IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH'H': NEW DELHI

BEFORESHRI RAMIT KOCHAR, ACCOUNTANT MEMBER
AND
SHRI VIMAL KUMAR, JUDICIAL MEMBER

IT(TP)A No.165/Del/2026
(ASSESSMENT YEAR:2022-23)

Cella Warehousing Private Limited, B1/H3, Mohan Co-operative Industrial Area, Block-B, Mathura Road, Tughlakabad, Badarpur, S.O. South East Delhi-110044. ***PAN-AAHCC9044Q***	v.	Income-tax Officer, Ward 28(1), Delhi.
(Appellant)		**(Respondent)**

Assessee by	Shri Sachit Jolly, Sr. Adv., Shri Sohum Dua, Adv. and Shri Abhudaya Shankar Bajpai, Adv. , Ms. Manvi, Adv. & Sh. Anurag Singhal,Adv
Department by	Shri S.K. Jadhav, CIT-DR
Date of Hearing	06.05.2026 & 25.08.2026
Date of Pronouncement	23.11.2026

ORDER

PER RAMIT KOCHAR, AM:

This appeal in ITA No.165/Del/2026 has arisen from assessment order dated 10.12.2025 passed by learned Assessing Officer u/s. 143(3) r.w.s. 144B r.w.s. 144C (13) of the Income-tax Act, 1961 (DIN: ITBA/AST/S/143(3)/2025-26/1083505899(1)), which in turn has arisen from the learned DRP-1, New Delhi

order dated 01.12.2025 passed u/s 144C of the Income-tax Act, 1961(DIN: ITBA/DRP/M/144C(5)/2025-26/1083170279(1)).

2. The Grounds of appeal raised by the assessee in Memo of appeal filed with the Income Tax Appellate Tribunal, New Delhi, reads as under:

"Ground No.1-General Ground
On the facts and in the circumstances of the case and in law, the Ld. AO/Ld. TPO/Ld. DRP have erred in making an addition of INR 4,58,14,010 to the total income of the Appellant by characterizing Fully and Compulsorily Convertible Debentures ('CCDs') as Equity and thereby re-determining Arm's Length Price ('ALP') of interest on CCDs paid to Associated Enterprise (AE) at Nil.

Ground No. 2-Failure to Record Satisfaction under section 92C(3) of the Act
On the facts and in the circumstances of the case and in law, the Ld. AO/Ld. TPO have failed to demonstrate that any of the conditions specified in section 92C(3)(a) to (d) of the Act were satisfied before disregarding the Appellant's TP Study Report.

Ground No. 3- Incorrect Re-characterization of CCDs as Equity
On the facts and circumstances of the case and in law, the Ld. AO/the Ld. TPO/Ld. DRP have erred in re-characterizing the CCDs as 'Equity' and consequently determining the ALP of the interest on CCDs as Nil.

3.1 Ignoring that CCDs are debt Instruments until converted into Equity
On the facts and in the circumstances of the case and in law, the Ld. AO/ Ld. TPO/ Ld. DRP have erred in disregarding the fact that CCDs are debt instruments until their actual conversion into equity as per the settled judicial precedents.

3.2 Erroneous Recharacterisation of CCDs on Non-Prescribed Parameters
On the facts and in the circumstances of the case and in law, the Ld. AO/Ld. TPO/Ld. DRP erred in placing reliance on parameters not prescribed under the Act for recharacterisation of CCDs.

3.3 Ignoring Judicial Precedents on CCDs Being Treated as Debit
On the facts and in the circumstances of the case and in law, the Ld. AO/ Id. TPO/Ld. DRP erred in law by ignoring binding and persuasive judicial precedents which hold that CCDs constitute debt until conversion and that interest paid thereon is allowable.

