

**IN THE INCOME TAX APPELLATE TRIBUNAL DELHI
(DELHI BENCH 'H' NEW DELHI)
BEFORE YOGESH KUMAR U.S., JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No. 3476/DEL/2025 (A.Y. 2016-17)
ITA No. 3477/DEL/2025 (A.Y. 2017-18)
ITA No. 3478/DEL/2025 (A.Y. 2018-19)

Varun Beverages Limited F-2/7, Okhla Industrial Area, Phase-1, New Delhi PAN: AAACV2678L	Vs	Assistant Commissioner of Income Tax, Central Circle-7, New Delhi
Appellant		Respondent
Assessee by	Sh. Akshat Jain, CA & Sh. Rajat Jain, CA	
Revenue by	Sh. S. K. Jadhav, CIT (DR)	
Date of Hearing	07/01/2026	
Date of Pronouncement	20/02/2026	

ORDER

PER YOGESH KUMAR, U.S. JM:

The captioned appeals are filed by the assessee pertaining to Assessment Years 2016-17, 2017-18 and 2018-19 against the order of the Commissioner of Income Tax, (Appeal)-44, ('Ld. CIT(A)' for short) Delhi dated 22/03/2025 for all Assessment Years.

2. As identical issues are involved in the captioned appeals pertaining to single Assessee, the above appeals are heard together and disposed-off in this common order. For the sake of convenience, Appeal of the Assessee for Assessment Year 2017-18 is taken as lead matter and the brief facts of the case for Assessment Year 2017-18 are that, the Assessee Company was engaged in manufacturing, selling, bottling and distribution of beverages of Pepsi brand in geographically

pre-defined territories during the financial year under consideration. During the course of assessee proceedings, it was noticed that the assessee company has entered into various International Transactions & specified domestic transactions with its Associated Enterprises during the year under consideration. Accordingly, the case was referred to Transfer Pricing Officer on 17/09/2019 u/s 92CA of the Act. Thereafter, the TPO-3(3)(1), New Delhi passed the order dated 31/01/2021 u/s 92CA(3) of the Act by proposing the income of the taxpayer to be enhanced by Rs. 57,86,557/- as arm's length price of the international transaction on account of Interest on receivables, Rs. 7,68,229/- made on account of interest on loan to Varun Beverages Mozambique Limited, Rs. 20,87,676/- made on account of interest on loan to Varun Beverages (Zambia) Ltd and Rs. 2,55,89,316/- on account of Interest on loan to Varun Beverages Morocco SA. Thus, enhanced the basis of arm's length price of the international transaction by determining at Rs. 3,42,31,778/-.

3. A draft assessment order came to be passed u/s 144C of the Act on 12/04/2021 by proposing an adjustment of Rs. 3,42,31,778/- as determined by the TPO. Further, an Assessment order came to be passed on 27/04/2021 u/s 143(3) r.w.s. 144C(3) of the Act by making an adjustment of Rs. 3,42,31,778/- under normal provisions of Income Tax Act. In similar way, assessment orders also came to be

passed on 10/01/2021 and 05/10/2021 for Assessment Year 2016-17 and 2018-19 by making adjustment of Rs. 6,57,16,889/- and Rs. 7,21,55,293/- respectively. As against the assessment orders dated 27/04/2021, 10/01/2021 and 05/10/2021 for A.Y 2016-17 to 2018-19 Assessee preferred Appeals before the Ld. CIT(A), the Ld. CIT(A) vide orders dated 22/03/2025, dismissed the Appeals filed by the Assessee. Aggrieved by the orders of the Ld. CIT(A) dated 22/03/2025, Assessee preferred the present Appeals.

4. For the sake of convenience grounds of appeal of the Assessee for A.Y 2017-18 is reproduced as under:-

“1. That on the facts and in the circumstances of the case, the learned CIT(A) erred both on facts and in law in confirming addition/ adjustment of Rs.57,86,557/- to Arm's Length Price made by the AO/ TPO by charging notional interest outstanding receivables from various Associated Enterprises (AEs) for delayed period by arbitrarily rejecting the contention of the appellant that it does not charge interest from both Associated enterprises and Non associated enterprises on outstanding receivables.

2. That on the facts and in the circumstances of the case, the learned CIT(A) erred both on facts and in law in confirming addition/ adjustment of Rs.57,86,557/- to Arm's Length Price made by the AO/ TPO by charging notional interest on outstanding receivables from AEs for delayed period by arbitrarily rejecting the contention of the appellant that interest is already factored in sale price and hence no separate adjustment is required.

3. That on the facts and in the circumstances of the case, the learned CIT(A) erred both on facts and in law in confirming addition/ adjustment of Rs.57,86,557/- to Arm's Length Price by charging notional interest on outstanding receivables from AEs by arbitrarily rejecting the contention of the appellant that it is having sufficient shareholder's fund and also does not pay any interest on outstanding Trade payables.

