IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "I" NEW DELHI

BEFORE MS. KAVITHA RAJAGOPAL, JUDICIAL MEMBER
AND
SHRI SANJAY AWASTHI, ACCOUNTANT MEMBER

ITA No.520/Del/2023
Assessment Year : 2019-20

Jones Lang LaSalle Property Consultants (India) Pvt. Ltd., 1110, Ashoka Estate, Barakhamba Road, Connaught Place, New Delhi – 110 001. **PAN: AAACL2089B**	Vs.	**DCIT,** Circle 13(1), New Delhi.
Appellant		**Respondent**

Assessee by	Shri Nageswar Rao & Shri Pratik Rath, Advocates
Department by	Shri Mahesh Kumar, CIT-DR
Date of Hearing	10.08.2026
Date of Pronouncement	09.11.2026

ORDER

Per Kavitha Rajagopal, J M:

The assessee has filed the present appeal challenging the final assessment order dated 23.01.2023 passed by the Ld. Assessing Officer ('the Ld. AO', for short) pursuant to the directions of the Hon'ble Dispute Resolution Panel ('the Hon'ble DRP', for short) relevant to the Assessment Year ('A.Y.' for short) 2019-20.

2. The assessee has raised the following grounds of appeal:-

"Based on the facts and circumstances of the case and in law, Jones Lang LaSalle Property Consultants (India) Private Limited ("Assessee" or "Appellant") respectfully craves leave to prefer an appeal against order issued by Deputy Commissioner of Income Tax, Circle 13(1), New Delhi ("Ld. AO"), dated 23.01.2023, under section 143(3) read with section 144C(13) of the Act ("impugned order"/ "final assessment order") pursuant to directions issued by Ld. Dispute Resolution Panel ("DRP"), Delhi dated 22.12.2022 under section 144C(5) of the Act on the following grounds which are without prejudice to each other:

1. That Ld. AO erred in assessing income of the Appellant at INR 495,66,14,616 as against returned income of INR 299,77,83,130.

2. Impugned order is invalid as the same is passed without complying with express provisions of law and without satisfying statutory prescriptions.

3. That Ld. DRP erred in remanding issues to the file of Ld. TPO/AO for passing a speaking order which is in direct contravention to the express provisions of the Act.

4. Impugned order is bad in law for this sole and independent reason that it has not given effect to all directions of Ld. DRP.

Grounds in relation to transfer pricing adjustment made to international transaction of payment of business charges to associated enterprise

5. Ld. TPO/ Ld. DRP/ Ld. AO erred in not accepting the economic analysis undertaken by Appellant which was in accordance with the provisions of the Act read with the Income Tax Rules, 1962 ('the Rules').

6. Ld. TPO/ Ld. DRP/ Ld. AO erred in rejecting TNNM as Most appropriate method (MAM) As adopted by the Appellant in its transfer pricing documentation for benchmarking the transaction of payment of business service charges.

7. Ld. TPO/ Ld. DRP/ Ld. AO erred in separately benchmarking the international transaction of payment of business services charges by arbitrarily choosing Comparable Uncontrolled Price ('CUP') method without following process prescribed under Rule 10C and also erred in not following prescribed steps for applying CUP method as per Rule 1OB(1)(a) of the Rules.

8. Ld. TPO/ Ld. DRP/ Ld. AO erred in recomputing arm's length price ('ALP') of business advisory services charges by adopting an ad-hoc and irrational approach, without undertaking proper FAR analysis, without establishing existence of any comparable uncontrolled transactions and demonstrating their comparability with the Appellant.

9. Ld. TPO/Ld. DRP/ Ld. AO erred in disregarding / misinterpreting out of context documentary evidences submitted by the Appellant to substantiate benefit from 'Business Advisory Services' rendered by its associated enterprises and proceeded on incorrect presumptions / assumptions to allege services of being duplicative in nature.

10. Ld. TPO/ Ld. DRP/ Ld. AO erred in questioning commercial expediency of the Appellant by contending that a third party would be willing to pay for a service only upon on receipt of some tangible benefit, without appreciating / considering evidence submitted by Appellant to demonstrate rendition of services by AE, leading to tangible benefit.

11. Ld. TPO/ Ld. DRP/ Ld. AO has erred in considering ALP of international transaction pertaining to business advisory services as NIL on the premise that it has been disallowed in the past years, without independent application of mind and consideration of evidence duly submitted by the Appellant.

