st April 2009. The contention of the assessee that the deduction claimed if not allowed will result in double disallowance has merits. The expenses disallowed is eligible for deduction u/s.40(a)(ia) of the Act as and IT(TP)A Nos.400 & 562/Bang/2015 when the tax is deducted at source on such expenses. The reversal of provisions done on 1st April 2009, would go to nullify the impact of the expenses claimed by way of debit to the profit and loss account on which tax is deducted at the time of the payment. Therefore the reversal of provisions disallowed in the computation of assessment year 2009-10 is to be claimed as a deduction in the assessment year

2010-11 so that the expenses eligible for deduction u/s.40(a)(ia) is rightly claimed in the computation. However the most important fact that needs to be verified in this regard is whether the provision made on 31st March 2009 to the tune of Rs. Rs. 22,05,17,807 is reversed on 1st April 2009 and that the same is reflected correctly in the provision for expenses ledger of the assessee. This needs to be verified to justify the claim of deduction of the said amount in the computation of assessment 2010-11 basis the disallowance done in the year 2009-10. The assessee has erroneously submitted before the CIT(A) / AO that the deduction is claimed u/s.40(a)(i) and hence the authorities disallowed the claim as the assessee did not produce the details of tax deducted. However the deduction as per the ld AR is done based on the fact that the provisions which are already disallowed in the previous assessment year is reversed and to avoid double disallowance the same is claimed as deduction in the computation. This fact has not been properly presented before the lower authorities. The lower authorities have to examine whether the year-end provision made on 31st March 2009 is fully reversed on 1st April 2009 and the expenses against which the provision was created is debited to the profit and loss account on IT(TP)A Nos.400 & 562/Bang/2015 payment after deducting TDS. This verification need to be carried out based on the journal entries and ledger copies produced by the assessee for the year under consideration which are submitted now in the form of additional evidence. If the accounting practice of the assessee to reverse the expenses on the 1st day of April of the year under consideration is substantiated by the evidences submitted by the assessee whereby it is demonstrated that there is no doubt allowance expenditure then the assessee would be entitled to claim the amount disallowed in the previous assessment year as otherwise it would amount to double disallowance. We therefore remit the issue back to the AO to verify the ledger and general entries of the assessee for the year under consideration and allow the expenditure in accordance with law. The assessee may be given a reasonable opportunity of being heard in this matter. The appeal is allowed in favour of the assessee for the statistical purposes.

Disallowance of expenditure - repairs and maintenance (Ground

73. During the course of assessment proceedings the Assessee had submitted ledger extract of repairs and maintenance expenses incurred along with details of TDS wherever applicable. The AO identified certain line items in the ledger submitted as under and proposed disallowance for an amount of Rs. 25,68,87,844/- for want of evidence and also holding the same to be capital in nature.

IT(TP)A Nos.400 & 562/Bang/2015

Sl. No.	Particulars	Amount (in Rs.)
1	Post 2006	22,349,449
2	SW Schedule accrual	201,145,200
3	Amort of Comsoft	7,047,462
4	Marcom to Supplies	2,508,257
5	Amort of Comsoft	1,272,170 & 6,869,724
6	Amort of Comsoft	1,257,796 & 6,792,263
7	Amort of Comsoft	1,194,589 & 6,450,934
	Total	256,887,844

74. Before the DRP, on the Assessee furnished break up and explained regarding the amount of Rs. 25,68,87,844/-. The DRP accepted that an amount of Rs. 22,34,94,650/- (Sl.Nos. 1 and 2 above) related to software license and support services and directed the AO to allow the same after verification of TDS having been done. Consequently, the AO deleted the addition to the extent of Rs. 22,34,94,650/- but sustained the addition to the extent of the balance Rs. 3,34,87,844/-

75. The ld AR submitted that assessee is part of the Global Master agreement entered by Dell Global BV with Comsoft PTE Limited ("Comsoft") for Software License and Support & Maintenance services (Page 2331 of Volume 6 read with pages 4215 to 4253 of Volume 8) and that the amount debited as "Amort of Comsoft" in the Repairs & Maintenance ledger (Sl.Nos.. 3, 5, 6 and 7 above), is towards quarterly amortization of Software Support and Maintenance services payable to Comsoft for a period of 24 months. The ld. AR also submitted that the assessee had classified the total Software support and Maintenance charges under prepaid expenses and had been amortizing such expenses on the basis of accrual on a periodical basis.

