

TRANSFER PRICING DIGEST – AUGUST 2026

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The case summaries contained in this digest are intended only as a reference. Readers are advised to go through the complete text of the respective judgment before relying upon or furnishing any summary before any authority, officer, Tribunal or Court.

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I. Applicability of TP Provisions

a. International Transactions

1. ITAT: The ad hoc adjustment on revenue generated from Indian customers from the AE's global sales programmes, treated as deemed international transactions, was remitted for fresh consideration on the assessee's material.

Manpowergroup Services India Pvt. Ltd. vs. ACIT [TS-675-ITAT-2026(DEL)-TP] [25-08-2026] – ITA 5922/DEL/2024 – AY 2021-22 - [2026] 190 taxmann.com 150 (Delhi - Trib.)

The assessee is engaged in providing manpower recruitment, training, organizational consulting and vendor management services. It contracted with Indian customers on independently determined terms, including customers whose revenue arose under its US AE's global sales programs (GAP and GSS). TPO, invoked section 92B(2), treated a portion of revenue as deemed international transactions and, applying an ad hoc 15 per cent markup, made an adjustment. Assesse had furnished customer-wise revenue details and agreements and contended that the AE neither negotiated nor controlled these contracts, thus section 92B (2) was not satisfied. The TPO asked for details of sales made using the AEs' programmes, and since these were not furnished, held the resulting receipts to be deemed international transactions under section 92B(2) and applied an adhoc rate on the revenue generated, an adjustment the DRP's directions did not disturb. The Tribunal noted that the assessee had not provided complete details, so the TPO could not examine the true nature of the transactions or apply a method prescribed under Chapter X and was left to adopt an adhoc rate, and that the issue needed thorough verification of facts from the details furnished by the assessee; the Tribunal therefore remitted the issue to the AO/TPO to reconsider it on the basis of the material provided by the assessee on the revenue generated using the programs and decide in accordance with law.

b. Specified Domestic Transactions

1. Where assessee borrowed funds from its AE and interest paid was capitalised, since transaction was claimed to be an SDT between domestic entities wherein assessee was taxable at 15 per cent under section 115BAB and AE was taxable at 22 per cent under section 115BAA, matter was remanded to verify nature of

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transaction and if found to be SDT, no TP adjustment could survive as transaction was revenue-neutral

Huoban Energy 1 Private Limited vs. DCIT [TS-609-ITAT-2026(HYD)-TP] [05-08-2026] – ITA No. 622/Hyd/2026 – AY 2022-23 - [2026] 189 taxmann.com 159 (Hyderabad - Trib.)

Assessee company had borrowed funds from its AE, for setting up a solar power plant. Assessee paid interest on said loan which was capitalised in its books. TPO determined that interest paid exceeded ALP and proposed a TP adjustment. It was found that assessee was taxable at 15 per cent under section 115BAB and AE was taxable at 22 per cent under section 115BAA. Furthermore, on perusal of return filed by AE, AE had been categorically shown as a domestic company. It had also been consistently submitted that transaction under consideration was an SDT and not an international transaction. Tribunal ruled that since transaction was revenue-neutral and nature of transaction as a specified domestic transaction between domestic entities required verification, matter was to be remanded to AO/TPO to verify nature of transaction. If it was found that transaction was an SDT between domestic entities, then, assessee would be liable to tax under section 115BAB at rate of 15 per cent, whereas AE would be liable to tax under section 115BAA at rate of 22 per cent, and Assessing Officer would delete TP adjustment made in hands of assessee.

II. Most Appropriate Method

a. Comparable Uncontrolled Price Method

1. Where assessee benchmarked captive consumption of electricity transferred from its captive power plant to its manufacturing unit by adopting rate at which manufacturing unit purchased electricity from open market and this approach was accepted by appellate authority based on earlier decisions in assessee's own case, such benchmarking using open market purchase price was upheld as appropriate for determining arm's length price.