3.4 Ld. TPO Exceeded Jurisdiction by Re-characterizing CCDs

On the facts and circumstances of the case and in law, the Ld. AO has erred in recharacterization of CCDs into Equity which can only be invoked under GAAR (Chapter X-A)

Ground No. 4-Rejection of Comparable Uncontrolled Price ('CUP') Benchmarking Without Basis
On the facts and in the circumstances of the case and in law, the Ld. AO/Ld. TPO / Ld. DRP have erred in not accepting the benchmarking analysis undertaken by the Appellant in the TP Study to determine the arm's length rate of interest on CCDs, without providing any cogent reasons for such rejection.

Ground No. 5-Rejection of Alternative Benchmark (SBI PLR) Without Basis
On the facts and circumstances of the case and in law, the Ld. AO/Ld. TPO/Ld. DRP have erred in disregarding the alternative benchmarking analysis carried out by the Appellant using the State Bank of India Prime Lending Rate ('SBI PLR') under the 'Other Method' for determining the ALP of interest on CCDs.

Ground No. 6 - Erred in not reducing the disallowance already made by the Assessee towards the interest payment to its AE as per Section 948 of the Act..
Without prejudice, on the facts and circumstances of the case and in law, the Ld. AO/Ld. TPO/Ld. DRP have erred in disregarding the interest payment amounting to INR 1,21,89,222/-, already disallowed by the Appellant in its computation of income for the year under consideration towards Interest payment to its AE in accordance with the provisions of Section 94B of the Act.

Ground No. 7-Penalty Proceedings Under Section 270A of the Act
On the facts and circumstances of the case and in law, the Ld. AO erred in initiating penalty proceedings under section 270A of the Act.

Ground No. 8-Levy of interest under section 234B of the Act
On the facts and in the circumstances of the case and in law, Ld. AO erred in levying interest under section 234B of the Act amounting to Rs. 34,83,405.

The grounds stated above are independent of, and without prejudice to one another."

3. The brief facts of the case are that the company is engaged in letting out warehouses. The main source of income is rental income(including maintenance) arising from letting out of the warehouses. The assessee filed its return of income for the impugned assessment year u/s 139(1) of the 1961 Act, declaring income of Rs. 3,21,30,910/-. The case was selected by Revenue for framing scrutiny

assessment under CASS to verify issues stipulated in para 3.1 of the assessment order. The AO made transfer pricing reference u/s 92CA of the 1961 Act to Transfer Pricing Officer, which culminated into an Transfer Pricing Order u/s 92CA(3) of the 1961 Act, dated 09.01.2026 , wherein Adjustment to Arms Length Price was made wherein interest paid by assessee to its AE i.e. Cella Holdings Pte Ltd, Singapore on the Fully and Compulsorily Convertible Debentures(FCCD) to the tune of Rs.4,58,14,010/- were disallowed as FCCD were held to be equity , and ALP of the interest paid on FCCD was computed at Rs. Nil. The AO accordingly passed draft assessment order. The assessee filed objections before ld. DRP, which stood dismissed by ld. DRP. The AO passed final assessment order, wherein income was assessed at Rs. 7,79,44,920/- (as against returned income of Rs. 3,21,30,910/-) by treating ALP of interest paid on FCCD at Rs. Nil i.e. interest expenses claimed on FCCD by the assessee to the tune of Rs. 4,58,14,010/- stood disallowed by the AO, by treating FCCD issued by the assessee as equity.

4. The controversy is in a very narrow compass. Heard both the rival parties and perused the material on record. The assessee is an Indian company incorporated in India , and is engaged in the business of letting out of warehouses. The main source of income is rental income (including maintenance) arising from the letting out of the warehouse. The assessee is following mercantile system of accounting. The assessee's 99% equity shareholding is held by its Parent Company i.e. its AE namely Cella Holdings Pte Ltd., Singapore. The assessee has issued Rupee denominated Fully and Compulsorily Convertible Debentures (FCCD) to its parent company numbering 4,16,49,100 of the Face Value of Rs. 10 each at par totaling to Rs. 41,64,91,000/- carrying interest rate of 11% per annum, compulsorily convertible after 10 years from the date of issue. The said FCCD are unsecured carrying no guarantee , no security , not backed with collaterals and carries no