IT(TP)A Nos.400 & 562/Bang/2015 The workings arrived from the payments agreed as per the schedule in the agreement for the purpose of amortization along with the ledger extract for the said line items showing the USD as well as INR amount of amortization was submitted to the DRP as well. (Page 2331 of Volume 6 read with pages 4255 to 4257 of Volume 8). The ld AR therefore submitted that the amount debited to repairs & maintenance represents payment made towards Software Support and Maintenance services which is revenue in nature ought to be allowed as a deduction.

76. In connection with the line item in Sl.No. 4 of the table, the ld. AR submitted that the said entry had been passed for reclassifying the amount from Advertisement account and the corresponding entry passed in the advertisement ledger account was furnished before the DRP vide submission dated 12.11.2014 (at Page 2331 of Volume 6 read with pages 4259 of Volume 8) and should be allowed.

77. The ld. AR further submitted that the DRP has accepted that software license and support services from Dell Global was revenue in nature while directing the allowance of Rs. 22,34,94,650 and in effect accepted that the payments towards software license and support services is revenue in nature. Therefore the ld AR prayed that the items at sl. Nos. 3, 5, 6 and 7 which are in the nature of software license and support services should also be allowed on the basis of the aforesaid explanation. Reliance was placed on CIT v. N.J. Invest India P. Ltd. [2013] 32 taxmann.com 367 (Gujarat).

78. The ld. DR supported the orders of lower authorities.

IT(TP)A Nos.400 & 562/Bang/2015

79. We have considered the rival submissions and perused the material on record. We notice that the assessee has submitted details pertaining to the amount disallowed by the AO and that the lower authorities have not examined the same. We therefore remit this issue to the AO with a direction to

verify the evidence submitted in the form of agreements with Comsoft and the journal entries by the assessee and decide afresh in accordance with law.

80. Ground Nos. 9 raised is with regard to short credit of TDS. The ld AR submitted that in the final assessment order, the AO has given credit of TDS of Rs. 11,13,55,387/- as against Rs.18,27,45,100/- as reflected in Form 26AS. After hearing the rival submissions we are remitting the issue back to the AO with a direction to examine the relevant evidences and give appropriate TDS credit accordingly.

81. Ground Nos.10 raised is with regard to levy of interest u/s.234A of the Act. The ld AR submitted that the assessee has filed the return of income before the due date as prescribed u/s.139(1) i.e. on 15.10.2010 and therefore there is interest to be levied u/s.234A. We heard both the parties. The levy of interest u/s.234A is towards the failure on the part of the assessee to furnish the return of income under sub-section (1) or sub-section (4) of section 139, or in response to a notice under sub- section (1) of section 142, or is not furnished at all. In the given case we notice that the assessee has furnished the return of income on 15.10.2010 which is before the due date for furnishing the return of u/s.139(1) for the year under consideration. Therefore we are of the IT(TP)A Nos.400 & 562/Bang/2015 considered view that the levy of interest u/s.234A does not arise. The levy of interest by the AO in this regard is deleted.

82. Ground Nos.11 to 13 are with regard to levy of interest u/s. 234A, 234B & 234C that are consequential in nature and does not warrant separate adjudication.

