आयकर अपीलीय अधिकरण पुणे न्यायपीठ “ऐ” पुणे में
IN THE INCOME TAX APPELLATE TRIBUNAL
PUNE BENCH “A”, PUNE

सुश्री सुषमा चावला, न्यायिक सदस्य एवं श्री आर. के. पांडा, लेखा सदस्य के समक्ष
BEFORE MS. SUSHMA CHOWLA, JM AND SHRI R.K. PANDA, AM

आयकर अपील सं. / ITA No.551/PN/2014
निर्धारण वर्ष / Assessment Year : 2005-06

M/s. Vishay Components India Pvt. Ltd.,
Loni-Kalbhor, Near Pune (C.Rly.),
Pune – 412201 .... अपीलार्थी/Appellant
PAN: AABCK2036L

Vs.

The Addl. Commissioner of Income Tax,
Range – 7, Pune .... प्रत्यर्थी / Respondent

आयकर अपील सं. / ITA No.736/PN/2014
निर्धारण वर्ष / Assessment Year : 2005-06

The Addl. Commissioner of Income Tax,
Range – 7, Pune .... अपीलार्थी/Appellant

Vs.

M/s. Vishay Components India Pvt. Ltd.,
Loni-Kalbhor, Near Pune (C.Rly.),
Pune – 412201 .... प्रत्यर्थी / Respondent

PAN: AABCK2036L

Assessee by : Shri Farooq V. Irani
Department by : Shri S.K. Rastogi, CIT

सुनवाई की तारीख / **Date of Hearing : 09.07.2015**		घोषणा की तारीख / **Date of Pronouncement: 08.10.2015**

आदेश / ORDER

PER SUSHMA CHOWLA, JM :

The cross-appeals filed by the assessee and the Revenue are against the order of CIT(A)-IT/TP, Pune, dated 16.01.2014 relating to assessment year 2005-06 against order passed under section 143(3) of the Income Tax Act, 1961 (in short 'the Act').

2. The cross-appeals filed by the assessee and the Revenue were heard together and are being disposed of by this consolidated order for the sake of convenience.

3. The assessee in ITA No. 551/PN/2014 has raised the following grounds of appeal :-

On the facts and in the circumstances of the case and in law, the Hon'ble CIT(A) has:

*I. **In respect of transfer pricing adjustment***

1. Adjustment in respect of international transaction of export of finished goods

Erred on facts and in law by making a transfer pricing adjustment of Rs.4,70,39,838 to the value of international transaction relating to export of finished goods by rejecting the transfer analysis undertaken (based on selecting Transactional Net Margin Method ('TNMM') as most appropriate method) by the Appellant to determine the arm's length price by:

- not appreciating the fact that the international transaction of export of finished goods to associated enterprises and sales to third parties are not comparable;

- selecting Cost Plus Method ('CPM') as most appropriate method by erroneously concluding that:

(i) for manufacturing function, CPM is the most appropriate method without appreciating the facts in case of the Appellant;

(ii) the Appellant has stated different reason for rejection of CPM in the TP report and before the learned TPO; and

(iii) CPM being the traditional method is preferred over TNMM.

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- not appreciating the facts that the gross profit margin workings provided by the Appellant (submitted based on the specific request of the learned TPO) provides information on gross margin based on standard cost of production considered in Bill of Material for selected sample of products which is different than the actual/real profit earned by the Appellant and hence transfer pricing adjustment based on selected samples of Bill of Materials is not appropriate;

- not appreciating the facts that the goods sold to third parties accounts for only 4% of the total sales of Export Oriented Unit (hereinafter referred to as 'EOU Unit') and hence the same cannot be compared with gross margin earned for exports of finished goods to associated enterprises which account for 96% of total sales under EOU Unit; and

- computing the arm's length price of export of finished goods, without taking into account the lower of 5 per cent variation from the comparable margins determined, which is permitted under the provisions of section 92C(2) of the Act.

2. Adjustment in respect of international transaction of import of finished goods for resale

Erred on facts and in law by making a transfer pricing adjustment of Rs.14,11,280 to the value of international transaction relating to import of finished goods for resale by rejecting the transfer pricing analysis undertaken (based on selecting TNMM method as most appropriate method) by the Appellant to determine the arm's length price by:

- rejecting combined transaction approach adopted by the Appellant by stating that manufacturing and trading cannot be considered as closely inter linked without appreciating the facts in case of the Appellant;

- not appreciating the facts that the import of finished goods from associated enterprises and from thirds parties are not similar and hence not comparable;

- selecting Resale Price Method as most appropriate method; and

- computing the arm's length price of import of finished goods for resale, without taking into account the lower of 5 per cent variation from the comparable margins determined, which is permitted under the provisions of section 92C(2) of the Act.

II. In respect of non - transfer pricing ground

3. ***Set off of brought forward unabsorbed depreciation before claiming of deduction under section 10B of the Act***

Erred on facts and in law by computing the claim of deduction under section 108 of the Act after setting off of brought forward unabsorbed depreciation of DTA and EOU unit and not granting the deduction under section 10B of the Act at source level (i.e. from the profit of the eligible unit for the year of the Appellant)

The Appellant craves leave to add, alter, vary, omit, substitute or amend the above grounds of appeal, at any time before or at, the time of hearing of the appeal, so as to enable Honorable Income-tax Appellate Tribunal to decide this appeal according to law.

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4. The Revenue in ITA No.736/PN/2014 has raised the following grounds of appeal :-

> 1) *On the facts and in the circumstances of the case, learned CIT(A)-IT/TP has erred in deleting the addition made by the Assessing Officer by disallowing the assessee's claim of bad debts amounting to Rs.30,63,290/-.*
>
> 2) *On the facts and in the circumstances of the case, learned CIT(A)-IT/TP erred in holding that after the amendment to section 36(1)(vii) (w.e.f. 01.04.1989), the assessee need not demonstrate to the tax authorities that the debt has become bad whereas the real objective of this amendment was to eliminate the dispute as to the year in which a bad debt was to be allowed.*
>
> 3) *On the facts and in the circumstances of the case, learned CIT(A)-IT/TP has not appreciated that even after the amendment w.e.f. 01.04.1989, the allowance is only in respect of 'bad debt' and 'not just a debt written off.*
>
> 4) *On the facts and in the circumstances of the case, learned CIT(A)-IT/TP is also factually not correct in holding that AO had not discussed any specific bad debt when the AO in his order had listed all the bad debts and had discussed each of them individually in his order for holding as to why the claim in respect of the same was not allowable.*
>
> 5) *The appellant craves to add, amend or alter any grounds of appeal.*

5. The assessee is aggrieved by way of grounds of appeal No.1 and 2 by the transfer pricing adjustment made in respect of international transactions of export of finished goods.