charge on the assets of the assessee. The said FCCD were issued in financial year 2019-20 and 2020-21. The said FCCD are issued for a period of 10 years and were to be mandatorily converted into equity shares on completion of 10 years from the date of issue, but also give FCCD holders sole option/right to seek mandatory conversion into equity shares at any time prior to aforesaid period of 10 years at their sole discretion. Incidentally the said FCCD's were to be converted into equity shares at the sole discretion of FCCD holders any time prior to aforesaid period of 10 years or on the expiry of 10 years , convertible at par value of equity shares vide original Debenture subscription agreement of 2019, but later on the addendum was signed between the parties on 22.03.2022, wherein it was agreed to convert the said FCCD's into equity shares at fair market value(FMV). Presently, we are concerned with assessment year 2022-23. The assessee has benchmarked interest @11% p.a. paid on these FCCD during the year under consideration, to the tune of Rs. 4,58,14,010/- by applying CUP method. The contention of the assessee is that the by applying CUP method, the rate of interest paid by the comparables on similar debentures is arrived at 11.03% p.a. and hence since the assessee has paid interest @11% p.a. , so the same is at ALP, and no additions are warranted. It is further submitted that these FCCD's are rupee denominated , and SBI PLR is between 13.45% and 13.8% p.a. on loans , and hence no additions are warranted as the assessee is paying interest @11% p.a. which is lower than SBI PLR. The assessee is contending that these FCCD's are debt until these FCCD are converted into shares These arguments did not found favour with authorities below, as the assessee is thinly capitalized , no collateral/securities etc. were offered by the assessee for these FCCD's to the subscriber , the assessee is having low profitability , high accumulated losses and weak credit rating, and hence these FCCD's issued by the assessee's defy all commercial logic and instead are merely

equity shares as it gives debenture holders right to convert into equity shares at their sole discretion. Thus, the Revenue held that no interest on these FCCD's can be allowed as it is merely an equity shares. Incidentally, the assessee has voluntarily suo-motu disallowed interest expenses to the tune of Rs. 1,21,89,222/- by applying limitation of interest to AE as is referred to in Section 94B of the 1961 Act. It is observed that the AO has again disallowed the total interest, while part interest u/s 94B as above was suo motu disallowed by the assessee itself, and to this extent , we are in agreement with the assessee, that it has led to double addition to the tune of Rs. 1,21,89,222/- which needs to be rectified(subject to verification by the AO). Proceeding further, with the aforesaid background, we have to proceed further to see whether these FCCD's have trapping of equity or are in the nature of debt wherein interest claimed is to be allowed , to the extent permitted within the four corners of the 1961 Act.This requires investigation of facts. The assessee is subsidiary of Cella Holdings Pte Ltd., Singapore, wherein 99% of the equity shares are held by its aforesaid Parent Company.The assessee is engaged in the business of providing warehousing services to developers and operators. The main source of income is rental income(including maintenance) arising from letting out of the warehouses.The assessee has placed its audited financial accounts in the paper book (page 167-195)filed with the ITAT. Perusal of the said financial statements reveal that the assessee has total assets of 101.06 crores , as at 31.03.2022. The assessee holds property, plant and equipment, which consisted mainly of land and building , to the tune of 89.81crores(post depreciation). The assessee has earned gross revenue of 12.03 crores during the relevant financial year , which is mainly from rental(including maintenance) of warehouses. Thus, it could be seen that the business is highly capital intensive, requiring huge investments in land , building etc., while the returns are steady in