IT(TP)A No.400/Bang/2015 (Revenue's appeal)

83. We will now take up the appeal of the revenue. The revenue raised 6 grounds against the order of the CIT(A).

84. Ground No.1 raised by the revenue reads as follows

1. The ld DRP has erred in directing the AO to delete the additions made on account of suppression of income of sale of goods and services as under

> Credit notes not considered Standard warranty spares replacement Goods in transit Other items taxable both for service tax and sales tax Internal consumption as per sales register and Scrap sales considered for sales tax return
>
> 85. During the assessment proceedings, the Assessee was asked to submit the copies of Sales Tax and Service Tax returns for the purpose of comparing the revenue as per the sales tax/service tax return and revenue disclosed as per the financials. The assessee submitted the following statement reconciling in this regard.

IT(TP)A Nos.400 & 562/Bang/2015 Sl. Disallowance Amount (in No. Rs.)

1. Credit notes not considered in VAT return 53,97,13,043

2. Standard warranty replacement 39,45,43,757

3. Smart debits deferred revenue account 124,88,69,986

4. Goods in transit (GIT) 31,72,61,000

5. Internal consumption as per sales ledger 10,32,79,473

6. Scrap sales considered for sales tax return 70,04,566

7. Other items taxable for both service tax and sales 58,55,31,514 tax Total 319,62,03,391

8. Rejection of VAT refund claimed as deduction (3,050,789)

86. The AO rejected the above reconciliation submitted by the assessee and made an addition to the tune of Rs.319,62,03,391/-. The DRP granted relief to the Assessee in respect of all the additions, except the addition on account of deferred revenue i.e., smart debits deferred revenue of Rs. 124,88,69,986. The AO deleted the additions in the final assessment order in accordance with the directions of the DRP. The revenue is in appeal against the final order of the AO.

87. The ld DR supported the order of AO with regard to each line item of reconciliation and prayed that the order of the DRP to be dismissed.

88. The ld AR reiterated the submissions made before the lower authorities. The ld AR submitted that the evidences supporting each line item of reconciliation was submitted before the DRP and the DRP after verifying the details submitted has rightfully deleted the addition made by the AO.

IT(TP)A Nos.400 & 562/Bang/2015

89. We have considered the rival submissions and perused the materials on record. We have considered each of the reconciliation items and have adjudicated as given below:-

Credit notes not considered

90. The assessee has filed all details regarding the issue of credit notes including year-wise summary, break-up of categories of credit notes issued by the assessee before the DRP vide its submission dated 12.11.2014. Credit Notes are raised not only towards sales returns but also for some other purposes e.g. correction of originally issued invoice and allowing additional credit period to the customer etc. wherein the Credit Notes have not resulted in reduction of Sales. It was submitted that, once a credit note is raised in the current year, the same ought to be adjusted against the current year's sales irrespective of the year in which the original sale is made. The refund/credit for sales tax discharged cannot be claimed on credit notes raised beyond a period of 6 months from the date of sale for VAT purposes and hence there would not be a reduction in the taxable turnover as per the VAT return. However, the sales tax law per se do not restrict raising credit note after six

months from the date of sale. The contention of the AO, that the credit notes pertaining to the sales made in earlier years cannot be claimed as deduction against the sales made during FY 2009-10 is not tenable. Hence we see no reason to interfere with the decision of the DRP that the Assessee's contentions cannot be brushed aside basis VAT and sales tax returns, and the value of goods returned by IT(TP)A Nos.400 & 562/Bang/2015 customers ought to be reduced from the value of sales irrespective of the date of the original sale.