6. Briefly, in the facts of the case, the Assessing Officer made a reference under section 92CA(1) of the Act to the Transfer Pricing Officer (TPO) for computing the arm's length price in respect of international transactions entered into by the assessee with its associate enterprises. The assessee was involved in the manufacture of resistors and capacitors used in various electronic applications / products. The manufacturing facilities of the assessee were divided into Domestic Tariff Area unit ('DTA unit') for manufacturing capacitors and low end resistors, and an Export Oriented Unit ('EOU') for manufacturing certain high end resistors, which were exported to overseas group entities. During the year under consideration, the assessee had also started the activity of providing certain Information Technology

Enabled Services ('ITES') to certain Vishay Group entities. The Vishay Group was a leading international manufacturer and supplier of electronic components which in turn, are used in almost every type of product that contains electronic circuitry, including computer related products, power management products, telecommunications equipments, measuring instruments, industrial equipments, automotive applications, etc. During the year under consideration, the assessee had undertaken various international transactions, which in turn, were reported in the audit report in Form No.3CEB. The TPO after perusing the details / documents filed and the information furnished, was of the view that in respect of certain international transactions, the benchmarking done by the assessee company was not acceptable. Accordingly, a show cause notice was issued to the assessee. The TPO noted that the assessee had aggregated the transactions and taking operating margins over the operating revenue as PLI and following TNM Method had taken external comparables and the arm's length price of the transactions had been determined to be the same as their values as per the books of account. The TPO further noted that separate profitability i.e. operating margins over operating revenue in case of the EOU units and DTA units had been worked out at 15.29% and 8.4%, respectively and the weighted average arithmetical mean of the comparables was worked out at 9.21%. The TPO show caused the assessee that in view of the nature of international transactions undertaken, being different in their nature and scope, the aggregation for the purpose of benchmarking of international transactions should not be allowed. The TPO was of the view that the benchmarking done by aggregating the transactions mentioned in the first four heads of the table was not acceptable and therefore, the same was proposed to be rejected. The TPO thus, show caused the assessee in respect of import of finished goods for re-sale. The TPO observed that the transfer pricing study report

submitted by the assessee did not contain the functional analysis in respect of the said international transactions. The explanation of the assessee that there was no change in the nature of terms and conditions of international transactions as in the earlier years, was not accepted by the TPO and the assessee was asked to give the details and separate profitability towards the transactions relating to import of finished goods for re-sale. The TPO was of the view that where the assessee was involved in trading activity and the assessee was found to be engaged in import of finished goods, which were sold to third parties in India and such imports were from associate enterprises as well as third parties. Accordingly, the assessee was asked to submit the details and separate profitability of the trading activity in respect of items imported from the associate enterprises and those imported from third parties and also separate profitability working up till gross level margins. Considering the details filed by the assessee, the TPO noted that gross profit earned in respect of items imported from third parties was at 32.39% as against 25.03% of gross level margins earned from items imported from the associate enterprises. In view thereof, the TPO proposed to apply Re-sale Price Method (RPM) in respect of transactions relating to import of finished goods in respect of re-sale in India.

7. Further, the assessee had also entered into an international transaction of export of resistors to overseas group companies valued at Rs.57,27,33,837/-. The assessee had benchmarked the transaction by applying TNM Method using operating margins to operating cost as profit level indicator, which in the case of assessee worked out to 18.05% and the weighted average mean of comparable companies was 10.91% and hence, the transaction was found to be at arm's length. The TPO noted that the export of resistors to associate enterprises was done from EOU units of assessee's manufacturing facilities. The items which are

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produced in the EOU unit were not only exported to associate enterprises but were also sold to third parties. In order to verify the profitability generated from manufacture and sale to associate enterprises and manufacture and sale to non-associate enterprises, the TPO asked the assessee to furnish separate profitability statement in the shape of split financials. But in view of number of components being manufactured and sold, the assessee expressed that working of such details would be very laborious and time consuming. The TPO thus, asked the assessee to submit the split financials and profitability statements up to GP level in respect of certain items by doing the ABC analysis. The assessee furnished the details which are incorporated under para 3 at pages 7 and 8 of the order of TPO. The TPO noted from the working of gross margins that for sample size of items, which are about 100 in number and are accounted for nearly 80% of total sales, the gross profit earned in respect of export to associate enterprises was at 44.71% and in case of non-associate enterprises, it was 53.78%. In view thereof, the TPO was of the view that cost plus method was the most appropriate method to be applied, in respect of the said transaction.

8. The assessee furnished written submissions which are incorporated under para 6 at pages 9 to 17 of the order of TPO. Vide para 6.2.2, the TPO first decides that the combined transaction approach as adopted by the assessee to benchmark the transaction along with other transactions, was not acceptable and was rejected. In respect of imports made from the associate enterprises and third parties, the case of the assessee before the TPO was that the items were not similar or same and there was difference in technical specifications and also difference in application of products, and hence, application of re-sale market price method was not warranted to determine the arm's length price of the said transaction. Similarly, plea of the assessee in this regard was also rejected since the products had

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different technical specifications and different applications and hence, it was suitable to apply RPM method. The plea of the assessee that it was importing different items from associate enterprises as compared to the products imported from third parties, was rejected in view of the TP study carried on by the assessee while following the TNM Method. The TPO was of the view that the assessee's DTA and EOU units were in manufacturing of capacitors and low end resistors and high end resistors, respectively. Further, the static film capacitors and ceramic capacitors, which the assessee had imported from its associate enterprises and also the aluminum electronic capacitors, which had been imported from third parties, and the manufacture of the same form the set of comparables adopted by the assessee. Though the technical specifications may differ, the market was same as electronic components were different applications. Accordingly, the TPO held that resistors / capacitors whether imported from associate enterprises or from third parties, so far as the nature of products was concerned, they remained same simpler and the application of RPM method in the present analysis was fully justified. The plea of the assessee that the import of finished goods from associate enterprises and third parties was not comparables because of technical specifications and use, was also rejected as the assessee for its benchmark, had followed the TNM Method, which had not separately evaluated the said transaction. The entire trading activity was considered to be part of the manufacturing activity of the assessee itself and the aggregation of transaction and its valuation was adopted. In view of the contention of the assessee about non-comparability of transaction of import of finished goods from associate enterprises and third parties, was found to be not acceptable and was rejected. In view thereof, an adjustment was proposed to the international transactions relating to import of finished products for re-sale at Rs.14,11,280/-.

