

**IN THE INCOME TAX APPELLATE TRIBUNAL "K" BENCH, MUMBAI
BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER AND
SHRI MAKARAND VASANT MAHADEOKAR, ACCOUNTANT MEMBER**

ITA No. 8607/MUM/2025 (AY: 2022-23)

(Hybrid Hearing)

EBIXCASH World Money Limited, Manek Plaza, CST Road, Vidyanagri Marg, Mumbai, Maharashtra – 400098. [PAN: AABCC4763G]	Vs	DCIT, Circle-2(1)(1), Aayakar Bhawan, M.K. Road, Mumbai, Maharashtra – 400020.
Appellant / Assessee		Respondent / Revenue

Assessee by	S/Shri Ved Jain & Nishay Kantoor, Advocates, Navneet Signal & Ms Kanishka Garg CA's (virtually)
Revenue by	Miss Neena Jeph, CIT-DR
Date of Institution	12.12.2025
Date of hearing	16.03.2026
Date of pronouncement	04.06.2026

Order under section 254(1) of Income Tax Act

PER PAWAN SINGH, JUDICIAL MEMBER:

1. This appeal by assessee is directed against the order additions in assessment order dated 27.11.2025 passed under section 143(3) rws 144C(13), passed in pursuance of directions of Dispute Resolution Penal-1 (DRP) Mumbai dated 08.10.2025 for Assessment Year (AY) 2022-13. The assessee has raised following grounds of appeal:

(1) That the final assessment order passed u/s 143(3) r.w.s. 144C(13) r.w.s. 144B by Ld. AO making a Transfer Pricing adjustment of Rs. 76,45,48,200/- is bad in law, contrary to facts, arbitrary, and liable to be deleted.

(2) That the finding of the learned TPO that the "though the nomenclature of instrument is compulsorily convertible debentures, but a detailed analysis of the contractual terms reveal that the actual substance of the instrument is an

equity instrument" is factually incorrect, legally misconceived and wholly untenable.

- (3) That the authorities below erred in recharacterizing CCDs as equity/quasi-equity without any legal authority, without examining contractual terms, commercial substance, financial reporting classification, or regulatory compliance. Such recharacterization is beyond the jurisdiction of the TPO and vitiates the ALP determination.*
- (4) That the Ld. TPO erred in disallowing the entire interest on CCDs without rejecting the Assessee's benchmarking analysis, without identifying defects in the CUP analysis, and without performing any comparative economic analysis. The adjustment therefore lacks foundation in law and transfer pricing principles.*
- (5) That the Ld. AO, Ld. TPO and Hon'ble DRP erred in determining the Arm's Length Price ("ALP") of interest paid on Compulsorily Convertible Debentures (CCDs) at NIL without applying any of the prescribed methods under section 92C(1) read with Rule 10B/10AB.*
- (6) That the aforesaid adjustment by determining the ALP of the international transaction of payment of interest on debentures as Nil as per other method since no independent enterprise will pay interest on equity is untenable. Adoption of Other Method' as an ad-hoc approach to identifying a methodology without proposing an approach to benchmark the above said transaction is arbitrary and without any basis.*
- (7) That the authorities failed to perform a FAR (Functions-Assets-Risks) analysis or identify any comparable uncontrolled transactions, which is a mandatory requirement under Rule 10B. The ALP determined therefore has no supporting economic rationale.*
- (8) That in making the aforesaid proposed addition the learned Assessment Unit, Income Tax Department has also erred in referring the matter to the learned TPO u/s 92CA of the Act on the following amongst other grounds, rendering the order of the TPO as unsustainable both in law and on facts:*
 - a) As none of the pre-conditions laid down under section 92C(3) of the Act were satisfied, there was no occasion for determination of arm's length price*

by the AO and the value of the international transactions ought to have been accepted,

b) As the reference made by the learned AO to the learned TPO is not in accordance with the provisions of Section 92CA (1) of the Act,

c) As no opportunity of being heard was granted at any stage of the proceedings for this purpose, whether at the proposal or the approval stage,

d) As no initial opinion was formed u/s 92C (3) of the Act which is a jurisdictional precondition;

e) By not furnishing the Letter of Reference ('LOR') to assessee.

(9) That the Hon'ble DRP erred in passing a cryptic, non-speaking and mechanical order, failing to adjudicate each of the detailed objections filed in Form 35A, and failing to examine the evidence, agreements, benchmarking study and legal submissions placed on record. Such an order is contrary to Section 144C(6) and violates the requirement of reasoned adjudication.