Standard warranty replacement

91. Dell Global BV - Singapore Branch (DGBV) sells its products to its customers in India under standard warranty terms. As per the terms of warranty DGBV would have to supply goods/spare parts free of cost to its customers in India. Though on import of goods there is no VAT liability, when spares are issued under warranty at free of cost in India, the sales tax law requires discharge of VAT on such issue of spares. The warranty services to DGBV customers in India are provided by the Assessee and the VAT liability of these spares is discharged by the Assessee which is recovered as expense on cost to cost basis from DGBV in addition to the business support service charges. During the financial year 2009-10, the Assessee has reported a turnover of Rs. 39,45,43,757/-in its sales tax returns towards this purpose but it is not a turnover/revenue for the Assessee as the same is recovered from DGBV on cost to cost basis. Hence such an amount has been adjusted in the revenue reconciliation. We notice that before the AO, the Assessee had given sample evidences for Rs. 4,04,63,437/- in the form of e-log report for the state of Tamil Nadu which contains the details of the customer, type of spare issued, date of issuance etc. (Please see submission dated 04.02.2014 filed before the AO at Volume 4, pages 1447 read with 1679-1830). Before the DRP, the Assessee submitted the balance details in the form of e-log reports for IT(TP)A Nos.400 & 562/Bang/2015 all the other states amounting to Rs. 35,40,80,320/- (Please see page 683 of Volume 2 of the paperbook)and also the summary of the warranty replacement and break-up of such cost across states(Page 2290 of volume 6 of the paperbook). Sample delivery challans were also furnished at pages 2503 to 2524 of Volume 6 of the paperbook to demonstrate that these are only issue of spares for which no revenues are earned by the assessee. Considering the nature of transaction as explained above and the evidenced supported by the assessee before the lower authorities we are of the view that the DRP has rightly directed deletion of the proposed addition based on the evidences filed.

Goods in transit

92. The assessee, as per the requirements of para 6 of AS-9, recognizes revenue only upon delivery of products as risks and rewards in the goods would get transferred to the customer upon delivery of goods. In the case of Goods-in-Transit as on 31st March, the invoices are raised and the VAT liability is discharged, however, as the proof of delivery of the goods to the customers is not received, the same is reversed and subsequently recognized as sales during the next financial year, once the proof of delivery received. The said treatment is in accordance with the principles of AS-9 and the revenue recognition policy of the Company as provided in Schedule 16 - Notes on accounts

- Point 1(v) (a) (page 9368 of Volume 14 of the paperbook) which clearly provides that revenue from sale of computer systems and software licenses would be recognized only on delivery to customers.

IT(TP)A Nos.400 & 562/Bang/2015 Thus, in line with the same, the Company has reversed the sales made in cases where the proof of delivery is not received as on 31st March 2010. Before the DRP, the Assessee submitted sample invoice copies and sample delivery challan/other documents evidencing the delivery of goods to the customers post 31st March 2010 for few sample orders under GIT (Please see page 2298-2300 of Volume 6 of the paperbook read with 3193-3656 of Volume 7 of the paperbook). As the above adjustment is in accordance with the accounting policy regularly followed by the Company, the same should be allowed for tax purpose also. Further, the cost related to such sales would also not be charged off to profit and loss account. An entry is passed on 31st March 2010 reversing the corresponding cost from the Cost of Materials and sales from the sales account. The ledger extract showing the accounting entry for GIT in 2009-10 and reversal of the same in 2010-11 has been submitted. (Please see submission dated 14.02.2014 at page 2033- 2034 read with pages 2055-2063 Volume 5 of the paper book). With regard to reversal of cost relating to GIT, generally two ways of disclosure can be followed:

> Option 1 : The closing balance of GIT can be directly reduced from the amount of raw materials consumed.
>
> Option 2: The closing balance of GIT is shown as part of movement in the opening and closing balance of stock.

93. It is submitted that in the financials for FY 2009-10, the Assessee had adopted Option-1 and the amount of cost was directly reduced from "Raw Materials and Components Consumed" under Cost of Materials in Schedule 13. However, in FY 2010-11, Option-2 was IT(TP)A Nos.400 & 562/Bang/2015 adopted for disclosure in the financial statements by way of considering the GIT amount as part of the opening and closing stock in Schedule 13 to account for the cost. It was also submitted that upon adopting Option 2 for FY 2010-11, the previous figures for FY 2009-10 have also been re-grouped and shown as part of opening and closing stock and that it is clear from the Schedule 13 to financials that the differential GIT amount of Rs. 317,261,000 has been directly adjusted with Raw Materials consumed in FY 2009-10 and in the financial statements for FY 2010-11, the same has been shown as an adjustment in the movement of stock. In view of the above we are of the view that the Assessee has not claimed the corresponding cost related to the GIT which has not been recorded as sales in the current year and therefore the we uphold the decision of the DRP in deleting the additions made in this regard.