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9. Further, applying cost plus method in respect of international transactions relating to export of finished goods / resistors, the assessee furnished the reply and after considering the reply of assessee, the TPO held that the submissions of the assessee that difference in the transactions and their non-compatibility, was not acceptable in the facts of the case. Further, either Rules or OECD guidelines also did not support assessee's contention. The contention of the assessee that application of CPM method was not warranted because finished goods exported to associate enterprises and sold to third parties were not similar in terms of technical specifications and end use application, was also rejected. The TPO in this regard observed that what was benchmarked was the production from the EOU units, which meant that products manufactured therein were for exports only. The market for the export of products was in the hands of assessee was to its associate enterprises as none of the exports from EOU units was to third parties. In other words, the associate enterprises used the EOU units of the assessee, as manufacturing base for certain types of resistors and trimmers. This was nothing but joint phase arrangement for manufacturing resistors and trimmers, which were in turn, were the end products itself, but to be used in the final products. Under the circumstances, the contention of the assessee that its case did not fit into the CPM method was found to be not acceptable by the TPO and the same was applied to benchmark the international transactions of the assessee. The TPO further observed that even if the arrangement for establishing the EOU units was to cater to the demand of associate enterprises, but in case there was an opportunity available for commanding better price for products, the same should not be charged to associate enterprises and in this regard, the profit of the assessee should not be compromised. The market price of the assessee's products in India, as per the TPO, were the indicators of the fact, as to what price the products of the

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assessee can command and its resultant profits. The alternate plea of the assessee of excluding the transaction of sale to Secured Meters and Ador Powerton Ltd. was also rejected by the TPO because of its usage in energy meters. The TPO thus, proposed an adjustment to the extent of Rs.4,70,39,832/- in respect of international transaction relating to export of finished goods. The Assessing Officer passed the assessment order under section 143(3) of the Act making TP adjustment of Rs.4.84 crores.

10. The CIT(A) after elaborating upon the issue, noted that the assessee has aggregated the international transactions of import of raw materials and finished goods, export of finished goods and receipt of commission for the application of TNM Method. As far as the import of raw materials and export of finished goods is concerned, the CIT(A) held that these transactions pertain to the manufacturing function carried out by the assessee. However, import of finished goods for re-sale was held to be a trading activity and the international transaction of receipt of commission was a commission activity and the assessee's contention was that the transaction of manufacturing, trading and commission activities required to be aggregated. Referring to the OECD Transfer Pricing Guidelines, 2010 i.e. 3.9 and 3.10, the CIT(A) observed that the transaction may be aggregated, when it was not possible to evaluate them separately and when the transactions were clearly linked and continuing. However, as per the CIT(A), the TP study report of the assessee was not in accordance with paras of OECD Guidelines. The CIT(A) accepted the view of the TPO that manufacturing and trading functions should be segregated and separately benchmarked.

11. The second issue which was considered by the CIT(A) was the application of most appropriate method. The CIT(A) after considering the approach of the

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assessee of aggregation of transactions and consequent rejection of TNM Method, held that in respect of manufacturing functions, CPM method was the most appropriate method. Then, the plea of the assessee that exports segment could not be compared with the domestic segment as it had sold the resistors technically of different specifications, was also not agreed upon by the CIT(A), in the absence of details that major components of sale to the associate enterprises as well as third parties consisted of different resistors, so as to make the gross margins. The contention of the assessee that exports segment and the domestic segment could not be compared because geographical difference, was also not valid. The CIT(A) noted that the assessee was not a contract manufacturer for associate enterprises, but operates as normal manufacturer and this being so if the assessee has lesser margins in exports segments than the domestic segment, same does not reflect Indian commercial realities. Hence, this argument of the assessee was also rejected. Further, the CIT(A) also rejected the plea of the assessee that it had sold only 4% of its products in the domestic products as against 96% products manufactured being exported outside India, in the absence of any details. Accordingly, the adjustment to the international transaction of export of finished goods at Rs.4.70 crores was upheld by the CIT(A). The CIT(A) further upheld the adjustment to international transaction of import of finished goods for re-sale. The CIT(A) upheld the application of RPM method for benchmarking the international transaction of the assessee.

12 The assessee is in appeal against the above said adjustment made in the international transaction of both the export of finished goods and import of finished goods for re-sale.

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13. The learned Authorized Representative for the assessee stressed that the assessee was applying TNM Method in its TP study in order to benchmark its international transaction, whereas in respect of international transaction of export of finished goods, the TPO proposed and the CIT(A) accepted the application of CPM method being most appropriate method. In respect of import of finished goods though the assessee had benchmarked its international transaction on TNM Method, but the TPO had applied RPM method for the same. The learned Authorized Representative for the assessee pointed out that common transactions were entered into by the assessee with its associate enterprises for all the subsequent years and the assessee was consistently following the method of TNM Method to benchmark its international transaction from year to year, which has been accepted by the Department. The assessee had aggregated the transactions and had also applied TNM Method. Where the products remained to be the same and in the absence of any evidence found to the contrary, the plea of the assessee before us was that the TNM Method should be applied in order to benchmark its international transaction. In turn, the learned Authorized Representative for the assessee drew our attention to the assessment orders and computation of income for assessment years 2006-07 to 2008-09 placed at pages 8.1 onwards.

14. The learned Departmental Representative for the Revenue on the other hand, pointed out that admittedly, in subsequent years, the method adopted by the assessee i.e. TNM Method was accepted by the TPO. Our attention was drawn to the TP Study report placed at pages 33 and 34 of Paper Book and it was pointed out that where the assessee has entered into various transactions which are functionally dissimilar, then the aggregation of transactions cannot be allowed. Further, the learned Departmental Representative for the Revenue relied on the order of CIT(A).

