

**IN THE INCOME TAX APPELLATE TRIBUNAL
KOLKATA 'C' BENCH AT KOLKATA**

Before

**SHRI SONJOY SARMA, JUDICIAL MEMBER
&
SHRI RAKESH MISHRA, ACCOUNTANT MEMBER**

**ITA No(s). 2611/KOL/2024
Assessment Year(s) 2021-22**

M/s. DIC Fine Chemicals Pvt. Ltd.	Vs.	D.C.I.T., Circle-11(1), Kolkata
(Appellant)		(Respondent)
PAN: AACCD6812G		

Appearances:

Assessee represented by : Akkal Dudhewala, CA.

Department represented by : Praveen Kishore, CIT (DR).

Date of concluding the hearing : 19-February-2026

Date of pronouncing the order : 06-April-2026

ORDER

PER RAKESH MISHRA, ACCOUNTANT MEMBER:

This appeal filed by the assessee is against the assessment order passed u/s 143(3) r.w.s. 144C(13) r.w.s. 144B of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') for AY 2021-22 dated 22.10.2024.

2. The assessee is in appeal before the Tribunal raising the following grounds of appeal:

“General Grounds

1. The impugned final assessment order has been passed without following due procedure laid down in law, and hence, bad in law.

2. The impugned order of the Ld. AO passed incorporating the order of the Transfer Pricing Officer ('Learned TPO' or 'Ld. TPO') and pursuant to the directions issued by the Hon'ble DRP, to the extent prejudicial to the Appellant, is based on incorrect appreciation of fact and incorrect interpretation of law and therefore, are bad in law and contrary to the facts and circumstances of the case



3. The Ld. AO erred in assessing the total income of the Appellant at INR 18,71,41,145 under the normal provision of the Act as against INR 3,73,66,449 claimed in return of income filed by the Appellant.

Grounds relating to legal validity of the order passed by the learned AO

4. The Ld. AO have erred on the facts, in circumstances of the case and in law in not passing the final assessment order within the time limit as provided under Section 153 of the Act i.e., the outer limit for passing of the final assessment order for AY 2021-22 would be 31 December 2023, thus making the assessment proceedings time barred and bad in law and thereby it should be quashed.

Transfer Pricing Grounds

5. The Hon'ble DRP has erred in law by violating the principle of natural justice and not providing opportunity of being heard to the Appellant by directing Ld. AO/Ld. TPO to undertake fresh search thereby identifying new comparable companies and including the same in the final assessment order.

6. The Ld. AO/TPO/Hon'ble DRP have erred, in law and in facts, by cherry picking additional companies with high margins, which were not proposed in show cause notice issued by Ld. TPO

7. The Ld. AO/TPO/Hon'ble DRP have erred, in law and in facts, by disregarding aggregation approach followed by the Appellant for benchmarking the international transaction in line with Unilateral Advance Pricing Agreement ('UAPA') entered between Appellant and Central Board of Direct Taxes ('CBDT') dated 06 February 2017 and using inappropriate Profit Level Indicator ('PLI') for benchmarking international transaction

8. The Ld. AO/TPO/Hon'ble DRP have erred, in law and in facts by erroneously considering two different PLIs i.e., operating profit/operating cost and operating profit/operating revenue for benchmarking manufacturing activities undertaken by the Appellant, thereby leading to dual adjustment.

9. The Ld. AO/TPO/Hon'ble DRP erred, in law and in facts, by accepting/rejecting certain companies as comparable to the Appellant without providing any cogent/valid reason.

10. The Ld. AO/TPO erred, in law and in facts, by accepting Sudarshan Chemical Industries Ltd & Asahi Songwon Colors Ltd. as comparable to the Appellant by referring to the decision made by Hon'ble DRP in the case of DIC India Limited for the A.Y. 2014-15. The companies stated above were considered as comparable to DIC India Limited, in contrary to the fact that DIC India Limited is a different company and engaged in different business activities.