Internal consumption as per sales register

94. Whenever the Assessee uses laptop and other products manufactured by it internally for use by its employees, sales tax would have to be discharged on the same but the same is not in the nature of taxable revenue (income) to the Assessee. Therefore, the taxable turnover disclosed in the VAT return towards such internal consumption should be reduced to reconcile the same with the revenue as per financials. In support of the contention, the assessee submitted details of such consumption along with invoice wise listing was furnished before the AO (Please see submission dated 4.2.2014 at IT(TP)A Nos.400 & 562/Bang/2015 pages 1941-2024 of Volume 4 of the paper book. Considering these facts we hold that the DRP was right in directing deletion of the adjustment.

Scrap sales considered for sales tax return

95. The Assessee in the financials credits the scrap sales to cost of materials used and discharges the VAT on the same. Therefore, the turnover disclosed in the VAT return is reduced shown as part of the reconciliation. It is submitted that once the scrap sales are credited to the cost of material used, no further addition is warranted. The Assessee submitted party wise details submitted for an amount of Rs.67,35,114 vide submission dated 4.2.2014 at pages 1671-1677 of Volume 4 of the paperbook. The DRP has accepted the submission of the assessee and we are therefore of the considered view that rightly directed deletion of the addition on this count Other items taxable both for service tax and sales tax:

96. The items considered under this head are as under:

- Counter Veiling Duty part of turnover for VAT

- Export turnover not part of sales tax return

- Rejection of VAT refund claimed as deduction Counter Veiling Duty part of turnover for VAT

97. The Assessee operated inter alia out of a unit in SEZ at Sriperambadur where computer hardware is manufactured and generally sold in the Domestic Tariff Area (DTA) which attracts IT(TP)A Nos.400 & 562/Bang/2015 CVD/SAD and also VAT. For VAT purposes, the price inclusive of CVD/SAD is considered as taxable turnover whereas in the financials, the CVD/SAD is not an income as the same is a duty collected from customers and deposited with appropriate taxing authority. Few sample copies of invoices were produced before the DRP vide submission dated 12.11.2014 (at pages 2305-2306 of Volume 6 of the paperbook read with pages 3657-4029 of Volume 7). After considering the facts as explained above we are of the considered view that while the duties/taxes are included in the turnover for the purposes of the other laws, they are not 'revenue' to the Assessee. Therefore, we uphold the decision of the DRP in accepting the contention that same are not to be considered as revenue in the financials.

Export turnover not part of sales tax return

98. We notice that the invoice-wise listing for the same were produced before the DRP vide submission dated 12.11.2014 at pages 2307 of Volume 6 of the paper book read with pages 4031-4032 of Volume 7) and the DRP after the perusal of the above supporting evidences has deleted the addition made in this regard. We therefore see no reason to interfere with the decision of DRP.

Disallowance of VAT refund claimed as deduction

99. An amount of Rs.30,50,789 pertaining to VAT refund was offered to tax in AY 2010-11 by way of crediting to the Sales account and a copy of the journal entry was also submitted during the IT(TP)A

Nos.400 & 562/Bang/2015 assessment proceedings in support of the same. It is also submitted that such amount had been considered to be taxable as income for the FY 2008-09 and therefore the said amount should not be taxed in AY 2010-1. It is also submitted that the amount of VAT refund cannot be considered as sales turnover and thus an adjustment was made in the reconciliation between taxable turnover as per VAT returns and sales turnover as per financial books. Considering the facts explained above we are of the view that the DRP is correct in deleting the addition made in this regard.