Nirma Limited vs. DCIT [TS-651-ITAT-2026(Ahd)-TP] [21-08-2026] – ITA No. 1569 & 1570/AHD/2026 – AY 2018-19 & 2020-21 - [2026] 189 taxmann.com 843 (Ahmedabad - Trib.)

Assessee-company had inter-unit transfer/captive consumption of electricity generated by its captive power plant (CPP). Assessee benchmarked inter-unit electricity price with rate at which its manufacturing unit purchased electricity from open market. TPO

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made TP adjustment holding that electricity price should not be benchmarked to assessee's purchase rate, but to rate at which power generating companies sell to distribution companies. CIT(A) accepted assessee's benchmarking by adopting market price as rate at which manufacturing unit purchased electricity from open market and followed Tribunal's decisions in assessee's own case for earlier years. Since CIT(A) had relied upon decision of Tribunal in assessee's own case for earlier assessment years, order of CIT(A) was upheld by the Tribunal.

2. **ITAT: Deletes TP-adjustments qua transfer of electricity generated by captive power plant**

   Sun Pharmaceutical Industries Ltd. vs. DCIT [TS-597-ITAT-2026(Ahd)-TP] [31-07-2026] – ITA No.885/Ahd/2019 and ITA No.969/Ahd/2019 – AY 2014-15

   The assessee; transferred electricity generated by its captive power plant to its eligible manufacturing units and benchmarked the transfer under the CUP method, treating the tariff at which the distribution company supplies electricity to industrial consumers as the appropriate comparable. The TPO rejected this benchmarking and determined the arm's length price as the average of the GERC tariff and the IEX market clearing price, with the AO making the resulting adjustment, and the CIT(A) upheld the AO/TPO's action The assessee contended that this average was not an uncontrolled comparable transaction, but the Tribunal did not examine the point afresh, finding the issue covered by its order in the assessee's own case for AY 2013-14 with no change in the factual matrix or legal proposition, and it therefore respectfully followed that coordinate bench order and deleted the addition made by the AO. ***[Sun Pharmaceutical Industries Ltd. (assessee's own case, AY 2013-14) [ITA No. 1519 & 1520/Ahd/2018] followed]***

3. **ITAT: The Tribunal remitted the TP adjustment on purchases of goods and services from AEs for fresh determination of the ALP under the CUP method, following its own ruling in the assessee's case for the earlier year on the rule of consistency.**

   JSW Energy (Barmer) Limited vs. ACIT [TS-590-ITAT-2026(Mum)-TP] [20-07-2026] – ITA No. 6472/Mum/2024 – AY 2021-22

   The assessee is a resident company engaged in the generation, transmission and sale of power and claimed deduction under section 80-IA for eight of its power generating unit.; It purchased steel, stores and spares and hand sanitizers, and availed ash-handling and other services, from its AEs in specified domestic transactions, benchmarking these under the Other Method by comparing the AEs' prices with quotations from independent third parties and contending that it had accepted the lowest quotations. The TPO made an upward adjustment for computing the section 80-IA deduction on the view that the assessee had purchased at prices lower than

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those quoted by independent parties, thereby inflating its tax-exempt profit, and the DRP confirmed the adjustment, with the AO disallowing the corresponding deduction accordingly. The Tribunal noted that a coordinate bench had decided the identical issue on identical facts in the assessee's own case for the earlier year, holding that the TPO had not examined the prices of the independent parties from whom the assessee had likewise purchased steel, and that the TPO should have applied the CUP method on the data of those independent transactions instead of relying on the assessee's Other Method data; that bench had accordingly held the approach of the AO, TPO and DRP unreliable and remitted the matter to the AO/TPO to analyse the adjustment under CUP using data of independent transactions for the sale of steel in the relevant period. Since the facts were identical and neither side showed any change in circumstances, the Tribunal followed the principle of consistency and remitted the issue to the AO/TPO with a similar direction, with the AO/TPO to afford the assessee sufficient opportunity of being heard. ***[JSW Energy (Barmer) Limited for AY 2020-21 [ITA No.3713/Mum/2024, order dated 26.03.2025] followed]***