12. Without prejudice to the above grounds, consequential relief should be provided to the Assessee for the service income for business charges received from the AE's.

Grounds in relation to adjustment pertaining to international transaction of property management, brokerage and advisory services

13. Impugned order erred in routinely including value of deemed international transaction for purposes of determining adjustment to ALP of miniscule quantum of transaction with associated enterprise, without proper FAR analysis, purely based on presumptions and by reference to irrelevant material, without proper basis to justify adjustment, by reference to provisions and practices outside Indian law, without citing any valid reasoning for conclusions reached and further by deviating from TPO's own stand in assessment year 2016-17.

14. Without prejudice to above, Ld. AO/Ld. TPO erred in making adjustment to transaction value with associated enterprise which is also not justified on the basis indicated in impugned order.

15. Ld. DRP erred in issuing directions contrary to express provisions of law and in rejecting claims for inclusion/ exclusion of companies as comparable without providing a speaking order in connection with property management, advisory and brokerage services.

16. Ld. TPO/ Ld. DRP/ Ld. AO have erred, in law and in facts, by modifying the search criteria adopted by the Assessee and in erroneously applying certain filters for selection / rejection of comparable companies.

17. Ld. TPO/ Ld. DRP/ Ld. AO erred in law and in facts in considering companies which fail filters applied by Ld. TPO himself.

18. Ld. TPO/ Ld. DRP/ Ld. AO erred in law and in facts by rejecting comparable companies identified by the Appellant in TP documentation without providing any cogent reasons.

19. Ld. TPO/ Ld. DRP/ Ld. AO erred in law and in facts by including companies to the final set of comparable companies on an ad-hoc basis.

20. Ld. TPO/ Ld. DRP/ Ld. AO erred by computing erroneous margins of the Appellant and the comparable companies.

Ground in relation to short grant of tax deducted at source ('TDS')

21. That the Ld. AO has erred in allowing credit of TDS only to the extent of INR 13,51,74,389 in the assessment order while determining tax liability as against the credit of TDS amounting to INR 1,54,77,45,932 claimed by Appellant in the return of income.

Ground in relation to consequential levy of interest and initiation of penalty proceedings

22. That the Ld. AO has erred in charging the interest under section 234B of the Act, being levied consequentially.

23. That the Ld. AO has erred in initiating penalty proceedings under section 270A of the Act against the Appellant.

The Appellant submits that each of the 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, so as to enable the Hon'ble Tribunal to decide on the appeal in accordance with the law."

3. The assessee has also raised the following additional ground:-

"Ground 2.1: The TP reference made to Ld. TPO appears to be not as per law and therefore all subsequent actions by Ld. TPO/DRP/AO are invalid and void under law."

4. Brief facts are that the assessee is engaged in the business of providing real-estate consultancy, property management, advisory and brokerage services

and other allied services. For the year under consideration, the assessee filed its return of income dated 29.11.2019 declaring total income of Rs.299,77,83,130/- under the normal provisions and Rs.308,90,47,905/- u/s 115JB of the Income Tax Act, 1961 ('the Act', for short). The assessee's case was selected for scrutiny and notices u/s 143(2) and 142(1) of the Act were duly issued and served upon the assessee. The ld. AO observed that the assessee had entered into international transaction with its Associated Enterprises (AEs), and, hence, a reference was made to the Ld. TPO u/s 92CA of the Act for determination of the Arm's Length Price (ALP) of the said transactions. The Ld. TPO, vide order dated 28.01.2022, passed u/s 92CA(3) of the Act, proposed an aggregate adjustment of Rs.196,44,87,167/- comprising Rs.57,79,53,359/- towards business service charges paid to AEs and Rs.138,65,33,808/- in respect of property management, advisory and brokerage services rendered to its AEs pursuant to which the Ld. AO passed the draft assessment order dated 31.03.2022 incorporating the aforesaid adjustment. Aggrieved by the proposed adjustment, the assessee filed its objection before the Hon'ble DRP challenging the determination of ALP at 'nil' in respect of business service charges and contending that the service had actually been received from its AEs for the purpose of its business. The assessee also challenged the rejection of comparable companies selected in its TP study pertaining to the property management, advisory and brokerage services and also challenged the inclusion