4. That on the facts and in the circumstances of the case, the learned CIT(A) erred both on facts and in law in confirming addition/ adjustment of Rs.57,86,557/- to Arm's Length Price by charging notional interest on outstanding receivables from AEs by disregarding the law settled by the Hon'ble jurisdictional Delhi High Court in the case of PCIT v Kusum Healthcare (ITA 765/Del/2016).

5. *That on the facts and in the circumstances of the case, the learned CIT(A) erred both on facts and in law in confirming addition/ adjustment of Rs.57,86,557/- to Arm's Length Price by charging notional interest on outstanding receivables from various Associated Enterprises for delayed period by relying upon various case laws which are distinguishable on the facts of the appellant's case.*

6. *That on the facts and in the circumstances of the case, the learned CIT(A) erred both on facts and in law in confirming addition/ adjustment of Rs.2,84,45,221/- in determining arm's length price in relation to international transaction of Interest on loan extended to Associated Enterprises in foreign currency by arbitrarily rejecting*

- (i) *the arm's length price used by the appellant for benchmarking interest income on loan given to Associated enterprises.*
- (ii) *(ii) the fact that the appellant has charged interest on loan from AE at a rate higher than the internal cup of Libor + 2.65% i.e. the interest rate at which the appellant has received foreign currency loan from bank.*

7. *That on the facts and in the circumstances of the case, the learned CIT(A) erred both on facts and in law in confirming addition/ adjustment of Rs 2,55,89,316/- out of total addition / adjustment of Rs. 2,84,45,221/- in determining arm's length price by the TPO/AO in relation to international transaction of Interest charged on loan given to Varun Beverages Morocco SA without affording an opportunity of being heard to the appellant, by giving show cause notice before making such addition, which is gross violation of principle of natural justice.*

8. *That the grounds of appeal are independent and without prejudice to each other."*

5. The above Ground No. 1 to 5 of the Assessee are against the order of the Ld. CIT(A) in confirming the adjustment of Rs. 57,86,557/- made by the A.O. to Arm's Length Price of notional interest on outstanding receivable from various associated enterprises for delayed period computed on the basis of six month LIBOR rate +400 basis points.

6. During the assessment proceedings, the Ld. A.O. made addition of notional interest on outstanding receivables from various Associates Enterprises for delayed period computed on the basis of six month

LIBOR rate +400 basis points. The Ld. CIT(A)-24, New Delhi sustained the said addition made by Ld AO on the ground that the issue of delay in receivables from AEs is no more *res-integra* and after the amendment in explanation to section 92B of the Act, the outstanding receivables constitutes a separate international transaction which is required to be benchmarked separately. Accordingly, the adjustment on account of interest on receivables made by TPO/AO @ 6 months LIBOR + 400 basis points was upheld by the Ld. CIT(A).

7. The Ld. Counsel for the Assessee submitted that transaction of outstanding receivables is inextricably connected to main international transaction of sale of goods, management and technical knowhow service income and Interest is already factored in sale price /service income being charged by the Assessee. Further submitted that in respect of sale of goods, the Assessee is having Operating profit margin of 11.36% & OP/OC of 12 82% at entity level which is higher than the OPM & OP/OC of comparable companies of (5.13% to 10.74%) & (5.40% to 12.04%) respectively of 35th and 65th percentile of comparable companies. Further submitted that, in respect of transactions of management and technical & know how services provided, the appellants OP/OC is above 100% which is more than the OP/OC range earned by the comparable companies which is between 3.84% to 11.99%. The Ld. Counsel has also relied on order of the Co-

ordinate Bench of the Tribunal in the case of Dabur India Ltd. v. DCIT Circle 7(1) (2024) 160 taxmann.com 595 (Delhi) (Trib.) (AY 2012-13 to AY 2014-15). Thus, sought for allowing Ground No. 1 to 5 of the Assessee.

8. Per contra, the Ld. Department's Representative vehemently submitted that charging of interest is a separate transaction just be benchmark separately and the TPO has rightly charged LIBOR + 400 basis points which requires no adjudication at the hands of the Tribunal.