4. **Where assessee rendered software support services to AE and non-AE and sought application of internal CUP for ALP determination, internal CUP could serve as a direct benchmark if transactions were sufficiently comparable and reliable adjustments were feasible, and difference in employee cost though warranted factual examination but that by itself did warrant CUP rejection Matter remanded with direction for transaction-wise comparability analysis and, if CUP found unreliable, fresh benchmarking to be done under a reasoned MAM.**

   Sureprep (India) Private Limited vs. ITO [TS-673-ITAT-2026(Mum)-TP] [25-08-2026] – ITA No.9156/Mum/2025 – AY 2022-23 - [2026] 190 taxmann.com 128 (Mumbai - Trib.)

   The assessee, a wholly owned subsidiary of a US company, prepares US tax returns and renders software support services. It benchmarked those services under the internal CUP method, claiming substantially similar services rendered to its AE and to an independent customer, and furnished the agreements, invoices and FAR analysis. The TPO rejected CUP because the AE segment's employee cost was several times the non-AE segment's, applied TNMM and proposed an adjustment, which the DRP upheld. Under Rule 10B(1)(a) the internal CUP compares the controlled price with an uncontrolled price after reasonably accurate adjustments for material differences and would ordinarily give a direct benchmark here. Comparability requires examining contractual scope, functions, assets, risks, employee skills, volume and market; the employee cost difference may indicate differences in the value of the services but does not show the prices incomparable. CUP therefore cannot be rejected merely by comparing cost bases, nor can the assessee's assertion of similarity be accepted unverified. Since the orders below contained no transaction-by-transaction analysis,

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the Tribunal set aside the adjustment and restored the issue to the AO/TPO, to apply the internal CUP if the transactions are comparable and differences can reasonably be adjusted. If CUP is unreliable, the AO/TPO must record reasons and select the most appropriate method under section 92C read with Rule 10C, comparing like PLIs, after hearing the assessee.

i. CUP vs TNMM

5. **Where assessee, a newly established manufacturer and exporter of instant coffee, used CUP Method to benchmark export transactions to Associated Enterprises and TPO rejected CUP relying on general differences in volume, timing or market without showing these materially impacted price or were incapable of adjustment under Rule 10B, rejection was not sustainable and CUP was found most appropriate since no serious defects in assessee's benchmarking were demonstrated, making transfer pricing adjustment unjustified. TPO's TNMM rejected.**

DCIT vs. Indus Coffee Private Limited [TS-649-ITAT-2026(HYD)-TP] [19-08-2026] – ITA No.1139/HYD/2025 – AY 2016-17 - [2026] 189 taxmann.com 868 (Hyderabad - Trib.)

Assessee-company, engaged in manufacture and export of instant coffee, benchmarked international transaction of export/sale of instant coffee to Associated Enterprises under CUP Method. TPO rejected CUP on grounds that uncontrolled prices relied upon purchases by foreign AE from third parties rather than assessee's own uncontrolled exports; strict comparability in volume, timing, geographical markets and product characteristics was not demonstrated; and assessee had no internal uncontrolled export transactions. TPO applied TNMM and proposed adjustment. CIT(A) deleted adjustment holding that CUP was MAM on facts and TPO had not properly appreciated assessee's functional profile as a newly established manufacturing unit operating under severe capacity constraints in its first year. Tribunal held that rejection of CUP cannot rest upon general observations regarding differences in geography, volume or timing without establishing that such differences materially affected price and were incapable of adjustment, as Rule 10B itself contemplates reasonably accurate adjustments wherever differences materially affect comparability. Since reasons given by TPO for rejecting CUP Method were largely general in nature and did not establish that benchmarking undertaken by assessee company suffered from any such serious defects as to warrant complete substitution by TNMM, CIT(A) was justified in holding that transfer pricing adjustment could not be sustained.

