

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI "I" BENCH: NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER &  
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

**ITA No.3245/Del/2024  
[Assessment Year : 2020-21]**

FIL India Business & Research Services Pvt. Ltd., Private Studio-NCRA/AC/PS/00/010B, Ground Floor, Worldmark 1, Asset Area 11, Aerocity, Hospitality District, Indira Gandhi International Airport, Delhi-110037. <b>PAN-AABCF1572C</b>	vs	Assessment Unit Income Tax Department, Delhi
<b>APPELLANT</b>		<b>RESPONDENT</b>
<b>Appellant by</b>	Shri Ravi Sharma, Adv. & Shri Shitiz Bansal, AR	
<b>Respondent by</b>	Shri Dharm Veer Singh, CIT DR	
<b>Date of Hearing</b>	18.08.2025	
<b>Date of Pronouncement</b>	14.11.2025	

**ORDER**

**PER MANISH AGARWAL, AM :**

The present appeal is filed by the assessee against the final assessment order dated 27.06.2024 passed by Assessing Officer u/s 143(3) r.w.s. 144C(13) r.w.s. 144B of the Income Tax Act, 1961 ["the Act"] after incorporating the giving effect to the directions of Ld. Dispute Resolution Panel ("DRP") dated 31.05.2024 pertaining to Assessment Year 2020-21.

2. Brief facts of the case are that assessee company engaged in the business of rendering software development services, information technology enabled services and research support services to its group companies located in India and abroad. The assessee company filed its return of income on 14.12.2020,

declaring total income of INR 201,40,43,870/-. The case was selected for scrutiny through CASS and the AO assessed the income of the assessee at INR 2,20,13,31,467/- u/s 143(3) r.w.s. 144C(13) r.w.s. 144B of the Act vide order dated 27.06.2024 by making various additions. Against the said order, the assessee filed objections before the ld. DRP and was aggrieved by the order of ld. DRP, present appeal is filed before the Tribunal.

3. The assessee has raised following grounds of appeal:-

1. *“That on facts and in circumstances of the case and in law, the impugned order passed by AO is wrong and bad in law*

***Transfer Pricing ('TP') Grounds***

2. *On the facts and circumstances of the case & in law, the Ld. AO/Ld. TPO erred in enhancing the income of the Appellant by INR 14,56,72,227/- by holding that the Appellant's international transactions pertaining to provision of Research Support Services Segment do not satisfy the arm's length principle envisaged under the Act and in doing so have grossly erred in*

2.1. *not appreciating that none of the conditions set out in section 92C(3) of Act are satisfied in the instant case before proceeding to determine the ALP himself;*

2.2. *disregarding the ALP as determined by the Appellant in the TP documentation maintained by it in terms of section 920 of the Act read with Rule 100 of the Income-tax Rules, 1962 ("Rules").*

2.3. *Rejecting the comparability analysis conducted by the Appellant in the TP documentation and proceeding to conduct a fresh comparability analysis upon application of additional/ revised filters and rejecting the filters applied by the Appellant in its TP documentation;*

2.4. *Not providing the search strategy and accept-reject reasons of the fresh economic analysis conducted by Ld. TPO which tantamount to cherry picking of the comparables)*

2.5. *Excluding the below mentioned functionally similar companies selected by the Appellant on arbitrary/ frivolous grounds, even though they are comparable to the Appellant in terms of the functions performed, assets employed and risks assumed*

- *Acuitas Capital Advisors Private Limited*

- *India Life Capital Private Limited,*
- *Money Capitalheight Research Investment Advisers Private Limited,*
- *Netscribes India Private Limited, and*
- *Cyber Media Research & Services Limited*

2.6. *Not including the below additional companies proposed/ identified by the Appellant even though they are comparable to the Appellant in terms of functions performed, assets employed and risks assumed namely,*

- \* *Altavista Capital Advisory Services Limited.*
- \* *Everstone Capital Advisors Private Limited.*

2.7. *Not providing adjudication on the below additional companies proposed identified by the Appellant before the Hon'ble DRP even though they are comparable to the Appellant in terms of functions performed, assets employed and risks assumed namely,*

- \* *Snware Research Services Private Limited.*
- \* *Keynote Financial Services Limited, and*
- \* *Cheers Interactive India Private Limited*

2.8. *Denying the benefit of working capital adjustment to the Appellant by the Ld. TPO on frivolous grounds, in spite of the fact that the Hon'ble DRP had granted such benefit to the Appellant in its directions:*

2.9. *Without prejudice to other contentions of the Appellant, the Ld. TPO failed to give effect to the directions issued by the Hon'ble DRP, in not granting the benefit of using rectified operating margins of the comparable while determining the arm's length price of the impugned transaction and proposing an adjustment by using incorrect operating profit margin of the comparable.*