9. We have heard both the parties and perused the material available on record. It is the specific case of the Assessee that the transaction of outstanding receivables is inextricably connected to main international transaction of sale of goods, management and technical knowhow service income and Interest is already factored in sale price /service income being charged by the appellant. In so far as sale of goods, it is claimed that the Assessee is having Operating profit margin of 11.36% & OP/OC of 12 82% at entity level which is higher than the OPM & OP/OC of comparable companies of (5.13% to 10.74%) & (5.40% to 12.04%) respectively of 35th and 65th percentile of comparable companies. In respect of transactions of management and technical & know how services provided, the Assessee OP/OC is above 100% which is more than the OP/OC range earned by the

comparable companies which is between 3.84% to 11.99%. The Co-ordinate Bench of the Tribunal in the case of Dabur India Ltd. v. DCIT Circle 7(1) (supra), while dealing with identical issue held as under:-

38. We find that an identical quarrel was considered by this Tribunal in assessee's own case in A.Y 2010-11 and 2011-12 in ITA Nos. 7154, 7431/Del/2017, 7253/Del/2017 and 183/Del/2018 respectively. The relevant findings read as under :-

"30 Per contra, Ld. Counsel for the assessee supported the order of the Ld CIT(A) and submitted that Assessee's net margin is considerably higher than the comparables. Upon careful consideration, we are not in agreement with the submission of Ld. DR. It is no doubt that after the amendment, receivables are an international transaction which needs to be benchmarked separately but as rightly pointed out by the Id. CIT(A) above that margin of the assessee both in FMCG and non-FMCG segment is much higher than the comparables. Hence, since benchmarking under both the segments has been accepted in the transfer pricing, we do not find any infirmity in the order of Ld. CIT(A) that there is no reason to separately benchmark receivables."

10. Further, the Co-ordinate Bench of the Tribunal, Ahmedabad Bench, in the case of Micro Ink Limited vs. Additional Commissioner of Income Tax, Vapi Range [27.11.2015] MANU/IB/0677/2015; A. Y. 2006-07 held that, when such an interest is includible in operating income and the operating income itself has been accepted as reasonable under the TNMM, there cannot be an occasion to make adjustment for notional interest on delayed realization of debtors.

11. Further, it is not in dispute that the Assessee does not charge interest from both Associated Enterprises and Non-Associated

enterprises on outstanding receivables. Thus the Assessee has not made any distinction between AE and non AE in charging the interest made on outstanding received, therefore, the adjustment made on account of Arm's length adjustment is not sustainable as held in the following decisions.

- a) CRM Services India Pvt. Ltd. Vs. ACIT, Circle 6(2) [15.07.2019] ITA No. 432/del/2016; A.Y 2011-12 (ITAT-Delhi)
- b) Toshiba Technical Services International Corporation Vs. ACIT, International Taxation [2022] 145 taxmann.com 474 (Ahmedabad-Trib.)
- c) Vinod Kumar Diamonds. Ltd. vs. Dy. CIT (2020) 81 ITR 46 (SN) (Mum) (Trib.)

12. In view of the above, we find merit in the Grounds of Appeal No. 1 to 5 of the Assessee, accordingly, the adjustment made by the A.O./TPO to Arm's Length Price on notional interest on outstanding receivable from various Associated Enterprises are hereby deleted. Thus, the Ground No. 1 to 5 of the Assessee for Assessment Year 2017-18 are allowed.

13. Ground No. 6 & 7 are regarding the adjustment of Rs. 2,84,45,221/- made in in Arm's Length Price in relation to international transaction of Interest charged on loan given to Associated Enterprises in Foreign Currency.

14. The Ld. AO has made adjustment of Rs. 2,84,45,221/- in determining arm's length price in relation to international transaction of Interest charged on loan given to Associated Enterprises in foreign currency by rejecting the arm's length price used by the appellant for benchmarking interest income on loan given to associated enterprises and without considering the fact that the appellant has received loan from bank at interest rate of LIBOR + 2.65%.The Ld. CIT(A) sustained the said addition made by Ld. AO.

15. The Ld. Counsel for the Assessee has provided the summary of rate of Interest charged on loan given to AE and adjustment made by Ld. TPO/Assessing Officer, which is reproduced as under:-

Name of Associate Enterprises	Interest calculated by the appellant is at Arm's length	Interest Income	Determined Arm's Length price by AO	Addition / Adjustment made by AO/ TPO	Remarks as per Internal CUP i.e. loan taken in foreign currency by the appellant at (6 Months LIBOR + 2.65%)
Varun Beverages Morocco SA	(One Month Average LIBOR + 350 basis points) ranges between 3.94% to 4.48% (average rate is 4.1%)	9,72,12,767	6 months average LIBOR of FY 2016-17 plus 400 basis points markup (i.e. interest Rate 5.18%)	2,55,89,316	Effective rate is 3.83% (6 months LIBOR 1.18 + 2.65), thus the interest charged by the appellant is quite justified
Varun Beverages Mozambique Limitida	Interest charged @ 4% is within permissible range of variation i.e. (+/-) 3% being (6 months average LIBOR plus 300 basis points worked out at 4.18% (i.e. 1.18% + 3%)	26,04,166	6 months average LIBOR of FY 2016-17 plus 400 basis points markup (i.e. interest Rate 5.18%)	7,68,229	Effective rate is 3.83% (6 months LIBOR 1.18 + 2.65), thus the interest charged by the appellant is quite justified
Varun Beverages (Zambia) Limited	(LIBOR + 400 basis points) ranges between 4.44% to 4.98%	1,26,13,325	6 months average LIBOR of FY 2016-17 plus 400 basis points markup (i.e. interest Rate 5.18%)	20,87,676	Effective rate is 3.83% (6 months LIBOR 1.18 + 2.65), thus the interest charged by the appellant is quite justified
	And interest charged on loan extended to said AE in the month of March, 2017 at the ratePlus 10,43,448 Total 1,36,56,773			

