Foreign Exchange fluctuation gain / loss should be treated as operating in profit margin computation

Global E-Business Operations Pvt. Ltd. Vs ACIT (ITAT Bangalore)
I.T.A No. 725/Bang/2017
Date- 04/12/2020

Fact of the Case

- In the present case the assessee, M/s. Global E-Business Operations Pvt. Ltd. is a company belonging to M/s. Hewlett Packard (HP) group.
- The assessee undertakes HP's worldwide accounting and transaction processing work, provision of back office operation and customer support services to various associated enterprises.
- The assessee is being compensated at cost plus 8%. The assessee adopted TNMM method to benchmark his transactions and the profit level indicator was taken as operating profit by operating cost (OP/OC). The assessee declared net margin of 19.08%.
- The TPO recomputed the margin of the assessee by excluding interest income and non-operating income and also reducing the expenditure. Accordingly, he computed the net margin of the assessee at 15.75%.
- Accordingly, the department submitted that the assessee cannot change its stand and contend that the foreign exchange gain should be treated as operating income.
- The assessee submitted that in its transfer pricing study, has always been treating foreign exchange loss/gain as operating in nature.

Decision of the Case

- The Income Tax Appellate Tribunal explained that foreign exchange fluctuation loss and exclusion of the same resulted in increase of operating margin. Since it was advantageous to the assessee, the action of TPO was not objected to.
- The ITAT observed that the ALP of the transactions required to be determined afresh in the light of decisions rendered.
- Accordingly, the ITAT restored the matter to the file of the AO/TPO.