3. *On the facts and circumstances of the case & in law, the Ld. AO/TPO has erred in proposing the transfer pricing adjustment without considering comparables on the basis of proper Functions, Assets and Risk (FAR) analysis. In doing so, the Ld. AO/TPO erred in:*

3.1. *Including SPT Investment Advisory Services Private Limited (SPT) as the only comparable in the final set, which fails the Turnover filter applied by the Ld. TPO,*

3.2. *proposing an adjustment without performing a valid comparability exercise in contravention to Section 92 of the Act, thus, making the assessment annulled in the eyes of law.*

### **Corporate Tax Grounds**

4. *On the facts and circumstances of the case & in law, the Ld. AO erred in enhancing the income of the Appellant by INR 2,21,19,425 on account of deposit of employee's contribution of Provident Fund (PF) after the due date for deposit under the PF Act. In doing so, the Ld. AO:*

4.1. *Erred in not following the favourable order dated 10 August 2023 (ITA No.412/Del/2023) passed by the Hon'ble Income Tax Appellate Tribunal ITAT (Delhi Bench B) on the exact same issue and the same AY wherein out of the above additions of INR 2.21,19,42 made in the intimation order under section 143(1) of the Act, the additions amounting to INR 2,14,39,579 were directed to deleted by the Hon'ble ITAT*

4.2. *Erred in ignoring the fact that the favourable ITAT order in the case of the Assessee has not been further challenged by the revenue department and has therefore attained finality*

4.3. *Grossly erred in complying with the directions of the Hon'ble DRP wherein the AD was directed to verify the favorable decision of ITAT*

4.4. *Erred in holding that the judgement passed by the Hon'ble Supreme Court in the case of Checkmate Services Pvt. Ltd is applicable in the present case thereby ignoring that there was no delay on part of the Appellant in deposit of PF before the due date.*

5. *On the facts and circumstances of the case & in law, the Ld. AD erred in enhancing the income of the Appellant by INR 1,94,95,945 pertaining to claim of education cess in the return of income. In doing so, the Ld. AO:*

5.1. *Grossly erred in making the said additions in the assessed income despite observing that the same was voluntarily surrendered by the Appellant by furnishing Form no. 69 under rule 132 of the Income-tax Rules, 1962 (the Rules) and specifically noting in the assessment order that no further disallowance is being made.*

5.2 *Grossly erred in proposing to initiate penalty proceedings under section 270A of the Act despite the fact that proviso to section 155(18) of the Act prescribes that no penalty shall be levied if the Assessee has made an application in the prescribed form to the Ld. AO surrendering the claim of education cess.*

6. *On the facts and circumstances of the case & in law, Ld. AO/DRP has erred in initiating the penalty under section 270A of the Act for under-reporting of income without appreciating the fact that there is no under-reporting of income by the Appellant*

*The above grounds and sub-grounds are without prejudice to each other.*

*The Appellant craves leave to add, alter, amend, modify or withdraw all or any of the aforesaid grounds of appeal as may be considered necessary at any time before or at the time of hearing of the appeal.*

*The Appellant prays that appropriate relief be granted based on the said grounds of appeal and the facts and circumstances of the case.”*

4. Before us, Ld.AR has not pressed **Ground of appeal Nos.1 & 5** thus, same are dismissed.

5. **Ground of appeal Nos. 2 & 3** raised by the assessee are with respect to the transfer pricing adjustment made of INR 1,45,67,277/- on international transactions related to research support segment.

6. Ld.AR for the assessee submits that Ld. DRP vide its para No. 4.2.12.1, has directed the AO/TPO to re-verify the computation of income on the basis of the financials of the companies selected in the final set of comparables as available in public domain and rectify the errors. The TPO while selecting the comparables has taken filter i.e. “turnover of more than INR 5 crores and less than INR 100 crores” as one of the filters however, while disposing the objections raised by the assessee for introducing fresh comparables, the assessee objected some comparables as they have not pass the test of this filter and the TPO also observed that based on a factor of approximately INR 4 to 5 crores of the average turnover, he selected comparable range of companies. Ld.AR drew our attention to the fact that one of the comparables companies i.e. SPT Investment Advisory Services Ltd. stood failed in the turnover filter as the

company is having turnover of INR 3.60 crores in Financial Year 2019-20 and the corresponding annual report is placed at page 16 of the Paper Book. He thus, prayed that this company is not at all be selected as the valid comparable. Ld.AR fairly admits that if this contention of the assessee is accepted as raised in Grounds of appeal Nos. 3 to 3.2, the remaining issues raised in Ground of appeal No.2 became academic and not required to be adjudicated.

7. On the other hand, Ld. CIT DR for the Revenue supports the order of TPO and submits that TPO has correctly taken the comparable which deserves to be upheld.