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b. Transactional Net Margin Method

i. TNMM vs RPM

1. **ITAT: The Tribunal held that the assessee was not a mere reseller and restored TNMM as the most appropriate method over the Revenue's RPM for import of medical equipment from the AE, while remanding the RPT-filter challenge to two comparables for fresh verification.**

   Konica Minolta Healthcare India Private Limited vs. DCIT [TS-593-ITAT-2026(Mum)-TP] [14-07-2026] – ITA No.4183/Mum/2024 – AY 2020-21

   The assessee distributes healthcare equipment and consumables manufactured by its AE and also provides maintenance, warranty and repair services. It benchmarked its purchase of finished medical equipment, films and consumables from the AE under TNMM, with itself as tested party. The TPO rejected TNMM and applied RPM with gross profit to sales as the PLI, holding the assessee predominantly as a distributor because service revenue was a small share of turnover. He adjusted downwards on the assessee's own comparables. The DRP upheld this and rejected consistency, holding that acceptance of TNMM in earlier years did not bar a different method. The Tribunal held that a small share of service revenue is no substitute for a functional analysis and found the service revenue in fact substantial. The imported equipment required package configuration, integration of locally procured accessories, installation, software and licensing, regulatory compliance, application training and warranty support through trained engineers. The assessee also bore market, product, service liability, credit, inventory and price risks. The lower authorities had therefore failed to show mere resale without value addition. RPM loses reliability where the reseller adds substantial value. The Department had accepted TNMM in earlier years with no change in business, and the TPO substituted the method without any independent search or identified defect in the comparability analysis. The Tribunal accordingly restored TNMM as the most appropriate method and held the RPM-based adjustment unsustainable. On the plea to exclude Roche Diagnostics India Pvt. Ltd. and Smiths Medical India Pvt. Ltd. for failing the RPT filter, the DRP had rejected the objection as not raised earlier. Since the TPO had never examined it, the Tribunal remitted both to him to verify whether related party transactions exceeded the 25% threshold. ***[ITO vs. L'Oreal India (P) Ltd. [[2012] 24 taxmann.com 192 (Mum.)]; L'Oreal India (P) Ltd. [228 Taxman 360 (Bombay High Court)]; Burberry India (P)***

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Ltd. [[2024] 169 taxmann.com 6 (Delhi)]; Sony Ericsson Mobile Communication India Ltd. vs. CIT [(2015) 55 taxmann.com 240] followed]

ii. TNMM Vs CUP

1. **ITAT: The Tribunal held TNMM to be the most appropriate method for benchmarking the export of goods to the AE, applying the rule of consistency and displacing the TPO's CUP-based approach.**

   Omni Active Health Technologies Ltd. vs. DCIT [TS-600-ITAT-2026(Mum)-TP] [27-07-2026] – ITA No.935/Mum/2026 – AY 2022-23

   The assessee is engaged in the business of Natural APIs and Novel Delivery Systems for Nutrients and Active Ingredients, and it reported an international transaction of sale of goods to its AE which it benchmarked in its transfer pricing study under TNMM. The TPO rejected TNMM and applied the CUP method, comparing prices charged to the AE with those charged to non-AEs and proposing an upward adjustment, which the DRP upheld, and the AO added in the final assessment order. The assessee pleaded before the Tribunal a limited point, that if TNMM is accepted as the most appropriate method the adjustment would become nil; the Tribunal noted that coordinate benches had accepted TNMM as the most appropriate method for the same transaction in the assessee's own case for AYs 2014-15, 2016-17, 2017-18 and 2020-21, that in AY 2017-18 the matter had been restored to the TPO on that basis and the TPO had thereafter revised the adjustment to nil, and finding merit in the assessee's plea it held TNMM to be the most appropriate method as consistently accepted by the coordinate benches, allowed the sub-ground, and treated all other grounds on the adjustment as academic since the assessee's primary submission was accepted. ***[Omni Active Health Technologies Ltd. (AY 2014-15) [ITA No. 7284/M/2018]; (AY 2016-17) [ITA No. 1224/M/2021]; (AY 2017-18) [ITA No. 748/M/2022]; (AY 2020-21) [ITA No. 4675/M/2024] followed]***