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15. We have heard the rival contentions and perused the record. The issue arising in the present appeal in respect of transfer pricing adjustment is in relation to the application of most appropriate method for benchmarking the international transaction entered into by the assessee with its associate enterprises. The assessee during the year under consideration, had entered into various international transactions as under:-

Sr No	Nature of transaction	Amount (Rs)	Method applied
1	Import of raw materials	9,84,79,170	TNMM
2	Import of finished goods	1,25,03,453	
3	Import of Capital Machinery	4,71,93,102	
4	Direct indent commission	32,38,019	
5	Export of finished goods	57,27,33,837	TNMM
6	Reimbursement of 1) Software 99,47,110 2) Other expenses 45,21,043	1,44,68,153	At cost Actuals
7	IT support service fee	2,02,46,944	TNMM
8	ARP & BOM com service	47,51,221	TNMM
	Total	77,36,13,899	

16. The assessee had aggregated the international transaction of import of raw materials and components for manufacturing finished goods for domestic sales as well as for exports, with international transactions of import of finished goods for re-sale trading and of receipt of commission, for benchmarking for the purpose of transfer pricing analysis. The assessee had applied TNM Method on the aggregate transactions by using the profit level indicator of operating margins / operating revenue (OM / OR) and had submitted separate profitability in terms of operating margins / operating revenue in the case of EOU units and the DTA units and worked out the PLI at 15.29% and 8.4%. As against the above weighted average arithmetical mean of comparable companies, was worked at 9.31% by the assessee in its TP report. The conclusion of the assessee was that the transfer pricing of international transactions was at arm's length price. However, the TPO

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rejected the aggregation approach adopted by the assessee and he further applied RPM method for benchmarking international transactions of import of finished goods for re-sale and further, applied cost plus method for international transaction of export of finished goods. In respect of import of finished goods for re-sale, the TPO applying RPM method worked out that the assessee had earned gross profit margins on items imported from third parties at 32.39%, whereas it had earned gross profit of 25.03% on items imported from associate enterprises, making an adjustment of Rs.14,11,280/-. With regard to the export of finished goods to the group companies, the TPO noted that the assessee had earned gross profit margins from manufacturing and sale to non-associate enterprises at 53.78% as against the gross profit margins earned from manufacturing and export to associate enterprises at 44.71%. The difference in gross profit margins in the above two segments was proposed as an adjustment in the hands of the assessee by the TPO at Rs.4.70 crores. The Assessing Officer incorporated the above said adjustment in the assessment order resulting in addition of Rs.4.84 crores. The assessee is in appeal against the adjustment made by the TPO which have been applied by the Assessing Officer and has been upheld against the assessee by the CIT(A).

17. The principal objection of the assessee before us is that it had been consistently following the TNM Method for benchmarking its international transactions with its associate enterprises both in the preceding and succeeding years and except for the year under consideration, the TNM Method followed by the assessee by aggregating international transactions, has been accepted even in the subsequent years. The assessee has placed on record the assessment orders relating to assessment years 2006-07 to 2008-09 at pages 8.1 to 811 of the Paper Book. The perusal of order of TPO under section 92CA(3) of the Act relating to

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assessment year 2006-07, dated 29.10.2009 placed at pages 8.1 to 8.27 of Paper Book reflects that the TPO had noted the international transactions entered into by the assessee with its associate enterprises, which included the export of finished goods to overseas group companies and also import of finished goods for re-sale. The TPO has accepted the aggregation and also the TNM Method applied by the assessee in its TP study report. The objection of the TPO however, was with regard to the comparables picked up by the assessee in its TP study and the proposed addition on account of arm's length price of the assessee's international transaction was on account of arithmetical mean of the PLI's of comparables arrived at 24.78% as against the operating profit over operating cost of the assessee at 11.17%. Further, the assessee has placed on record the assessment order relating to assessment year 2007-08 at pages 8.31 to 8.78 of Paper Book. The said order is also dated 29.10.2009 and the assessee had entered into similar international transactions and had aggregated its transactions and had also applied TNM Method by using operating profits over operating cost. The objection of the TPO was not with regard to application of TNM Method, but the comparables to be applied and the adjustment on account of arm's length price of international transaction was proposed, in view of the PLI's of comparables picked up by the TPO in final analysis. Similarly, in assessment year 2008-09 vide order passed on 31.10.2011, the TPO has considered the international transactions entered into by the assessee with its associate enterprises, which were similar to the international transactions entered into by the assessee with its associate enterprises in the impugned assessment year. The application of TNM Method and the aggregation of various international transactions has been approved by the TPO though the adjustment has been made to the international transactions on account of various

other factors. The copy of the said order of TPO is placed at pages 8.92 to 8.116 of Paper Book.

18. The case of the assessee before us is that in view of the above said facts and circumstances, there was no merit in deviating from the TNM Method applied by the assessee to benchmark its international transactions with its associate enterprises on aggregate basis. Undoubtedly, the doctrine of *res judicata* is not applicable to the tax proceedings, but at the same time, where there is no change in the facts in respect of a particular transaction and / or issue or proceedings, then it is the requirement of law that consistency should be maintained and the methodology adopted by the assessee for benchmarking its international transactions should not be disturbed. Where the Revenue from year to year has accepted the method adopted by the assessee for benchmarking its international transactions with its associate enterprises, in the absence of any reasons brought on record, there is no merit in deviating or taking stand contrary to the stand accepted in both the preceding and succeeding years, while benchmarking the international transactions in the hands of the assessee. In the absence of TPO or CIT(A) having been able to demonstrate as to how the facts of the present year are different from the facts of other years, which were before the authorities, there is no justification for taking a different stand. The assessee has time and again explained the reasons why it had adopted the TNMM method and had also explained the difference between the exports made to the associate enterprises and non-associate enterprises and also sales made in the domestic market. The assessee has also explained the functional risks which are different for both the segments and consequently, no comparison could be made on the gross profit level, as adopted by the TPO for benchmarking international transactions of the assessee with its associate enterprises. The explanations of the assessee have

been rejected by the TPO/CIT(A) without any basis, wherein similar explanation has been accepted by the TPO itself in all the other years. The conduct of the business and the products manufactured are identical in the year under consideration, when compared to the other years i.e. assessment years 2006-07, 2007-08 and 2008-09. In the entirety of the above said facts and circumstances, we are of the view that the adoption of TNMM method was the most appropriate method for benchmarking international transactions with its associate enterprises and we find no merit in the order of Assessing Officer in adopting RPM / CPM method to benchmark the international transactions with its associate enterprises. We hold that the TNMM method should be applied on aggregate basis for benchmarking international transactions of the assessee.

