

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

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

**I.T.A. No. 2197/HYD/2017**

Assessment Year: 2013-14

ValueMomentum Software Services Private Limited, HYDERABAD [PAN: AAACI7400H]	Vs	Deputy Commissioner of Income Tax, Circle-17(2), HYDERABAD
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(Appellant)

(Respondent)

For Assessee : Shri H.Srinivasulu, AR

For Revenue : Shri R.Dipak, DR

Date of Hearing : 19-04-2021

Date of Pronouncement : 19-05-2021

**ORDER**

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

This assessee's appeal for AY.2013-14 arises against the DCIT, Circle-17(2), Hyderabad's assessment dated 27-10-2017 framed in furtherance to the Dispute Resolution Panel ('DRP')-1, Bengaluru's directions dt.01-09-2017 in F.No.367/DRP-1/BNG/2016-17, involving proceedings u/s.143(3) r.w.s.92CA(3) and 144C of the Income Tax Act, 1961 [in short, 'the Act']; respectively.

Heard both the parties. Case files perused.

2. The assessee has raised its two substantive grounds in the instant appeal. Former of the said ground challenges correctness of the lower authorities' action making arm's length price 'ALP' adjustment of Rs.1,20,78,616/- *qua*

interest on receivables involving its overseas Associated Enterprise 'AEs'. Suffice to say, it transpires at the outset that we need not delve deeper *qua* the relevant facts pertaining to the instant issue. We find that assuming but not accepting that the learner lower authorities have rightly found the assessee's interest receivables as beyond the period involving un-comparable transactions, the impugned adjustment is not liable to be sustained for the sole reason that the same has been made not as per LIBOR rate applicable in case of international transactions but after taking State Bank of India's prime lending rate @14.45% in the Transfer Pricing Officer's (TPO) order and upheld to the extent between 6.5% to 8% as applicable in case of domestic term deposits.

3. Learned CIT-DR's vehement contention is that the TPO as well as the DRP have rightly treated the foregoing benchmark as per the short term deposit rate in the State Bank of India.

4. We find no merit in the instant argument since such a short term deposit cannot be taken at par with an international transaction u/s.92B of the Act since the latter involves foreign currency and overseas market conditions. In addition to this, learned lower authorities have also not adopted any comparable in the very segment as well so as to come to the conclusion that the assessee's receivables in case of overseas AEs involved more than the market practice of reasonable time period. We keep in mind all these clinching aspects and direct the TPO to delete the impugned ALP adjustment of Rs.1,20,78,616/- in issue. The assessee's

former substantive ground stands accepted in the above terms.

5. Next comes the latter issue of Section 43B disallowance of Rs.8,11,648/- pertaining to employees provident fund. It is not in dispute that learned lower authorities held that the same had to be deposited before the due date prescribed in the corresponding statute than the due date for filing Section 139(1) return. The Revenue's case in tune thereof relies on Section 36(va) read with explanation thereto that it is not Section 43B but the former provision which is applicable in such an instance. We find no merit in the Revenue's foregoing stand. We take note of the explanatory memorandum to the Finance Act, 2021 proposing amendment in both Section 36(va) as well as Section 43B by inserting corresponding Explanations that although the impugned employees provident fund comes under the former provision only, the same is applicable from 01-04-2021 onwards. Meaning thereby that the legislature itself has condoned the impugned default before 01-04-2021. We thus delete the impugned employees provident fund disallowance of Rs.8,11,648/- for this precise reason alone. Necessary computation to follow as per law.

No other ground has been pressed before us.

6. This assessee's appeal is allowed.

*Order pronounced in the open court on 19<sup>th</sup> May, 2021*

Sd/-  
**(LAXMI PRASAD SAHU)**  
**ACCOUNTANT MEMBER**

Hyderabad, Dated: 19-05-2021

TNMM

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

Copy to :

1. ValueMomentum Software Services Private Limited, Plot No.36 & 37, Survey No.115/1 & 115/22, Financial District, Nanakramguda Village, Gachibowli, Serilingampally, Hyderabad.

2. The Dy. Commissioner of Income Tax, Circle-17(2), Hyderabad.

3. Dispute Resolution Panel (DRP), Bengaluru.

4. Director of Income Tax (IT & TP), Hyderabad.

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

6. D.R. ITAT, Hyderabad.

7. Guard File.