
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INCOME TAX APPEAL NO. 54 OF 2020

The Pr. Commissioner of Income Tax-1
Pune

.. Appellant

Versus

M/s. BNY Mellon International Operations
(India) Pvt Ltd

.. Respondent

Mr. Arun Gupta, Advocates for the Appellant.

*Mr. Nitesh Joshi, with Soham Bamne i/b Cyril Amarchand
Mangaldas, Advocates for the Respondent.*

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**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**
DATE: APRIL 22, 2026

P. C.

1. The above Appeal is filed by the Appellant-Revenue challenging the order dated 7th May 2019 passed by the Income Tax Appellate Tribunal, Bench Pune, partly allowing the Appeal filed by the Assessee insofar as it directed to exclude the comparable of a company called “Excel Infoways Ltd” on the ground of fluctuating margins. The Assessment Year in question is A. Y. 2013-14.

2. According to the Appellant-Revenue, the above Appeal gives rise to the following two substantial questions of law:-

A. *“Whether in the facts and circumstances of the case and in law, the decision of the ITAT of rejecting the comparable Excel Infoways Ltd. on the ground that it is in process of closing down ITES segment business is perverse, as the same is delivered without taking into consideration that even the latest annual report of the company for FY 2018-19 reported turnover in this segment and annual reports of FY 2012-13 and 2013-14 also mention strategies of developing the business in ITES segment which indicates that the company was not closing down the segment?”*

B. *“Whether in the facts and circumstances of the case and in law, the decision of the ITAT in rejecting the comparable Excel Infoways Ltd on the grounds of fluctuating margins is correct as the same is given without taking into consideration that if the FAR analysis of the comparable satisfies comparability conditions and there are no abnormal business conditions reflecting into high/low profit margins of the comparable then the comparable can not be rejected only due to its high/low margins as held by the Special bench of the hon’ble Mumbai tribunal in case of Maersk Global Centres (India) Private Limited Vs Asst. CIT (ITA No. 7466/Mum/2012)?”*

3. We find that arguable questions are raised. Hence the above Appeal is ***admitted*** on the aforesaid two questions of law.

4. Call for Record and Proceedings.

5. The Registry is directed to communicate a copy of this order to the Tribunal. This would enable the Tribunal to keep the Record and Proceedings relating to the present Appeal available to be produced when sought for by this Court.

6. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]