2. **ITAT: The Tribunal upheld rejection of TNMM and adoption of CUP as the most appropriate method for the licence fee paid for distribution of the BBC News Channel but remitted the matter for the TPO to also consider four further comparable licence agreements in fixing the arm's length rate.**

   BBC Global News India Private Limited vs. DCIT [TS-657-ITAT-2026(DEL)-TP] [21-08-2026] – ITA No.4460/DEL/2024 – AY 2020-21 - [2026] 189 taxmann.com 959 (Delhi - Trib.)

   The assessee distributes the BBC News Channel in specified territories under an agreement with its AE, (in addition to providing marketing support services,) and pays

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the AE a distribution (licence) fee based on a percentage of net distribution revenue, which it benchmarked under TNMM using software/IT product distributors as comparables, showing that its margin exceeded the arm's length range and pointing to the same approach having been accepted in earlier years, while, as a fallback, submitting a supplementary CUP benchmarking of eight licence agreements. The TPO rejected the TNMM analysis and adopted CUP as the most appropriate method, but accepted only two of the eight agreements to determine the arm's length rate, and the DRP upheld the TPO's approach. The Tribunal held that the functions of software/IT product distributors are not similar to the assessee's functions, and that the coordinate bench ruling the assessee relied on, treating such companies as comparable for TV channel distribution, applies only where no direct comparable dealing in satellite channel distribution is available; since comparables were available for CUP here, that proposition could not be accepted, and the Tribunal rejected the assessee's contentions on TNMM. On CUP, the Tribunal accepted its adoption as the most appropriate method but found that four agreements similar to the assessee's functions had not been considered by the TPO, the DRP having accepted Peak Entertainment and Warner Home Video as similar yet the TPO rejecting them while giving effect to the DRP's directions; the Tribunal therefore remitted the issue to the AO/TPO to benchmark the arm's length rate under CUP after considering these four agreements and giving the assessee a proper hearing, allowing the assessee's grounds for statistical purposes. ***[Turner International India Pvt Ltd v. ACIT [ITA No.1204/DEL2018 (Delhi ITAT)] distinguished]***

iii. Foreign AE accepted as Tested Party

1. **ITAT: The Tribunal accepted the foreign AE as tested party, in principle, for benchmarking the import transactions of the trading and manufacturing segments.**

   Unicharm India Private Limited vs. DCIT [TS-595-ITAT-2026(DEL)-TP] [30-07-2026] – ITA Nos. 5938 & 6088/Del/2018 and 7414/Del/2019 (assessee); ITA Nos. 6104 & 6203/Del/2018 (Revenue) – AY 2010-11, 2011-12 & 2012-13

   The assessee trades in diapers and sanitary products in India and, from AY 2011-12, also manufactures them; it imported finished goods and packing and repacking materials from its AE, benchmarking these under TNMM by taking the foreign AE as tested party since the AE had charged the assessee at a mark-up and was the least complex entity. The TPO rejected the foreign AE as tested party and benchmarked the trading and manufacturing segments separately under TNMM with the assessee as tested party, making adjustments, and the lower authorities including the CIT(A)