100. Ground No.2 by the revenue is regarding miscellaneous expenses, which issue has already been taken up by us in the assessee's appeal and remitted to the AO for fresh consideration. This issue is accordingly allowed for statistical purposes.

101. Ground No.3 by the revenue is regarding disallowance of advances written off, which has already been decided in favour of the assessee while dealing with the assessee's appeal. Hence this ground is dismissed.

102. Ground No.4 of the revenue is regarding addition u/s. 69C of the Act. The brief facts of the issue are that during the FY 2009-10, the Assessee had debited a net amount of Rs. 13,34,17,000 to the profit and loss account towards travelling & conveyance. Party-wise details of gross amount paid or payable towards travelling & conveyance expenses and taxes withheld thereon along with sample TDS IT(TP)A Nos.400 & 562/Bang/2015 certificates were submitted to the AO for an amount of Rs. 13,49,73,565.

103. The AO disallowed the expenditure to the extent of Rs. 15,56,565/-, being excess over the amount debited to the profit and loss account as being unexplained expenditure under section 69C.

104. The DRP accepted the Assessee's contention that the gross amount debited to profit and loss account towards travelling and conveyance is Rs. 13,34,17,000/- and Rs. 15,56,565/- represents the amount grouped under other heads of expense which was subsequently reversed. The DRP directed deletion of the addition. Aggrieved, the revenue is in appeal before the Tribunal.

105. The ld. DR submitted that during the assessment proceedings, the AO noted that expenditure incurred on account of travelling and conveyance was Rs. 13,49,73,565, whereas the amount debited to P&L account was Rs. 13,34,17,000 which resulted in excess payment of Rs. 15,56,565/-. The assessee failed to furnish any satisfactory explanation for the difference. Hence this expenditure of Rs. 15,56,565/- was rightly considered as unexplained expenditure u/s. 69C of the Act and added back.

106. The ld. AR submitted that the difference between amount debited as travelling & conveyance and the amount as per the party- wise break-up submitted amounting to Rs.15,56,565 represents an amount initially debited under repairs and maintenance and IT(TP)A Nos.400 & 562/Bang/2015 subsequently reclassified under other heads of expense in the Profit and Loss account or amount subsequently reversed. The ld AR further submitted that the entire amount for which the break-up has been submitted is debited to the Profit and Loss account and accounted in the regular books of

accounts, the same cannot be disallowed under Section 69C as the source for the said expenditure is automatically explained. Reliance was placed on CIT vs. Radhika Creations [Reported in [2011] 10 taxmann.com 138 (Delhi).

107. We have considered the rival submissions and perused the material on record. We notice that the assessee has submitted the party wise breakup of the expenses and has submitted that the difference in the amount as per breakup and the amount as per profit and loss account is due to the amounts being debited to other line items in the profit and loss account or subsequent reversal. The submission that the entire amount is debited to the Profit and Loss account and accounted in the regular books of accounts, the same cannot be disallowed under Section 69C has merits as the source for the said expenditure is automatically explained. In our considered view the DRP has rightly considered the submissions and deleted the additions and we see no reason to interfere with the same.

108. Ground No.5 raised by the revenue is regarding disallowance of foreign exchange loss. The Assessee's business includes trading and manufacturing of computer hardware and peripheral products. These products are mainly sourced from outside India from Dell group IT(TP)A Nos.400 & 562/Bang/2015 entities and mainly sold in Indian domestic markets with small portion of exports. For the FY 2009-10 an amount of Rs. 15,49,68,827/- was debited to the profit and loss account which is a net result of all kinds of foreign exchange loss/gain during the year i.e. loss/gain on realization of foreign currency amounts on account of transactions in foreign currency as well as re-statement of foreign currency balances as on the period closure as per the prescribed accounting policy being consistently followed by the Assessee. According to the assessee, thus, the entire exchange loss has arisen on settlement/re-statement of foreign currency receivable and payable balances. Further, there were some forward contracts entered by the assessee to hedge the risk against the volatility of foreign currency. Such hedge has resulted in a gain of Rs. 9,10,11,994/- which has been offered to tax.