(10) That the Ld. AO erred in law by mechanically incorporating the Transfer Pricing adjustment determined by the Ld. TPO in violation of Section 92CA(4), which mandates that the Ld. AO must compute the total income "in conformity with the ALP determined by the TPO, but only after exercising independent judgment and satisfaction whereas in the present case, the Ld. AO has acted as a mere rubber stamp, without any independent evaluation, rendering the assessment order void-ab-initio and contrary to settled judicial principals .

(11) That the impugned assessment order is liable to be quashed as it is based on an erroneous assumption of facts, incorrect appreciation of law, and mechanical reliance on the TPO/DRP findings, without adjudicating the Assessee specific submissions or explanations, rendering the order arbitrary, perverse and unsustainable.

(12) That the Appellant craves leave to add, amend, modify, substitute or withdraw any of the above technical grounds at the time of hearing.

2. Brief facts of the case are that assessee-company is engaged in business of money exchange/foreign exchange services as authorised dealer. The assessee is also registered with Reserve Bank of India (RBI). The assessee filed its return of income for assessment year (A.Y.) 2022-23 on 29.11.2022 declaring Nil income. The case was selected for scrutiny. The assessee while filing return of income reported certain international transaction with its associated enterprises (AE) and furnished Form 3CEB. Consequent upon reporting international transaction, the assessing officer (AO) made a reference to Transfer Pricing Officer (TPO) for computation of arm's length price (APL) in respect of payment of interest of Compulsory Convertible Debenture CCD. Before TPO, the assessee contended that CCD's were issued to AE on 15 June 2018 (25,000/- CCDs having face value of ₹ 1000/- each) and on 12 November 2018 (30,00,000/- CCDs having face value of ₹ 2000/- each) with predetermined conversion ratio and carried interest at the rate of 9.00% p.a. The TPO issued show cause notice for proposing to re-characterise CCDs as equity by taking view that CCDs were fully compulsory convertible after 10 years, there is no repayment obligation, the CCDs were resembled advance share capital rather than the loan and interest on such instrument was not allowable under arm's-length principle. In response to show cause notice, the assessee filed its reply dated 10th January 2025. The assessee while filing reply objected to the reference made by AO under section 92CA, on the ground that it is not in conformity with the CBDT instruction No. 3/2016. The TPO failed to specify condition under section 92C (3) to disturb the

assesses ALP. The TPO also ignored the details benchmarking analyses carried out by assessee. The TPO rejected the objections of assessee by taking view that CCDs are equity-like and therefore, interest could not be allowed. It was also held that the substance of transaction is different from its form. The nomenclature of instrument is Compulsory Convertible Debenture, but a detailed analysis of contractual term reveals that the actual substance of the instrument is an equity instrument. The TPO vide its order dated 25th January 2025 determined ALP of interest at the Nil, resulting into transfer pricing adjustment of ₹ 76.45 crore.

3. On receipt of order of TPO, the AO passed draft assessment order on 26th February 2025 proposing addition of ₹ 76.45 crore. The copy of draft assessment order dated 26.02.2025 was served upon the assessee. The assessee filed its objection before Dispute Resolution Panel (DRP). The DRP upheld the adjustment suggested by TPO in its direction dated 8th October 2025. In pursuance of direction of DRP, the assessing officer passed the final assessment order under section 143(3) rws 144C (13) dated 27.11.2015. Aggrieved by the addition in the final assessment order, the assessee has filed present appeal before Tribunal raising various grounds of appeal as noted above.
4. We have heard the submissions of learned authorised representative (AR) of the assessee and the learned Commissioner of Income Tax departmental representative (CIT-DR) for the revenue and have gone through the orders of

lower authorities carefully. The Id. AR) of the assessee submits that grounds of appeal raised by assessee is squarely covered in favour of the assessee by a series of decision of various bench of Tribunal. The coordinate benches of Tribunal consistently held that CCD cannot be treated as equity and the interest incurred in respect of CCD cannot be disallowed by TPO/AO by recharacterizing CCD as equity. To support his submission the learned AR of the assessee relied upon the following decisions;