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maintained that rejection. The assessee relied on the coordinate bench's ruling in its own case for AY 2010-11, which had accepted in principle that the least complex party is the tested party, held that difficulty in obtaining data on the foreign entity does not permit summary rejection of the foreign AE without reasons, found that the authorities had not examined the aspect at all, and remitted the matter for fresh determination, leaving the onus of furnishing data on the assessee; the Tribunal also noted that the Madras High Court and the Calcutta High Court had already decided the legal issue of a foreign AE as tested party in the assessee's favour. Since the TPO had rejected the foreign AE without reasons, the Tribunal accepted the foreign AE as tested party and directed the TPO to finalize the consequential computation on that basis, with the assessee to plead and prove all relevant evidence at its own risk and responsibility within three effective opportunities of hearing, and any necessary working capital adjustment to follow as per law in light of the directions for AY 2010-11. ***[Global Vantedge Private Limited vs ACIT [ITA No. 2093/Del/2014]; Virtusa Consulting Services (P) Ltd. v. Dy. CIT [(2022) 325 CTR 307 (Madras)]; PCIT vs ITC Info-tech India Ltd [(2024) 298 taxmann.com 46 (Calcutta)] followed]***

2. **ITAT: The Tribunal deleted the adjustment on sale of software and provision of services to the AE, upholding the foreign AE as tested party and rejecting the TPO's comparison of assessee's pre-merger six-month entity-level margin against twelve-month comparables.**

   Indus Valley Partners (India) Private Limited vs. DCIT [TS-605-ITAT-2026(Mum)-TP] [29-07-2026] – ITA No. 6243/Mum/2024 – AY 2021-22

   The assessee develops and sells software and provides related implementation, managed and IT consulting services. It benchmarked its sale of software and provision of support, IT consulting and managed services to its AE IVP US under TNMM. It took IVP US as the least complex tested party, on CA-certified segmentals and foreign comparable data. The TPO rejected IVP US as tested party because its **segmental** results were **unaudited** and the comparables' financials and back-to-back invoices were not furnished. He took the assessee as tested party and compared its six-month, entity-level pre-merger margin with twelve-month comparable data to adjust both transactions. The DRP substantially upheld that approach. The Tribunal held that neither the Act nor the transfer pricing guidelines bars a foreign AE as tested party, which should normally be the least complex entity. The assessee developed the software, owned the core intangibles and bore entrepreneurial risk, whereas IVP US performed limited risk distribution and marketing functions without core intangibles. CA-certified segmentals satisfied the test of reliability and reasonable allocation, and the TPO identified no defect in them or in the foreign comparable data. Since the adjustment rested wholly on rejecting IVP US, the Tribunal deleted it. The comparison was in any event defective. After the merger of 1 October 2020, the assessee's

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relevant period was six months, yet its margin was set against twelve-month comparable data without a period adjustment. Segmental data for that period being available, the adjustment could not be entity wide. The same approach had also been accepted in the preceding and subsequent years. The remaining grounds were rendered academic. ***[Pr. CIT v. Almatis Alumina (P.) Ltd. [2022] 137 taxmann.com 202/286 Taxman378/445 ITR 632 (Cal); PCIT vs. ITC Infotech India Ltd. [2024] 159 taxmann.com 323; ACIT vs. Cummins India Limited [ITA No. 126 of 2023] followed]***

c. RPM (Resale Price Method)

1. Where assessee, acting as a merchant trader of industrial materials on principal-to-principal basis, benchmarked international transactions under Resale Price Method with its AE as tested party, undertook back-to-back USD transactions without maintaining inventory or assuming significant risks, and TPO's comparables were functionally different manufacturers with higher margins, deletion of TP adjustment by CIT(A) was justified

ACIT vs. POSCO International India Pvt. Ltd. [TS-647-ITAT-2026(DEL)-TP] [19-08-2026] – ITA No.2430/Del/2022 – AY 2016-17 - [2026] 189 taxmann.com 699 (Delhi - Trib.)