19. We find support from the order of Tribunal in John Deere India (P.) Ltd. Vs. DCIT in ITA No.1476/PN/2010, relating to assessment year 2006-07, wherein the Tribunal vide order dated 20.02.2015 had decided the issue on both the aspects i.e. where a method has been consistently followed by the assessee why the same should not be applied to benchmark its international transactions and also the issue of application of TNMM method as compared to CUP method applied by the TPO. The Tribunal vide paras 16 to 21 has observed as under:-

> *"16. We have heard the rival submissions of the parties and perused the record. We have also considered all the decisions and precedents relied on by both the parties. On this ground there are two sub issues – first is rejection of the TNMM method adopted by the assessee and substituting the said method with CUP by the TPO/DRP and second issue is in respect of the ALP adjustment made by the Assessing Officer. In this case, the ALP adjustment is made only to the export of tractors and in respect of other reported transactions the Assessing Officer has accepted the method adopted by the assessee as well as determination of the ALP as per the T.P. study filed by the assessee. The contention of the assessee is that it had exported tractors to AEs for last several years and the assessee has adopted TNMM method as the most appropriated method for determining the ALP in respect of the transaction of export of tractors to the AEs from A.Y. 2004-05. The said contention of the assessee has not been disputed before us by the Revenue. Admittedly, for all those assessment years*

starting from 2004-05 onwards and also for the A.Y. 2008-09 the Assessing Officer has accepted the TNMM method as a most appropriate method for determining the ALP in respect of the sale of tractors by the assessee to the AEs. The assessee has filed the copies of the assessment order for the A.Ys. 2004-05 and 2005-06 which are placed in the Compilation (Page Nos. 282 - 285 of the P/B-2). The assessee has also filed the TPO's order for the A.Y. 2008-09 which is placed at Page Nos. 353 – 354 of the P/B-2. Though the TPO/DRP has gone on discussing the provisions of law but have conveniently ignored to put of record how the facts of the current year are different from the fact in A.Ys. 2004-05 and 2005-06 as in those years the TNMM was adopted by the assesse for determining the ALP which has been accepted as a most appropriate method by the TPO without any objection or reservation. The assessee has also filed the copy of the TPO order for the A.Y. 2008-09 which is also placed at Page Nos. 353 – 354 of the P/B-2.

17. There is no dispute on the proposition that the doctrine of the res judicata is not applicable to tax proceedings but at the same time if there is no change of the facts in respect of the a particular issue and the Revenue has a particular approach or method to determine the taxability then there must be consistency and this view is expressed by the Hon'ble Supreme Court in the case of Radhasoami Satsang Vs. CIT 193 ITR 321 (SC). It is also certainly strange that in the A.Y. 2008-09 the TPO has again accepted the TNMM method as an appropriate method which was adopted by the assessee and has not disturbed the result. We may refer here to the few decisions of the other Co-ordinate Benches in which it is held that when the facts involved are similar in various years and the Revenue has accepted the method adopted by the assessee in some years then there is no reason to take a different stand in the subsequent years without explaining the reasons how the facts in the said year are different than the preceding years:

- *i. Alfa Laval (I) Ltd. 149 ITD 285 (Pune).*
- *ii. H.A. Shah & Co. Vs. CIT 30 ITR 618 (Bom).*
- *iii. Brintons Carpets Asia (P) Ltd. 139 TTJ 177 (Pune)*
- *iv. Drilbits International Pvt. Ltd. 62 DTR 171 (Pune).*
- *v. Agility Logistics (P) Ltd. 145 ITD 566 (Mum).*
- *vi. Skol Breweries Ltd. 153 TTJ 257 (Mum).*

18. Now, let us look into the T.P. study report filed by the assessee before the TPO. The TPO has rejected the comparable entities selected by the assessee company. It is seen that in the A.Y. 2005-06 out of the 8 comparable selected by the assessee, 7 comparable were common and the TPO has not disputed those in that year. In this year, the TPO expressed the reservation on the comparable selected by the assessee to support his working of the ALP. There cannot be two standards for the Assessing Officer one standard in one assessment year and different standard in the subsequent year without explaining how facts differ. It is seen that the TPO has gone on the turnover for rejecting the comparable of the assessee but in the preceding year A.Y. 2005-06 the TPO had accepted the very same companies as comparable. If TPO desires to reject the comparable as there is a change in the parameters or FAR analysis then he should have brought on record how the parameters of the FAR are different in this year as compared to A.Y. 2005-06. There is a merit in the contention of the assessee that the tractors segment is niche segment and there is no much

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difference in the turnover of the comparable entities selected by the assessee.

19. The TPO has expressed his reservation on the Escorts Ltd. and HMT Ltd. comparable selected by the assessee on the ground that those two companies have incurred losses. It is seen that in the A.Y. 2005-06 those two companies has incurred the losses but in spite of the losses in that year, the TPO has not rejected those two companies as a comparable. We fail to understand why there is inconsistency approach of the TPO in the next assessment year i.e. A.Y. 2006-07 which is before us, even though there is no change in the parameters of the FAR. The Ld. Counsel argues that those two companies had incurred losses in their normal day to functioning and the losses were not on account of any exceptional factors. In our opinion the approach of the TPO in respect of those two comparable companies selected by the assessee is erroneous and there is no justification for the TPO to reject those two comparable. The TPO has also objected to the inclusion of another entity i.e. Kerala Agro Machinery Corporation Ltd. (KAMCL) on the ground that the said company is manufacturing power tillers and power reapers and not engaged in the business of manufacturing tractors. According to the TPO the said company cannot be considered as a comparable for determining the ALP in the case of the assessee. The TPO has also stated that KAMCL is a PSU and hence, on the point of management, the TPO expressed his reservation to accept the said company as a comparable. In respect of HMT Ltd., the TPO states that the said company is not only manufacturing of tractors but also engaged in other activity. The TPO has further noted that VST Tillers is also engaged in different business and therefore and cannot be accepted as a comparable. On one more comparable entity i.e. a Escorts Ltd. the TPO has stated that Escort is also selling farm equipments along with tractors and therefore the said company cannot be considered as a comparable entity.