the form of rental(including maintenance) income's. It is fundamental principle of business that entrepreneurs (i.e. promoters) incubates businesses in the initial stages of the said business , take risks during the initial stage and are rewarded accorded for the success of the enterprises. Against such an capital intensive business run by the assessee, the total equity shares allotted by the assessee is merely 100 equity shares of Rs. 10 each fully paid up aggregating to mere Rs. 1000/- (Rs. One Thousand Only), out of which Parent company(i.e. promoter company) namely Cella Holdings Pte. Ltd. , Singapore has subscribed to 99 equity shares of Rs. 10 each of the assessee i.e. the investment made by parent company in the equity shares of the assessee company is a meager Rs. 990/-. While 1 equity shares of Rs. 10 each fully paid up is held by Hecate Warehousing Private Limited. Thus, the total investment in the assessee company which is running a highly capital intensive business (as we have seen above) in the equity shares of the assessee company is a meager Rs. 990/- by the parent holding company (total equity share capital of the assessee as at 31.03.2022 was Rs. 1000 divided into 100 equity shares of Rs. 10 each), which is not even sufficient to cover the cost of incorporating a company. Thus, the parent holding company has infact not funded any of the equity shares of the assessee company . The equity shares carry risk and rewards of the business incubated by its promoters viz. Cella Holding Pte Ltd., Singapore. The equity shareholders are only rewarded once the venture start generating profits , which reward is by way of dividend, bonus shares etc. . Thus, once the promotee company succeeds, the promoter company is rewarded by way of dividend and bonus shares etc. . But, in the instant case, the parent promoter company has only funded the assessee by making investment of Rs. 990/- , which is a meager insignificant amount. Instead The Parent Company has funded the assessee by subscribing to 4,16,49,100 FCCD issued by the assessee of Rs. 10 each

at par, aggregating to Rs. 41,64,91,000/- carrying interest rate of 11% per annum. Thus, the parent company started getting return on FCCD by way of interest at 11% p.a. from day one , whether or not the assessee succeeds or turn profitable. The said FCCD are compulsorily convertible into equity shares after 10 years at fair market value of such equity shares (Initially the said FCCD as per original debenture subscription agreement of 2019, the said FCCD's were to be converted into equity shares at par value of shares vide original Debenture Subscription Agreement dated 05.03.2019, but addendum dated 15th March, 2022 was executed wherein the conversion of FCCD into equity shares shall take place at FMV). The FCCD holders have sole option to seek early conversion of FCCD into equity shares at FMV. Thus, the subscribing by assessee's parent company of FCCD issued by the assessee carrying interest rate of 11% per annum to the tune of Rs. 41.65 crores at the every inception of the assessee in the instant case in lieu of funding of its subsidiary i.e. the assessee through investment in equity of the assessee and capitalizing its subsidiary i.e. the assessee adequately in consonance with highly capital intensive business carried out by the assessee, clearly defies commercial expediency, commercial logic and instead reflect impermissible aggressive tax-planning. Substance over form is to be seen, which clearly reflects that these FCCD's have all the trappings of equity. Our above view is fortified further by the factual matrix that the said FCCD are unsecured carrying no guarantee , no security , not backed with collaterals and carries no charge on the assets of the assessee.. Reference is drawn to judgment and order of Hon'ble Supreme Court in the case of *Mc Dowell & Co Limited v. CTO (1985) 22 Taxman 11(SC)*. In our considered view, the authorities below have rightly treated the aforesaid FCCD as equity , and ALP of the interest was rightly determined at Rs. Nil, as these FCCD's have all the trappings of equity in the instant case.Since, we

have upheld that these FCCD's have all the trapping of equity and need to be recharacterised as equity, and thus no interest expenses to its AE shall be permissible under TP regime, the other grounds of benchmarking have become academic. We order accordingly.

5. In the result, appeal filed by the assessee stands dismissed.

Order is pronounced in the Open Court on 23.11. 2026.

Sd/-	Sd/-
(VIMAL KUMAR)	**(RAMIT KOCHAR)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated: 23.11.2026
PK, Sr. Ps
Copy of the order forwarded to:

(1) Appellant:
(2) Respondent:
(3) CIT
(4) TPO
(5) DRP
(5) DR, I.T.A.T.

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ASSISTANT REGISTRAR
I.T.A.T., DELHI