109. The AO proposed a disallowance of forex loss of Rs. 24,59,80,821/- on the ground that no evidence was provided to substantiate the same. The DRP, relying on the directions issued in the Assessee's own case for the assessment year 2009-10, allowed the Assessee's objections. Aggrieved, the revenue is in appeal before the Tribunal.

110. The ld. DR submitted that the DRP directed the AO to consider the foreign exchange fluctuation on revenue account in respect of the assessee as well as the comparable companies as operating in nature, while determining the margin in the case of assessee. He submitted that the DRP ignored the provisions of Rule 10B(2)(d) that net profit IT(TP)A Nos.400 & 562/Bang/2015 margin realised by the taxpayer in the international transaction shall alone be computed under the TNMM method.

111. The ld. AR For the FY 2009-10, the Assessee had debited a net foreign exchange loss of Rs. 154,969,000 to its profit and loss account. The said foreign exchange loss had arisen on account of the below:-

Particulars	Amount (in Rs.)
Gain on account of forward contract entered by the	(91,011,994)

Assessee	
Realized and unrealized net exchange loss arising on	245,980,821

account of various transactions in foreign currency Net foreign exchange loss debited to Profit and 154,969,000 Loss account

112. The assessee had submitted the workings along with the bank confirmation for the gain accounted on forward contracts. With respect to the realized and unrealized loss, the Assessee had explained the process adopted in booking the forex gain/loss for each of the foreign currency transaction. It is submitted that the exchange loss of Rs.15,49,69,000 claimed as deduction represents realized and unrealized net exchange loss arising on account of various transactions in foreign currency. These losses are accounted in accordance with the principles laid down in Accounting Standard - 11 (AS-11). AS-11 requires a foreign currency transaction to be initially recognized using the exchange rate as on the date of the transaction. However, at each balance sheet date, the foreign currency monetary items would be required to be reported using the closing rate. Thus, in line with the requirement of AS -11, the Assessee has recorded each and every IT(TP)A Nos.400 & 562/Bang/2015 transaction entered into in foreign currency at the exchange rates prevailing as on the date of the transaction and has subsequently recognized a net exchange loss of Rs.15,49,69,000 on settlement or upon revaluation of such transaction. The AO having accepted the exchange gain offered to tax (by netting off with exchange loss) erred in disallowing gross exchange loss claimed by the assessee. The ld. AR placed reliance on the Order dated 18.03.2022 passed by this Tribunal in the assessee's own case for AY 2009-10 in IT(TP)A Nos. 269/Bang/2014 and 217/Bang/2014.

113. We have considered the rival submissions and perused the material on record. It is noticed that this issue has been decided by the Tribunal in assessee's own case for AY 2009-10 in IT(TP)A Nos.269 & 217/Bang/2014 by order dated 18.3.2022 wherein it is held as under:-

> "23.5 We have heard rival submissions and perused the material on record. The net forex loss arising after set-off of the said gain on forward contract is as under:
>
> | Nature of forex loss | Amount (in Rs.) |
> |---|---|
> | Gain on forward exchange contracts | (5,26,74,967) |
> | Realised and unrealized forex loss (Net) - on settlement/re-statement of forex transaction | 116,36,27,892 |
> | Amount claimed as deduction | 111,09,52,925 |
>
> 23.5.1 The AO's observation that the assessee had not offered any gain to tax is ex facie incorrect. AS-11 requires a foreign currency transaction to be initially recognized using the exchange rate as on the date of the transaction. However, at each balance sheet date, the foreign currency monetary items would be required to be reported using the closing rate. Such exchange loss IT(TP)A Nos.400 & 562/Bang/2015 accrued as at the year-end is in accordance with the method of accounting regularly adopted by the assessee and is not notional or contingent in nature. Before the AO, the assessee had submitted the following:

ledger extracts showing the accounting entries for forex gain/loss for the financial year 2008-09;