20. The main objection of the assessee is on the approach of the TPO it is submitted that in the preceding year the TPO accept those companies as a comparable have determining the ALP when in that year also all the facts and figures were before him in the A.Y. 2006-07 the TPO adopt the different approach. In respect of the reservation of the TPO to accept the Escorts as a comparable, the assessee's contention is that the main business is of selling tractors and hence, the assessee has considered said company as a comparable entity and this was demonstrated before the TPO also. In respect of the HMT also the turnover of the tractors accounts for 90% of the total turnover hence, even in the business of the segmental results HMT should be considered as a comparable entity. The alternate contention of the assessee is that even if the TPO is correct with regard to the four companies cited (supra) but still balance four companies are comparable to the assessee company and in the same business as no specific objection is noted by the TPO, those companies should be considered as comparable. The assessee states that net operating margins (NOM) of the balance four companies is within plus or minus 5% of the net operating margin of the export segment and hence, the transactions are at ALP. The assessee has filed the working on the above contention which is as under:

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Sr. No.	*Name of the company*	*Net operating margin*
1	*Tractors & Farm Tractor Ltd.*	*11.90%*
2	*Mahindra & Mahindra Ltd.*	*8.65%*
3	*Punjab Tractors Ltd.*	*11.50%*
4	*International Tractors Ltd.*	*15.41%*
	Average net operating margin	*11.87%*
	Net operating margin of export segment	*11.17%*

21. It is seen that out of the 8 companies selected as a comparable in this year i.e. A.Y. 2006-07, 7 companies were also selected in A.Y. 2005-06 and only KAMCL is added as a new comparable companies in this year. On perusal of the data in our opinion KAMCL cannot be considered as a comparable in the A.Y. 2006-07 as said company is not admittedly in the business of manufacturing tractors. But in respect of the remaining 7 companies as per the data placed before us, all those companies are in the line of same business i.e. tractor manufacturing. If we put the remaining 7 companies selected by the assessee, the picture is as under:

Sr. No.	*Name of the company*	*Operating Turnover*	*Profit Margin*
1	*Escorts Ltd.*	*1320.32*	*-12.02%*
2	*Tractors & Farm Tractor Ltd.*	*1391.20*	*11.90%*
3	*Mahindra & Mahindra Ltd.*	*3441.82*	*8.65%*
4	*VST Tillers Tractors Ltd.*	*131.14*	*9.40%*
5	*Punjab Tractors Ltd.*	*958.55*	*11.50%*
6	*International Tractors Ltd.*	*953.25*	*15.41%*
7	*HMT Ltd.*	*281.24*	*-4.84%*
	Average		*5.71*

The average operating margin of 7 companies is at 5.71% as against 11.17% of the export segment of the assessee company. It is also seen that the assessee has share in the sale of tractors in domestic market also. We, accordingly, hold that the transaction of export of tractors to its AEs is at ALP within the settle parameters.

20. The Tribunal further dealt with the second aspect of the issue i.e. the application of most appropriate method and observed as under:-

"22. Let us deal with another objection of the TPO on the appropriate method whether the TNMM which is adopted by the assessee is a correct appropriate method or CUP which is applied by the TPO. This issue stands covered in favour of the assessee by the decision of the ITAT, Pune in the case of Drill bits International Pvt. Ltd. (supra). In the said case the TPO had rejected TNMM

method and had computed the ALP by adopting the CPM. The assessee explained that there are various differences in the two segments in the form of marketing functions, credit risk, types of customers, etc. etc. and hence, the CPM could not applied. The Tribunal held that considering the differences in the functions performed and the assets utilized, suitable adjustments are not possible to be made and hence, the said case CPM was not the most appropriate method for determining the ALP. The operating part of the discussion in the said decision is as under:

> *"50. Considering the above submissions, vis-à-vis the method i.e. CPM (cost plus method) adopted by the learned TPO to determine the ALP, which has been relied upon by the learned Departmental Representative, we find that the learned TPO while adopting CPM has failed to appreciate several material aspects of the issue as discussed above. In our view, the learned TPO was not justified in comparing the gross margin in export segment vis-a-vis gross margins in domestic segment. There are various differences in the functions performed and the risk assumed in these two segments and therefore, the same cannot be considered as comparable cases for determining the ALP. There is no marketing risk in the export segment, no risk of bad debts, no product liability risk in export segments whereas the assessee has to bear all these risks in the domestic segment. The contractual statements also defer in the domestic segment vis-a-vis export segments. There are different characteristics and contractual terms in the two segments and further geographical and marked differences are also present. Thus, we are of the view that it is very difficult to make suitable adjustments for these differences, hence the CMA method is not appropriate method for determining the ALP. The learned TPO, in our view, has thus erred in adopting the CMA method as appropriate method.*
>
> *51. We also find substance in the alternative plea of the learned Authorised Representative in the defective working out of the total of production of the goods sold to the AE by the learned TPO. The learned TPO has computed gross profit margins in the domestic segment at 23.54 per cent while in the export segment at 5.42 per cent. The difference between the two has been calculated at 18.12 per cent and the same is employed to the total cost of production of the goods sold to the AE and addition of Rs. 58,54,128 has been made. In this working, the learned TPO has failed to appreciate that during the year, the assessee has paid processing charges to the local contractors of Rs. 16,98,742 i.e. in respect of products sold in the domestic segment, hence the same should not have been allocated to the export segment. Besides, there is no reason to doubt the submission of the assessee that major time of the junior and serior staff is utilized for the domestic segment since while dealing with various public sector units by the assessee several follow ups like collection of the orders, physical despatch of goods, follow up for the payment etc., are required to be done, hence major part of the total expenditure is to be allocated to the domestic unit and balance to the export segments. We are thus of the view that learned TPO was not justified in rejecting such submission of the assessee treating the same as having no basis. In our view, the apportionment of these costs is justified because major time of the employees is devoted towards the domestic segment. We also find substance in the submission of the learned Authorised Representative that assessee has also to incur selling and administrative expenses, freight expenses, bank interests etc., which cannot be ignored as ultimately the income-tax is levied on net profit and therefore, comparison of the net profit of the domestic export segment is more proper. The assessee at page No. 141 of the paper book has given working of the net profit of the two divisions as per which, the net profit of the domestic*

segment is 13.04 per cent and that of the export segment is 12.55 per cent. We find that there is hardly any difference between two segments. We also find substance in the submission of the learned Authorised Representative that in respect of transaction with AE, the assessee also does not have to bear bad debt risks, product/warranty risks etc., hence some percentage of reduction should he given in the margin computed for the domestic segment for the above risk.