16. As per the Ld. Assessee's Representative the AO made arbitrary upward adjustment amounting to Rs. 2,84,45,221/- to Arm Length Price of interest on loan extended to various Associated Enterprises on the basis of 6 months average LIBOR rate of calendar year 2017 plus 400 basis points. Further, it is contended that no adjustment in ALP is warranted when transaction is benchmarked as per internal CUP. The Assessee has taken foreign currency loan from bank @ 6Months Libor + 2.65%, which has not been disputed by the Revenue.

17. The Hon'ble High Court of Rajasthan in the matter of CIT v. Vaibhav Gems Ltd. [2017] 88 taxmann.com 12 (Raj.), wherein Assessee therein advanced loan to associated enterprise in foreign currency on which no interest was charged. The TPO proposed ALP adjustment at the rate of LIBOR plus 2% credit spread in respect of the aforesaid loan. The Tribunal confirmed the adjustment prevailing at the rate of LIBOR plus 2% on account of interest free loans provided by Vaibhav Gems Ltd (Assessee therein) to its associated enterprise for the relevant assessment year. The Hon'ble High Court of Rajasthan held that the Assessee wherein would be entitled for benefit of average LIBOR rate existing at that time i.e, 0.79 percent and addition of adhoc 2 percent was not proper and in that view of matter, addition of 2 percent interest in income was required to be quashed and set aside in following manners:-

“11. Regarding ITA No. 149/2015 preferred by the Assessee in view of the Delhi High Court Judgment (para No. 14), the international transaction is required to be accepted, therefore, tribunal has committed serious error. The Assessee will be entitled for the benefit of average LIBOR rate existing at that time which was 0.79% and addition of adhoc 2% is not proper. In that view of the matter, the addition of 2% interest in the income is required to be quashed and set aside.”

18. Further, the SLP filed by the Department against the order of the Hon'ble High Court in the case of Vaibhav Gems Ltd. (supra), has been dismissed. Further, it is also found that the Co-ordinate Bench of the Tribunal in the case of Aithent Technologies (P.) Ltd. v. ACIT, Circle-2(1) [2020] 113 taxmann.com 277 by relying on the ratio laid down in the case of CIT v. Vaibhav Gems Ltd. (supra) determined the Transfer Pricing Adjustment qua transaction of advancing loan by taxpayer to its AE was to be determined at US LIBOR plus 170 basis points.

19. In the present case, the Assessee has charged more than the internal CUP on all the three AE's i.e. on Varun Beverages Morocco SA average interest rate 4.1%, Varun Beverages Mozambique Limited average rate 4.18% and in Varun Beverages (Zambia) Limited is average 4.49%. The said average interest imposed on all the three entities are much more higher than determined by the Tribunal in the case of CIT v. Vaibhav Gems Ltd. (supra). Thus, in our opinion, the transactions involved in the present Appeal are at Arm's Length as per the ratio laid down thereon and the effective rate of interest charged

by the Assessee from its subsidiary Companies is even higher than internal CUP of interest rate on foreign currency loan taken by the Assessee. Accordingly, we delete the additions made by the A.O. which has been confirmed by the Ld. CIT(A) by allowing Ground No. 6 & 7 for the Appeal filed by the Assessee for Assessment Year 2017-18 .

20. Since, we have allowed the Grounds of Appeal of the Assessee for Assessment Year 2017-18, the respective Grounds of Appeal for Assessment Year 2016-17 and 2018-19 are being identical having similar set of fact and the contentions raised by the parties, by applying the reasoning and the conclusion *mutatis mutandis* the Appeals for Assessment Year 2016-17 and 2018-19, the respective Grounds of Appeal are allowed.

21. In the result, Appeals of the Assessee in ITA Nos. 3476/Del/2025, 3477/Del/2025 and 3478/Del/2025 are allowed.

Order pronounced in the open court on 20th February, 2026

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Date:- 20.02.2026
R.N, Sr.P.S*

Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT, NEW DELHI