Sample invoices.

the process adopted in accounting the forex gain/loss for each of the foreign currency transaction;

voluminous back-up workings including monthly Foreign Currency Trial Balance substantiating the net forex gain or loss booked in the forex ledger extracts;

Sample copies of intercompany summary extracts showing the invoice value in foreign currency for various transactions etc. 23.5.2 The AO completely ignored the detailed workings on forex loss. Having mentioned in the order that sample invoice copies were submitted, the AO erred in contending that no evidences were provided by the assessee. The DRP rightly appreciated that evidences demonstrating foreign exchange loss had been submitted and that the same cannot be said to be contingent liability.

23.5.3 Therefore, ground 5 is dismissed."

114. Respectfully following the above decision of the Tribunal in assessee's own case for AY 2009-10 (supra), we dismiss the ground of the revenue.

115. Ground No.6 raised by the revenue is regarding disallowance of other liabilities. During the assessment proceedings, the Assessee had submitted party wise details of Sundry Creditors for an amount of Rs. 1376,60,54,348. Out of the said break-up, an amount of Rs. 41,05,56,400 was disclosed as "Other Liabilities". The AO disallowed IT(TP)A Nos.400 & 562/Bang/2015 the amount disclosed as "Other liabilities" holding the same to be bogus purchases for want of evidence.

116. The DRP allowed the objections of the Assessee and directed deletion of the adjustment. Against this, the revenue is in appeal before the Tribunal.

117. The ld. DR submitted that the AO during the assessment proceedings called for invoice copies and evidence regarding outstanding creditors and other vendors details and invoices which the assessee failed to produce. Hence the AO made an addition of Rs.41.05 crores as bogus purchases which is to be upheld.

118. The ld. AR submitted that during the assessment proceedings, due to huge amount of transactions involved and considering the fact that year end provision for expenses would be classified as other liabilities, the details like names of each and every creditor in respect of all such transaction were not be readily available and could not be produced. Before the DRP, it was contended that in view of the Financial Statements having been audited and certified, the liabilities recognized would be in accordance with the accounting principles and cannot be considered as

bogus purchases. The assessee also furnished party-wise details for a substantial amount of Rs. 409,727,673 before the DRP (pages 2340 - 2341 of Volume 6 read with pages 8895-8933 of Volume 12 of the paperbook). It was submitted that taking into account the aforesaid facts, the DRP rightly deleted the addition and no interference is warranted.

IT(TP)A Nos.400 & 562/Bang/2015

119. We have considered the rival submissions and perused the material on record. We notice that the assessee has produced the details relating major portion of the expenses to the tune of Rs. Rs. 409,727,673 to prove the genuineness of the expenditure. Considering the turnover of the assessee , the volume of transaction, the global presence of the assessee and the fact that substantial portion of the liabilities already evidenced, we are of the considered view that the other liabilities cannot be termed as bogus and therefore see no reason to interfere with the decision of the DRP.

120. In the result, the appeal filed by the assessee is partly allowed and the appeal filed by the Revenue is partly allowed for statistical purposes.

Pronounced in the open court on this 18th day of August, 2022.

Sd/-	Sd/-
(GEORGE GEORGE K.)	(PADMAVATHY S.)
JUDICIAL MEMBER	ACCOUNTANT MEMBER

Bangalore,
Dated, the 18th August, 2022.

/Desai S Murthy /

IT(TP)A Nos.400 & 562/Bang/2015

Copy to:

1. Appellant 2. Respondent 3. CIT 4. CIT(A)
5. DR, ITAT, Bangalore.

By order

Assistant Registrar
ITAT, Bangalore.