11. The Ld. AO/TPO erred, in law and in facts by accepting Hi-Shine Inks Private Limited ('Hi-shine') as comparable company stating, it has also been retained by Ld. DRP in the Assessee's own case for A.Y. 2012-13 vide its direction dated 16.12.2016, in contrary to the fact that the Hon'ble Panel has not adjudicated on the inclusion of Hi-Shine during the AY 2012-13.

12. The Ld. AO/TPO/Hon'ble DRP have erred, in law and in facts, by applying inappropriate/modified filters pertaining to the filters for different accounting year and persistent loss Carlie for undertaking comparability analysis.

13. The Ld. AO/TPO/Hon'ble DRP have erred, in law and facts, by not making suitable adjustments to account for differences in the risk profile of the Assessee vis-à-vis the comparables.

14. Erroneously considering assessed profits and gains from business as book profits for Minium Alternate Tax ("MAT") provisions

14.1 The Ld. AO has erred in law and on facts, by making an addition of Rs. 9,13,56,765 to the Book Profit of the Appellant as determined u/s 115JB of the Act, directly in the computation sheet annexed to the Final Assessment Order without proposing any addition either in the Show Cause Notice ("SCN") or in the Final Assessment Order.

14.2 The Ld. AO has erred in law and on facts, in not appreciating that in the absence of any specific provision u/s 115JB of the Act, no adjustment can be made for computation of the book profits.

14.3 Without prejudice to above, the Ld. AO has erred in law and on facts, in not granting the available MAT credit.

Arithmetical Error

15. The Ld. AO has erred in computing the total interest and fee payable in the computation sheet as INR 1,53,96,923 instead of INR 1,50,01,601.

Consequential Grounds

16. The Ld. AO has erred in initiating penalty proceedings u/s 270A of the Act for underreporting of income.

17. The Ld. AO has erred, in law and on facts in levying excess interest u/s 234B of the Act.

The Appellant submits that each of above grounds is independent and without prejudice to one another.

The Appellant craves leave to add, alter, amend, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of the appeal.”

3. Brief facts of the case are that headquartered in Japan, DIC Group deals in fine chemicals with a share in printing inks, organic pigments and PPS compounds in the global market. Established in 1908 as a manufacturer of printing inks, DIC Group has capitalized on its capabilities in organic pigments and synthetic resins to build a broad portfolio to markets such as automotive, electronics, foods and housing. The assessee, DIC Fine Chemicals (DFC) India, established as a wholly owned subsidiary of DIC Singapore in Dahej SEZ, India, commenced its commercial operations in the F.Y. 2010-11. DFC India is engaged in export, manufacture and supply of sheet-fed ink. DFC India acts as one of the manufacturing hubs for DIC Group. The Group entities sell the product to the final customer assuming all risks in respect of the manufacturing and sale of products. As per the Transfer Pricing (TP) document furnished for the A.Y. 2021-22, the assessee had entered into the following international transactions with its Associated Enterprises (AEs):

Nature of Transaction	Amount (₹)	MAM
Purchase of raw material	7,32,29,261/-	Transactional Net Margin Method (TNMM)
Purchase of raw materials (Deemed)	157,47,47,666/-	
Purchase of capital goods	22,57,29,607/-	
Sale of finished goods	200,23,58,628/-	
Expenses cross-charged to AE	11,62,090/-	OTHER



Expenses cross-charged by AE	3,70,91,984	OTHER
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3.1 The AO/TPO has proposed the following adjustments:

Particulars	Amount (in ₹)	Reference
Purchase of raw materials and capital goods	7,47,85,179	Para 7.1
Sale of finished goods	8,30,95,903	Para 7.2
Total	15,78,81,082/-	