8. Heard the contentions of both parties and perused the material available on record. From the facts and the order of TPO dated 25.02.2022, it is seen that TPO himself while dealing with the objection No. 2.2 of the assessee with respect to the benchmarking of the comparables for research support services has adopted the turnover filter where average turnover filter of INR 4 to 5 crores is applied. From the perusal of financial statement we find that the company M/s SPT Investment Advisory Services Ltd., which has been selected as one of the comparables by the TPO, has turnover of INR 3.65 crores and thus, fails the turnover filter. Accordingly, we direct the AO/TPO to re-consider the comparables after properly applying the filters and exclude the company namely M/s SPT Investment Advisory Services Ltd. as it fails the turnover filter and then worked out the adjustment, if any. With these directions, Ground of appeal Nos. 2 & 3 are disposed off accordingly.

9. **Ground of appeal No.4** is with respect to the addition of INR 2,21,19,425/- made on account of delayed payment of employees contribution to the provident fund.

10. In this regard, our attention is invited to the order of Co-ordinate Bench in ITA No.412/Del/2023 for the assessment year before us, wherein an appeal was preferred by the assessee against the intimation order passed u/s 143(3) dated 20.12.2021. The Co-ordinate Bench in ITA No. 412/Del/2023 vide order dt. 10.08.2023 after considering the submissions of the assessee has allowed the appeal of the assessee and deleted the disallowance by making following observations:-

6. *“On careful consideration of above, first of all, we note that the assessee for making payment for the month of September 2019 generated challan on 09.10.2019 and make payment which was debited to his bank account on 10.10.2019 as per statement given by the bank. However, the same was reversed on 15.10.2019 due to technical glitches on the EPFO portal/EPFO's SBI Account and the amount was again reversed/credited to the bank account of assessee. Finally the payment was transmitted to the bank account of EPFO on 16.10.2019 and realization was shown on 17.10.2019. As per Assessing Officer the payment was made beyond two days of specified date of 15.10.2019 and he made disallowance and the Id. CIT(A) also uphold the same.*
7. *In our humble understanding when the payment has been debited in the bank account of assessee and flouted further out of coffer of the assessee on 10.10.2019 then the assessee cannot be held responsible attracting the disallowance. Although the amount was again reversed and credited to the bank account of assessee on 15.10.2017 and finally transferred to the EPFO SBI account on 16.10.2019 then also the assessee cannot be held responsible for the two days delay which was caused due to the technical glitches on the EPFO Portal particularly when the assessee was having sufficient funds on 09.10.2019 and after generating challan first transmission of fund was effected on 10.10.2019 five days before the specified date of 15.10.2019. Accordingly, sole*

*grievance of assessee is allowed and Assessing Officer directed to delete the disallowance/addition.”*

11. It is the claim of the assessee that no further appeal was filed against the said order by the Revenue that the of the coordinate bench of Tribunal is accepted than now again raising this issue in the final order, is not in accordance with the true spirit of the order of the Tribunal.

12. On perusal of the facts, we find that Co-ordinate Bench has deleted the disallowance on the ground that assessee has made the payments within the due date however, due to some technical glitches, the payment was credited to the EPFO Bank account after the due date and since the circumstances are beyond the control of the assessee who had made the payments within the stipulated time and the payment was debited in the bank account of the assessee within the due date thus, there is no delay on the part of the assessee in making payment of employees contribution to provident fund. The AO has relied upon the judgement of Hon'ble Supreme Court in the case of ***Checkmate Services (Pvt.) Ltd. vs. CIT [2022] 143 taxmann.com 178 (SC)*** wherein Hon'ble Supreme Court has stated that once the payment was not made by the assessee within prescribed time limit, no deduction is allowable. However, in the instant case the payment on the part of the assessee company was made within the stipulated date and the same was also debited in its bank account and merely due to technical glitches, it was not credited in the bank account of EPFO within the due date which is beyond the control of the assessee and

thus the ratio laid down by Hon'ble Supreme Court in the case of Checkmate Services (Pvt.) Ltd. vs. CIT (supra) is not applicable.

13. In view of these facts and more particularly, considering the order of Co-ordinate Bench passed in appeal by the assessee against the order passed u/s 143(1) of the Act which has not been challenged further by the Revenue, the disallowance made by AO in the final assessment order passed u/s 143(3) of INR 2,21,19,425/- is deleted. Accordingly, Ground of appeal Nos. 4 to 4.4 raised by the assessee are allowed.

14. **Ground of appeal No.6** raised by the assessee is with respect to the initiation of penalty which is pre-mature and not adjudicated hence, dismissed.

15. In the result, appeal of the assessee is partly allowed.

Order pronounced in the open Court on 14.11.2025.

**Sd/-**

**Sd/-**

**(SATBEER SINGH GODARA)**  
**JUDICIAL MEMBER**

**(MANISH AGARWAL)**  
**ACCOUNTANT MEMBER**

**Date:-14 .11.2025**

*\*Amit Kumar, Sr.P.S\**

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