of functionally dissimilar companies, application of various filters, computation of operating margins and inclusions of deemed international transactions in the adjustment base. It is further observed that the assessee had adopted Transactional Net Margin Method (TNMM) as the Most Appropriate Method (MAM) by benchmarking the relevant international transactions and had selected 19 comparable companies which were rejected by the Ld. TPO while benchmarking and the Ld. TPO had undertaken a fresh comparability exercise by applying various filters including export revenue, employee expenditure and related party transaction filters. The Ld. TPO had finally selected four comparable companies and determined their average operating profit to operating cost margin at 20.85% resulting in the proposed adjustment of Rs.138.65 crore. After duly considering the objections raised by the assessee, the Hon'ble DRP, vide directions dated 22.12.2022, sustained the adjustments relating to business service charges and further issued directions in respect of several objections concerning the selection and rejection of comparable companies, inclusion of deemed international transactions and computation of operating margins. The Hon'ble DRP directed the Ld. TPO/AO to reconsider the submission of the assessee and pass speaking orders in respect of certain companies. However, in the case of Lancor Maintenance and Services Ltd., the Hon'ble DRP specifically upheld its inclusion as a comparable. The Hon'ble DRP also directed that no fresh inquiry should be conducted and that

verification should be confined to the material already available on record. Pursuant to the directions of the Hon'ble DRP, the Ld. TPO passed an order giving effect to the directions and retained the same four comparable companies, namely, Lancor Maintenance and Services Ltd., BVG India Ltd., Interactive Manpower Solution Pvt. Ltd., and Info Edge (India) Ltd. The average operating margin was marginally reduced from 20.85% to 20.80% on account of revision of the margins of Interactive Manpower Solutions Pvt. Ltd. From 31.31% to 31.12%. Further, the adjustment relating to property management, advisory and brokerage services was reduced from Rs.138,65,33,808/- to Rs.138,08,78,127/-, whereas the adjustment relating to business service charges remained unchanged at Rs.57,79,53,359, thereby determining the aggregate transfer pricing adjustment at Rs.195,88,31,486/-. The Ld. AO passed the final assessment order dated 23.01.2023 u/s 143(3) r.w.s. 144C(13) of the Act, thereby incorporating the transfer pricing adjustments. Aggrieved by the final assessment order, the assessee is in appeal before us challenging the impugned order on the aforementioned grounds.

5. The Ld. AR for the assessee, vide application dated 11.04.2023, proposed to withdraw grounds No.5 to 12 on the basis of the BAPA agreement and at the time of hearing stated that the assessee intends not to press the additional ground

and ground No.21, and Ground No.1 is general in nature and, hence, these grounds require no adjudication.

6. Ground No.2 to 4 raised by the assessee challenges the action of the Hon'ble DRP in remanding the issues to the file of the Ld. TPO/AO for passing a speaking order which according to the assessee is in contravention to the express provisions of the Act and Grounds No.13 to 20 is on the merits.

7. We have heard the rival submissions and perused the material available on record. The controversy in the present grounds relates to the determination of the arm's length price of international transactions pertaining to property management, advisory and brokerage services. The assessee had adopted TNMM and selected certain comparable companies, whereas the TPO rejected several comparables selected by the assessee and introduced four additional companies, resulting in a substantial transfer pricing adjustment.

8. The ld. AR submitted that the Ld. TPO had rejected the comparability analysis undertaken by the assessee without properly appreciating the functional profile of the selected companies and had applied various filters, particularly the 70% export-income filter, inconsistently. It was further contended that the companies introduced by the Ld. TPO were functionally dissimilar to the assessee and that the search strategy adopted by the Ld. TPO was not adequately disclosed. The ld. AR also submitted that the Hon'ble DRP, instead of

independently adjudicating the detailed objections raised by the assessee, had directed the Ld. TPO to pass a speaking order, and that the consequential order substantially reiterated the original findings.

9. The ld. AR, in paragraph 9 of the written submissions, further submitted that the assessee's transfer pricing study had been arbitrarily rejected, the comparables selected by the assessee had been excluded by applying irrelevant filters and generalised functional analysis, and the additional comparables introduced by the Ld.TPO were functionally dissimilar. It was contended that the Hon'ble DRP had disposed of the objections through cryptic observations without adequately examining the material placed on record.

10. The ld. AR further submitted that, where the facts and applicable law are clear, repeated opportunities should not be granted to the Department merely to improve its case. In support of this contention, reliance was placed on the decisions in *Rajesh Babulbhai Damania v. CIT, 251 ITR 541*, and *ACIT v. Kumar Ice, 237 ITR (AT),* as cited in the written submissions. The ld. AR accordingly urged that the adjustment be deleted rather than restoring the matter for another round of proceedings.