- ❖ 2022 (11) TMI 1323, Summit Developments Private Ltd vs DCIT dated 10th November 2022,
 - ❖ 2024 (10) TMI 1625 Indorama Ventures Oxides and Ankleshwar Private Ltd versus DCIT dated 29th October 2024,
 - ❖ 2020(120 TMI 110, Embassy One Developer's Private Ltd versus DCIT dated 26 November 2020,
 - ❖ 2022(9) TMI 1413, TE Connectivity Services India Private Limited versus National Faceless Assessment Centre, dated 16th September 2022,
 - ❖ 2019(8) TMI 554, ITO versus CAE Flight Training (India) Private Limited dated 25 July 2019,
 - ❖ 2023(7) TMI 1148, Religare Finevest West Ltd versus DCIT dated 13 July 2023,
 - ❖ 2025 TMI 1506, Goldman Sachs India Finance Private Ltd versus Income tax Department, 22 August 2025,
 - ❖ 2025(1) TMI 446, Stahl India Private Limited versus DCIT dated 10 December 2024.
5. The learned AR of the assessee further submits that superior courts have also held that expenditure incurred on issuance of CCDs are also allowable and that such expenditure incurred on issuance is relatable to debt obligation (for CCD) and not for equity. To support such view, the learned AR of the assessee relied upon the following decisions;
- HDFC Vs DCIT (2024) (11) TMI 1386 (Bombay High Court),
 - CIT Vs Secure Meters Ltd (2008) (11) TMI 66 (Raj High Court),

- CIT Vs Havells India Ltd (2012) (5) TMI 449 (Delhi High Court),
 - CIT Vs ITC Hotels Ltd (2009) (11) TMI 581 (Kar High Court).
6. The Id AR of the assessee submits that there is no dispute that the assessee has issued CCD and has not issued any equity. The term of issuance requirement payment of interest on the CCD. Further clause 5.3 of agreement explicitly provides that CCDs under the agreement will *rank pari passu* with all its other indebtedness for borrowed money. There is neither any voting power with the debenture holder nor had any right to receive dividend till such time the debenture are converted into shares. The relationship remains that of borrower and lender. Thus in view of the above facts, the interest cannot be arbitrarily disallowed by recharacterizing CCD as equity. The learned AR of the assessee reiterated that in fact issue is covered by a series of decision on which he has relied.
2. On the other hand, learned Senior Departmental Representative (Id. Sr. DR) for the revenue relied upon the order of Id. CIT(A). On merit, he relied upon the order of AO.
3. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. We have also deliberated on various case laws relied by Id AR of the assessee. We find that there is no dispute that during the relevant financial year under consideration, the assessee issued CCDs of Rs. 849.49 Crore to Ebix Asia Holding Inc, Mauritius at an interest @ 9% per annum. The assessee paid total interest of Rs. 76.45 Crore. To substantiate ALP of such interest payment the assessee furnished its TPSR in Form-3ECB. We find that TPO disregarded the benchmarking of the transaction

and other objections of assessee for making reference for ALP by holding that that CCDs are equity-like and therefore, interest could not be allowed. It was also held that the substance of transaction is different from its form. The nomenclature of instrument is Compulsory Convertible Debenture, but a detailed analysis of contractual term reveals that the actual substance of the instrument is an equity instrument. The TPO vide its order dated 25th January 2025 determined ALP of interest at the Nil, resulting into transfer pricing adjustment of ₹ 76.45 crore. The DRP confirmed the action of TPO. We find that the grounds of appeal raised by assessee is in fact covered by a series of decisions of Tribunal and High Courts wherein it is consistently held that CCDs cannot be treated as equity and interest in respect of CCD cannot be disallowed by TPO. Similar view of taken by Mumbai Tribunal in Indorama Ventures Oxides Ankleshwar (P.) Ltd. (supra) where assessee issued CCDs to its AE to finance acquisition of business undertaking of an unrelated party and revenue made transfer pricing adjustment on account of alleged option premium arising on alleged sale of embedded call option to AE, it was held that in absence of any income (notional or otherwise) in nature of options premium, transfer pricing adjustment could not be made. We also find that Hon'ble Bombay high Court in HDFC Bank Ltd (supra) also held that where assessee-bank had made a 'rights issue' of Fully Convertible Debentures (FCDs), expenditure incurred by assessee on issue of said FCDs was to be allowed as deduction. We further find that Hon'ble Bombay High Court followed the decision of Delhi High Court in CIT Vs Havells India (352 ITR 366

Delhi) wherein it was held that expenditure incurred on issue of debentures is to be allowed as revenue expenditure despite indications to effect that debentures are to be converted in near future into equity shares. Thus, respectfully following the decision of Tribunal High Courts, we find that the grounds of appeal raised by the assessee in fact covered in favour of the assessee. Hence, we direct the AO /TPO to delete the entire addition/ adjustment in the assessment order on account of interest expenses. In the result, grounds of appeal of assessee are allowed.

4. In the result, the appeal of the assessee is allowed.

Order was pronounced in the open Court on 04/06/2026.

Sd/-
MAKARAND VASANT MAHADEOKAR
ACCOUNTANT MEMBER

Sd/-
PAWAN SINGH
JUDICIAL MEMBER

Mumbai, Dated: 04/06/2026
Biswajit

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Nagpur; and
- (5) Guard file.

By Order

Assistant Registrar / DDO
ITAT, Mumbai