Assessee-company, engaged in merchant trading of industrial materials on principal-to-principal basis, purchased steel slabs and HRCF coils from its Korean AE for resale on high-sea-sale basis. It benchmarked transactions under RPM, taking AE as tested party and AE's gross margins from trading similar products with unrelated parties (0.30 per cent for steel slabs; 0.34 per cent for HRCF coils), and made suo motu TP adjustments. TPO accepted RPM but selected 14 external comparables, mostly manufacturers, with median GP margin of 11.30 per cent against assessee's 4.40 per cent and made TP adjustment of Rs. 13.43 crores. CIT(A) deleted adjustment, holding that assessee did not maintain inventory, working-capital requirement was insignificant, purchases and sales were back-to-back in USD, and TPO's comparables were functionally different. Order of CIT(A) was upheld by Tribunal.

d. Other Method

1. Where assessee separately benchmarked import/distribution of telecommunication equipment under Other Method using Berry Ratio and

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networking support services under TNMM, but TPO aggregated both transactions under TNMM, since assessee operated as low-risk merchant trader under high-sea-sale model, obtained only flash title to goods and did not assume significant risks, COGS was correctly excluded from denominator, Berry Ratio was appropriate PLI and segregated benchmarking was to be accepted

Samsung India Electronics Pvt. Ltd. vs. Addl. CIT [TS-620-ITAT-2026(Del)-TP] [12-08-2026] – ITA Nos. 461/Del/2021 & 1955/Del/2021 – AY 2016-17 & AY 2017-18 - [2026] 189 taxmann.com 412 (Delhi - Trib.)

Assessee, engaged in networking segment, separately benchmarked import/distribution of telecommunication equipment under Other Method using Berry Ratio (GP/VAE) as PLI and networking support services under TNMM using OP/OC as PLI, with AE's Indian project office as tested party. TPO rejected segregated approach and aggregated both transactions under TNMM. It was found that assessee operated as a low-risk merchant trader under high-sea-sale model, obtained only flash title to goods, did not maintain inventory or warehousing facilities and did not assume significant risks in relation to goods, while COGS (cost of goods sold) represented a pass-through cost having no correlation with value-added functions or risks borne by assessee. Tribunal ruled that COGS was correctly excluded from denominator and Berry Ratio was appropriate PLI for determining arm's length return in respect of import/distribution transaction and segregated approach adopted by assessee for separately benchmarking import/distribution transaction and networking support services was accepted. ***[CIT v. V. Mr. P. Firm, Muar [1965] 56 ITR 67 (SC), Bharat General Reinsurance Co. Ltd. [1971] 81 ITR 303 (Delhi) followed]***

2. **Where assessee, a pharma subsidiary, transferred business to an unrelated buyer in a slump sale who purchased IP from asseessee's AE and parties split consideration based on independent valuation, TPO disregarded prescribed methods and attributed 99% of total consideration to assessee(solely based on AMP expenditure) without any benchmarking or economic analysis, such ad hoc attribution was contrary to section 92C and TP adjustment made without following prescribed methods could not be sustained.**

UCB India Pvt. Ltd. vs. DCIT [TS-681-ITAT-2026(Mum)-TP] [31-08-2026] – ITA No.905/Mum/2021 – AY 2016-17 - [2026] 190 taxmann.com 16 (Mumbai - Trib.)

Assessee, a pharma company and wholly owned subsidiary of a Belgian company, transferred an identified business comprising certain pharmaceutical products to an unrelated third-party buyer on a slump sale basis and received about Rs. 434.65 crores (final settlement about Rs. 440.80 crores), which it offered as capital gains under section 50B. Separately, buyer entered a trademark/IP assignment with