52. Considering the above material facts in totality, we are of the view that the learned TPO was not justified in adopting the CPM as the most appropriate method. On the basis that the assessee had a joint facility arrangement or a long-term buy and supply arrangement with its AE, as we have discussed hereinabove, we find that there was no sufficient reasons with the learned TPO to reject CUP method or TNMM adopted by the assessee to determine the arm's length price (ALP). We thus hold that the addition made by the learned TPO as a result of incorrect application of CPM is not justified. It is pertinent to note that in the succeeding asst. yr. 2007-08, the assessee has adopted TNMM for determining the ALP, which has been accepted by the learned TPO. In the case of Brintons Carpets Asia (P) Ltd. vs. Dy. CIT (supra), Pune Bench of the Tribunal has followed the decision of Mumbai Bench of the Tribunal in the case of Asstt. CIT vs. NGC Network (India) (P) Ltd. ITA No. 5307/Mum/2006, dt. 23rd Feb., 2011 (para 15) [reported at (2011) 56 DTR (Mumbai)(Trib) 1—Ed.] on the rule of consistency and need for not taking the domestic comparables and need for taking up the external comparable in matters of the 'transfer pricing' adjustments. It was held further that the uncontrolled transactions and the external comparables which was adopted by the officer in subsequent year holds relevant for current assessment year as well. We thus while setting aside order in question of the learned TPO, direct the learned TPO to accept claim of the assessee regarding the ALP based on TNMM. The issue raised in the related grounds is decided in favour of the assessee.

23. The Ld. Counsel has also placed his reliance on the decision of the ITAT, Pune in the case of Alfa Laval (I) Ltd. (supra). In the said case also the assessee had exported industrial products to its AEs as well as sold in the domestic market. The assessee had adopted TNMM but the said method was rejected by the TPO, and TPO substituted CPM in the place of TNMM. When the matter reached before the Tribunal it is held that CPM cannot be applied since there were various differences in the export segment and domestic segment such as market functions, geographic difference, volume difference, credit risk, related party transactions etc. In our opinion the said principles are clearly applicable in the present case. As we have already observed that the assessee has also share in the domestic market and we again compared the parameters of the domestic market with the export market as there is a difference in the export segment and domestic segment on account of credit risks, marketing, warranty, etc. etc. We, therefore, hold that on principles as well as on the rule of consistency, the TPO/DRP are not justified in holding that the CPM is an appropriate method for determining the ALP in respect of export of the tractors to the AEs and we approve TNMM as a most appropriate method adopted by the assessee for determining the ALP. We also hold that even after excluding KAMCL the average operating profit margin of the 7 companies are at 5.71% as against the 11.70% of the export segment of the assessee company. The ALP declared by the assessee is well within the limit. We, accordingly, hold so. In the result, the Ground No. 4 is allowed."

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21. While deciding the second issue of application of TNMM method, the Tribunal in turn relied on the ratio laid down by the Pune Bench of Tribunal in M/s. Drilbits International P. Ltd. Vs. DCIT (supra) and Alfa Laval (I) Ltd. Vs. DCIT (2014) 149 ITD 285 (Pune – Trib.). Applying the above said ratio to the facts of the present case, we hold that for benchmarking international transactions with its associate enterprises on aggregate basis, TNMM method should be applied and since the margins declared by the assessee are higher than the margins declared by the comparables picked up by the assessee in its TP study report and consequently, the international transactions entered into by the assessee with its associate enterprises being at arm's length price, no addition is warranted in the hands of the assessee. Accordingly, we delete the addition of Rs.4.84 crores. The grounds of appeal No.1 and 2 raised by the assessee are thus, allowed.

22. The second issue raised by the assessee vide ground of appeal No.3 is against set off of brought forward unabsorbed depreciation before claiming of deduction under section 10B of the Act. The claim of the assessee before the authorities below was that it had set off of brought forward losses of Rs.4,11,06,003/- against the income resulting into total taxable income of Nil, whereas the deduction under section 10B of the Act at Rs.7,68,41,580/- was claimed as against the income of EOU units of Rs.8,01,88,716/-. The Assessing Officer was of the view that the brought forward losses and unabsorbed depreciation were required to be set off against the total income of the assessee first and thereafter, deduction under section 10B of the Act should be allowed. Accordingly, the Assessing Officer re-computed the deduction under section 10B of the Act by granting the deduction after allowing set off of brought forward losses.

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23. The contention of the assessee before the CIT(A) was that the stage of granting of deduction under section 10B of the Act was before set off of brought forward unabsorbed losses or depreciation, in view of various decisions. The CIT(A) noted that the CBDT has issued Circular dated 16.07.2013 that the brought forward unabsorbed depreciation should be set off before granting deduction under section 10A or 10B of the Act. Further, the Hon'ble Supreme Court in Himasingka Seide Ltd. Vs. CIT, Civil Appeal No.1501 of 2008, dated 19.09.2013 had decided the issue in favour of the Department by dismissing the assessee's appeal. Accordingly, he upheld the order of Assessing Officer in setting set off of brought forward unabsorbed depreciation before granting deduction under section 10B of the Act.

24. The assessee is in appeal against the said order of CIT(A).

25. The learned Authorized Representative for the assessee pointed out that the CIT(A) had relied on the decision of Hon'ble Supreme Court in Himasingka Seide Ltd. Vs. CIT (supra), which was relatable to assessment years 1988-89 to 1990-91, wherein the Hon'ble Karnataka High Court was dealing with the old provisions of the Act. However, section 10B of the Act has been amended w.e.f. 01.04.2001 and it has now become a deduction and not exemption under the Act. In respect of reliance of the CIT(A) on the Circulars issued by the CBDT, the learned Authorized Representative for the assessee pointed out that the said Circulars were not binding upon the assessee and could not debar the assessee from claiming its deduction. The learned Authorized Representative for the assessee in this regard placed reliance on series of case laws filed in the Paper Book.

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26. The learned Departmental Representative for the Revenue pointed out that admittedly, prior to 01.04.2000, the section speaks of exemption, but after its amendment, undoubtedly, it is a deduction allowable to the assessee under the Act. The learned Departmental Representative for the Revenue placing reliance on the ratio laid down by the Hon'ble Supreme Court in Synco Industries Ltd. Vs. AO, (2008) 299 ITR 444 (SC), pointed out that the Hon'ble Apex Court had held that first the gross total income has to be computed before allowing any deduction.