11. On the other hand, the Revenue's position, as emerging from the Ld.TPO's order, is that the comparables selected by the assessee did not satisfy the

prescribed comparability criteria and that the Ld. TPO was justified in undertaking an independent examination for determining the arm's length price.

12. Having considered the rival contentions, we find that the determination of the arm's length price under TNMM requires examination of the functions performed, assets employed and risks assumed by the tested party and the comparable companies in accordance with Rule 10B(2) and Rule 10B(3) of the Income-tax Rules, 1962. The inclusion or exclusion of comparable companies must be supported by cogent reasons based on relevant financial information and functional analysis. We further observe that the assessee had raised specific objections regarding the selection and rejection of comparable companies, application of filters and functional differences, which require proper adjudication.

13. We have also considered the contention of the ld. AR that repeated opportunities should not be granted to the Revenue merely to fill lacunae in its case. There can be no dispute with the proposition that remand should not be ordered routinely to enable a party to improve its case. However, a distinction has to be drawn between granting an opportunity to fill evidentiary lacunae and restoring an issue where material objections have not been adjudicated through reasoned findings. The former cannot be permitted as a matter of course, whereas the latter may be necessary to ensure proper adjudication in accordance with law.

14. In the present case, the controversy involves examination of several comparable companies, application of filters and determination of operating margins. The assessee's objections are material to the determination of the arm's length price and cannot be rejected without proper examination. At the same time, the alleged deficiencies in the Ld.TPO's analysis do not, by themselves, establish that the entire adjustment is liable to be deleted. The judicial precedents relied upon by the ld. AR must also be considered in the context of their respective facts and the nature of the deficiencies involved.

15. We further find that, during the course of hearing before us, the ld. AR, while challenging the inclusion and exclusion of various comparable companies, primarily placed reliance on the observations recorded in the TPO's order. However, no independent details, annual reports, financial statements, segmental information or other relevant material concerning the disputed comparable companies were placed before us to enable an effective examination of their functional comparability. In the absence of such material, it is not possible for us to undertake a meaningful comparison of the functions performed, assets employed and risks assumed by the respective companies or to conclusively determine the correctness of their inclusion or exclusion. Merely relying upon the observations of the Ld. TPO, without furnishing the underlying financial and functional details of the comparable companies, would not be sufficient to adjudicate the issue conclusively on merits. We are, therefore, of the considered

view that it would not be appropriate for us to substitute our own findings on comparability without the requisite material being available on record.

16. We have also considered the contention of the ld. AR that repeated opportunities should not be granted to the Revenue merely to improve its case or fill lacunae in the assessment proceedings. While we agree with the proposition that remand should not be ordered as a matter of routine, we find that, in the present case, the material necessary for examining the functional comparability of the disputed companies has not been placed before us. Further, the objections raised by the assessee regarding the application of filters and selection and rejection of comparables require proper examination through reasoned findings. Therefore, the restoration of these issues would not amount to granting an opportunity to the Revenue merely to improve its case, but would be necessary for their effective adjudication in accordance with law. Accordingly, we deem it appropriate to restore the issues arising from grounds Nos. 13 to 20 to the file of the Ld. AO/TPO for fresh examination, subject to the binding directions of the Hon'ble DRP and the applicable statutory provisions. The Ld.AO/TPO shall consider the material already available on record, examine the objections raised by the assessee and pass a reasoned and speaking order after affording adequate opportunity of being heard to the assessee. The scope of fresh examination shall remain confined to the disputed issues, without reopening matters which have otherwise attained finality.

17. We make it clear that no opinion is expressed on the ultimate inclusion or exclusion of the disputed comparables, and all legally permissible contentions of both parties are left open.

18. Accordingly, grounds Nos. 13 to 20 are allowed for statistical purposes.

19. Ground No.22 and 23 are consequential in nature and does not require further adjudication.

20. In the result, the appeal filed by the assessee is hereby allowed for statistical purpose.

Order pronounced in the open court on 09.11.2026.

Sd/-	Sd/-
(SANJAY AWASTHI)	**(KAVITHA RAJAGOPAL)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Dated: 09th November, 2026.

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Copy of the Order forwarded to :

1. The Appellant
2. The Respondent
3. The CIT(A)
4. Dr, ITAT, Mumbai
5. Guard File.

BY ORDER,

//True COPY//

(Assistant Registrar)
ITAT, Delhi Benches