3.2 The assessee had entered into international transactions with its AEs for the purchase of raw materials (deemed), purchase of capital goods, sale of finished goods, expenses cross charged to AEs, expenses cross charged by AEs and had applied the Transactional Net Margin Method (TNMM) for the purchase and sale and had applied the other method as specified for the expenses cross charged to AE. The Assessing Officer (hereinafter referred to as Ld. 'AO')/Transfer Pricing Officer (in short Ld. 'TPO') proposed the adjustments being a sum of ₹7,47,85,179/- on account of purchase of raw material and ₹8,30,95,903/- on account of sale of finished goods with the total adjustment of ₹15,78,81,082/-. The assessee filed objections against the same before the Ld. DRP, who examined the objections of the assessee, the legal provisions in this regard and vide directions dated 19.09.2024 disposed of the objections. The Ld. AO referred the matter to the Ld. TPO again, who gave effect to the directions issued u/s 144C of the Act by the Ld. DRP and proposed transfer pricing adjustments. The Ld. AO incorporated the same and in view of the directions u/s



144C(5) of the Act dated 19.09.2024 of the Hon'ble DRP-2, New Delhi, and order u/s 92 CA (3) r.w.s.144C(5) dated 17.10.2024 of the DC/ACIT TP-1 Kolkata, the assessee company's revised income for the AY 2021-22 was computed as per provisions of section 144C(13) as under:

	Particulars	Amount in ₹
	Total Income declared as per ROI	3,73,66,449/-
Add	TP Adjustment as proposed by TPO and confirmed by the Hon'ble DRP	14,97,74,696/-
	Total income assessed	18,71,41,145/-

3.3 The assessee company had e-filed its original return of income for AY 2021-22 on 12.03.2022 declaring income of ₹3,73,66,448/-. The case was selected for complete scrutiny under CASS. Statutory notices u/s 143(2) & u/s 142(1) of the Act were issued electronically through the centralised system of the Department which were duly served upon the assessee. The Ld. AO made the transfer pricing adjustment of ₹14,97,74,696/- as proposed by the Ld. TPO and confirmed by the Ld. DRP to the total income of ₹3,73,66,449/- shown in the return of income and assessed the total income of the assessee at ₹18,71,41,145/-. Aggrieved with the assessment order, the assessee filed an appeal before the Tribunal.

4. Rival contentions were heard and the details and the submissions made have been examined. The Ld. AR stated in the course of appeal that as regards the transfer pricing adjustment which is the only addition made in the assessment order, there is an Advanced Pricing Agreement (APA) with the CBDT and as the same is applicable for AYs 2019-20 to AY 2023-24 the impugned AY 2021-22 is also covered. It was requested that the appeal for AY 2021-22 may be remanded to the Ld. AO. Our attention was drawn to page 10 of the paper book which contains the terms of the agreement as per which the agreement shall apply to five consecutive years commencing from previous year 2018-19 to previous year 2022-23 (relevant to AY 2019-20 to AY 2023-24) (referred to as APA years) and also gives the details of the covered transactions and Associated Enterprises(AEs). It was stated that as per page 11 of the paper book/Para 6 of the APA, the Arm's Length Price in para 6 thereof it is mentioned that the international transactions aggregated for the purpose of benchmarking shall be considered to be at arm's length in the previous year if the operating profit margin of the assessee in the previous year is not less than 4.25% for the covered transactions:

“The international transactions that have been aggregated for the purpose of benchmarking, as referred in sub-clause (i) of clause 5 above, shall be considered to be at arm's length in a previous year, if the operating profit margin of the Applicant in the previous year is not less than 4.25% for the covered transactions;

ii. The international transaction of recovery of expenses that are not linked to the operations of the Applicant and are covered under sub-clause (iii) of clause 5 above, shall be considered to be at arm's length if they are undertaken on a cost-to-cost basis.

iii. The determination of ALP for APA Years is subject to the condition that the ALP would get modified to the extent that it does not result in reducing

the total income or increasing the total loss, as the case may be, of the Applicant as already declared in the return of the income of the said years.”