27. We have heard the rival contentions and perused the record. The issue arising vide ground of appeal No.3 is in relation to the computation of deduction under section 10B of the Act after the amendment to section w.e.f. 01.04.2001. The persons invoking the said provisions are entitled to a deduction under the Act, as compared to the pre-amended provisions of the section, under which the income comprising under the said section was exempt from the total income. The issue arising before us is whether while computing deduction under section 10B of the Act, in cases where the assessee has unabsorbed losses or depreciation, brought forward from earlier years, then whether the said unabsorbed business losses / depreciation are to be adjusted from the gross total income before allowing the deduction under section 10B of the Act or the said losses or the deduction under section 10B of the Act is to be allowed in the hands of the assessee without considering the brought forward unabsorbed losses / depreciation, which can be set off against the other income of assessee. Both the authorities below had denied the claim to the assessee, in view of the ratio laid down by the Hon'ble Supreme Court in *Himasingka Seide Ltd. Vs. CIT (supra).* The perusal of the judgment of Hon'ble Karnataka High Court in the said case reflects that the years under appeal related to assessment years 1988-89 to 1990-91 i.e. the years where the benefit under section 10B of the Act was for being exempt from total income. However, the

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year under appeal before us is assessment year 2005-06, wherein the said section has been amended and the deduction now is allowable to the assessee as against the said income being exempt in the earlier years. The issue is settled by the Hon'ble Bombay High Court in CIT Vs. Black & Veatch Consulting Pvt. Ltd. (2012) 348 ITR 72 (Bom), wherein it was held as under:-

> *"The deduction under s. 10A, has to be given effect to at the stage of computing the profits and gains of business. This is anterior to the application of the provisions of s.72 which deals with the carry forward and set off of business losses. A distinction has been made by the Legislature while incorporating the provisions of Chapter VI-A. Section 80A(1) stipulates that in computing the total income of an assessee, there shall be allowed from his gross total income, in accordance with and subject to the provisions of the Chapter, the deductions specified in ss.80C to 80U. S.80B(5) defines for the purpose of Chapter VI-A "gross total income" to mean the total income computed in accordance with the provisions of the Act, before making any deduction under the Chapter. What the Revenue in essence seeks to attain is to telescope the provisions of Chapter VI-A in the content of the deduction which is allowable under s.10A, which would not be permissible unless a specific statutory provision to that effect were to be made. In the absence thereof, such an approach cannot be accepted. Thus ITAT was correct in holding that the brought forward unabsorbed depreciation and losses of the unit the Income which is not eligible for deduction under s.10A of the Act cannot be set off against the current profit of the eligible unit for computing the deduction under s.10A of the IT Act."*

28. The said proposition of law has further been applied by the Hon'ble Bombay High Court in CIT Vs. M/s. Ganesh Polychem Ltd. in Income Tax Appeal No. 2083 of 2012, order dated 25.02.2013 and in CIT Vs. Schmetz India Pvt. Ltd. (2012) 79 DTR (Bom) 356 and also by the Hon'ble High Court of Gujarat in CIT Vs. Ace Software Exports Ltd. in Tax Appeal No.687 of 2012, order dated 18.02.2013 . The Mumbai Bench of Tribunal has also applied the said proposition in various cases.

29. The learned Departmental Representative for the Revenue on the other hand, placed reliance on the ratio laid down by the Hon'ble Supreme Court in Synco Industries Ltd. Vs. AO, (2008) 299 ITR 444 (SC), wherein the issue was whether while computing the quantum of deduction under section 80I(6) of the Act, the Assessing Officer has to treat the profits derived from an industrial undertaking as only source of income in order to arrive at deduction under Chapter VI-A. The

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Hon'ble Supreme Court held that the gross total income under section 80B(5) of the Act, which is also referred to in section 80I(1) of the Act, was required to be computed in manner provided under the Act, which pre-supposes that gross total income shall be arrived at after adjusting losses of other division against profits derived from an industrial undertaking. The issue before the Hon'ble Supreme Court is at variance with the issue before us and the said ratio is not applicable to the facts of the present case. The issue in the present appeal is squarely covered by the ratio laid down by the Hon'ble Bombay High Court in CIT Vs. Black & Veatch Consulting Pvt. Ltd. (supra), wherein deduction under section 10A of the Act was to be computed in the hands of assessee and the same was whether the brought forward losses had to be adjusted before computing deduction under section 10A of the Act. It may be pointed out that the provisions of section 10A and 10B of the Act are at parametria. Following the ratio laid down by the Hon'ble Bombay High Court, we hold that the deduction under section 10B of the Act is to be computed in the hands of the assessee before adjusting brought forward unabsorbed losses / depreciation. The ground of appeal No.3 raised by the assessee is thus, allowed.

30. Now, coming to the appeal of the Revenue. The only issue raised by the Revenue is against the order of CIT(A) in deleting the addition made by the Assessing Officer disallowing the claim of bad debts amounting to Rs.30,63,290/-.

31. The learned Authorized Representative for the assessee at the outset pointed out that the issue in the present appeal is covered by the ratio laid down by the Hon'ble Supreme Court in TRF Ltd. Vs. CIT (2010) 323 ITR 397 (SC).

32. The learned Departmental Representative for the Revenue placed reliance on the order of Assessing Officer.

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33. We find that the issue of claim of bad debts written off in the books of account in the impugned assessment year is squarely covered by the ratio laid down by the Hon'ble Supreme Court in TRF Ltd. Vs. CIT (supra) and following the said ratio, we uphold the order passed by the CIT(A). The grounds of appeal raised by the Revenue are thus, dismissed.

34. In the result, the appeal of the assessee is allowed and the appeal of the Revenue is dismissed.

Order pronounced on this 8th day of October, 2015.

Sd/-	**Sd/-**
(**R.K. PANDA**)	(**SUSHMA CHOWLA**)
लेखा सदस्य / ACCOUNTANT MEMBER	**न्यायिक सदस्य / JUDICIAL MEMBER**

पुणे / Pune; दिनांक Dated : 8th October, 2015.

GCVSR

<u>आदेश की प्रतिलिपि अग्रेषित/Copy of the Order is forwarded to</u> :

1. अपीलार्थी / The Appellant;
2. प्रत्यर्थी / The Respondent;
3. आयकर आयुक्त(अपील) / The CIT(A)-IT/TP, Pune;
4. आयकर आयुक्त / The CIT-IV / DIT (TP/IT), Pune;
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, पुणे "ए" / DR 'A', ITAT, Pune;
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

वरिष्ठ निजी सचिव / Sr. Private Secretary
आयकर अपीलीय अधिकरण ,पुणे / ITAT, Pune

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