

ITAT remanded the matter as DRP affirmed order of TPO without dealing with assessee's objections

Summary – The Delhi ITAT in a recent case of Itron Metering Solutions India (P.) Ltd., (the Assessee) held that order passed by DRP affirming order of TPO without dealing with assessee's objections, details and documents should be readjudicated.

Facts

- The assessee company was primarily engaged in trading of electricity meters. It imported electricity meters from its associated enterprises for resale to third parties in India.
- The assessee was engaged in the international transactions of (i) Purchase of electricity meters for resale; (ii) availing of management services; (iii) payment of interest on external commercial borrowings, and (iv) reimbursement of expenses. The assessee adopted RPM, TNMM, respectively for first two transactions.
- The TPO did not accept the methodology adopted by the assessee for benchmarking of its international transactions and subsequently, made an upward adjustment to the total income of the assessee.
- On appeal to the DRP, the DRP did not deal with the assessee's objections and the details and documents submitted before it. It referred to the TPO's observations and summarily rejected the assessee's objection and affirmed the action of the TPO.
- On further appeal:

Held

- In view of the facts and circumstances of the case and the ratio emanating from the order of the instant High Court in the case of *Vodafone Essar Ltd. v. Dispute Resolution Panel* [\[2012\] 340 ITR 352/\[2011\] 196 Taxman 423/\[2010\] 8 taxmann.com 297 \(Delhi\)](#) according to which when a quasi judicial authority deals with a *lis*, it is obligatory on its part to ascribe cogent and germane reasons as the same is the heart and soul of the matter and further, the same also facilitates appreciation when the order is called in question before the superior forum, it was found that interest of justice in instant case would be served, if the matter was remitted to the file of the DRP. DRP was to be directed to consider the issue afresh and properly deal with the objections and submissions of the assessee by way of passing a speaking order. The assessee would be granted adequate opportunity of being heard and the various other case laws available on the subject should be considered by the DRP.