5. It was stated that in ITA No. 1966/KOL/2024 for AY 2021-22 (copy of the order being enclosed at page 35 to 39 of the paper book and specifically page 38 of the paper book at para 3.2), the matter had been remanded to the Ld. AO. The relevant extract from the order of the Tribunal in the assessee's own case is as under:

“3.2 Regarding the issue of transfer pricing adjustment, we find that the aspect of estimated profitability would stand concluded at the level decided between the assessee and the CBDT. However, we are conscious of the fact that this agreement itself is dated 24.03.2025, whereas the impugned order predates this agreement. Accordingly, we remand this issue back to the file of Ld. TPO for carefully going through the terms of the agreement and working out the Arm's Length PLI in line with the terms of the said agreement. Needless to say, the Ld. AO would thereafter give effect to the Ld. TPO's working in this regard.”

6. It was stated that as per page 28 of the appeal set, the assessee's margin of profit being 4.07%, which was within the tolerable range of $\pm 3\%$, the APA would cover Ground Nos. 5 to 13 of the appeal and it was requested that the matter may be remanded to the Ld. Assessing Officer.

7. We have considered the facts of the case, the submissions made and the documents filed. Since the assessee had entered into an APA with the CBDT and the impugned AY 2021-22 is also covered in the APA dated 24.03.2025, the issue of Arm's Length Price raised in Ground Nos. 5 to 13 is hereby remanded to the Ld. AO who shall consider the APA and thereafter make an adjustment as per law, if required in accordance with the provisions of sections 92CD and 92CE of the Act. Hence, these grounds of appeal are partly allowed for statistical purposes.

8. Ground Nos. 1 to 4 were not pressed by the Ld. AR, hence, the same are dismissed as “not pressed”.

9. Ground No. 14 relates to an addition of ₹9,13,56,765/- to the book profit of the assessee as determined u/s 115JB of the Act without proposing any addition either in the show cause notice or in the final assessment order. It is also stated that in the absence of any specific provision u/s 115JB of the Act, no adjustment can be made for computation of book profit and the Ld. AO has also erred in law in not granting the available MAT credit.

10. We have considered the facts of the case, the submissions made and the documents filed. The Ld. AO has not made any discussion in the assessment order nor any addition is proposed in the direction of the Ld. DRP or in the final assessment order, therefore, this issue is also remanded to the Ld. AO to grant an opportunity of being heard to the assessee and consider the book profit as per the intimation u/s 143(1) of the Act and make the required adjustment as per law after granting an opportunity of being heard to the assessee. Hence, for statistical purposes, this ground of appeal is also partly allowed.

11. Ground No. 15 relates to the arithmetical error in computing the total interest and the fee payable in the computation sheet as ₹1,53,96,923/- instead of ₹1,50,01,601/-. It was stated that the due date was extended to 15.03.2022 and the return of income was filed on 12.03.2022 and therefore, no interest was liable to be charged. This issue is also remanded to the Ld. AO who shall consider the extended due date in computing the interest and the fee payable, if any, as per law. Hence, this Ground No. 15 is also allowed for statistical purpose.

12. Ground No. 16 being premature, is not being adjudicated upon.

13. Ground No. 17 is related to excess interest charge u/s 234B of the Act. The charging of interest is mandatory. However, the Ld. AO is



directed to verify the interest to be charged u/s 234B of the Act and recompute the interest after recomputing adjustments on account of the Arm's Length Price as per the APA.

14. In the result, the appeal filed by the assessee is partly allowed for statistical purposes.

Order pronounced in the open Court on 6th April, 2026.

Sd/-

[Sonjoy Sarma]
Judicial Member

Sd/-

[Rakesh Mishra]
Accountant Member

Dated: 06.04.2026

Bidhan (Sr. P.S.)



Copy of the order forwarded to:

1. **M/s. DIC Fine Chemicals Pvt. Ltd., UB 03, Mani Tower, 31/41, Binova Bhave Road, Taratala, Sahapur S.O. Kolkata, West Bengal, 700038.**
2. **D.C.I.T., Circle-11(1), Kolkata.**
3. CIT(A)-
4. CIT-
5. CIT(DR), Kolkata Benches, Kolkata.
6. Guard File.

// True copy //

By order

Assistant Registrar
ITAT, Kolkata Benches
Kolkata