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assessee's AEs for about Rs. 359.20 crores. Total consideration negotiated with buyer was Rs. 800 crores, of which about 55.10% was received by assessee and about 44.90% by AEs. Out of abundant caution, assessee reported slump sale as a deemed international transaction in Form 3CEB. Independent valuation placed a higher share on AEs' IP and a lower share on assessee's business; assessee asserted it had already received more than independent valuation share. In transfer pricing proceedings, TPO disregarded actual consideration and independent valuation, purported to adopt "Other Method" without any benchmarking or valuation, and attributed 99% of combined consideration (about Rs. 792 crores of Rs. 800 crores) to assessee based primarily on AMP expenditure, proposing a TP adjustment of about Rs. 357.35 crores over and above what assessee actually received. Tribunal held that since TPO had without applying any of six prescribed methods under section 92C, arbitrarily determined that 99% of aggregate consideration received from buyer should have been received by assessee alone, attributing only 1% to AEs, determination was made on an ad hoc basis, primarily by reference to AMP expenses incurred by assessee, without any independent valuation, benchmarking study or economic analysis, what had been done by TPO was therefore outside provisions of section 92C and approach adopted by TPO in making TP adjustment of Rs. 357.35 crore on an ad hoc basis, without applying any of prescribed methods, was contrary to mandatory requirements of section 92C and could not be sustained. ***[CIT v. Lever India Exports Ltd. [2017] 78 taxmann.com 88/246 Taxman 133 (Bombay), CIT v. Kodak India (P.) Ltd. [2017] 79 taxmann.com 362 (Bombay), Pr. CIT v. Capgemini India (P.) Ltd. [2025] 181 taxmann.com 7 (Bombay), D.S. Bist & Sons v. CIT [1984] 17 Taxman 283/149 ITR 276 (Delhi) followed]***

III. Comparability – Inter Industry

a. IT Enabled Services

1. WSP Consultants India Private Limited vs. Assessment Unit [TS-592-ITAT-2026(DEL)-TP] [29-07-2026] – ITA No.5386/DEL/2024 – AY 2021-22

The assessee provides design and engineering support services to its AEs, together with low-end IT-enabled back-office support in accounting, finance, administration and human resource management. It benchmarked the back-office support services under TNMM.

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Tribunal rejected/ excluded TPO's Comparables:

1. **Global Innvosource Solutions Private Limited:** The Tribunal found no financial information in the public domain, and any data the TPO gathered privately ought to have been shared with the assessee. Absent the Director's Report and Notes to Account, the company could not prudently be treated as comparable. ***[IHG IT Services (India) Pvt. Ltd vs DCIT [ITA No.6381/Del/2022]; Avaya India (P) Ltd. vs. Addl.CIT, Range 2, New Delhi [ITA No.5528/Del./2011 for AY 2007-08 order dated 18.09.2015]; BanTec TPS India (P.) Ltd. vs. ACIT [2019] 108 taxmann.com 109 (Mumbai - Trib.) followed]***
2. **Russel Reynolds Associates India Private Limited:** Proposed by the TPO as being in financial services similar to the assessee. Though the DRP directed re-verification, the TPO retained it. The Tribunal found that the TPO had analysed only functions, ignoring the company's substantial royalty income, the royalty it paid for technical know-how and its profit abnormal against earlier years.
3. **Aparajitha Corporate Services Private Limited:** The Tribunal found from its financial statements that it was engaged in management consultancy, which differs from HR compliance and is more KPO than BPO. A group company had also merged into it during the year, with a financial impact left unsegregated.
4. **AAA Technologies Limited:** The Tribunal found it provided IT and information security auditing and consultancy, which requires special skill and cannot be classified as BPO, and that it had declared a very abnormal net profit for the year. Being high-end, the company was excluded. ***[ACIT Vs. WSP Consultant India Limited [ITA. 370/DEL/2016] distinguished]***

Tribunal Accepted/ included assessee comparables:

1. **Sundaram Business Services Limited:** The Tribunal found it provided IT-enabled services in accounting, insurance, banking and human resources, functions similar to the assessee's and within ITES. The assessee had selected it in the two earlier years, and a coordinate bench had held likewise. ***[Syngenta Services (P.) Ltd. vs. ACIT [2023] 157 taxmann.com 306 (Mumbai - Trib.) followed]***
2. **Silgate Solutions Limited:** Proposed by the assessee and rejected by the TPO as engaged in BPO and KPO. In the order giving effect the TPO called it a leading IT solutions provider without citing any source. The Tribunal held that the actual service offered governs, and the company's financial statements declared its income as from BPO alone.

Tribunal Accepted/ included TPO Comparables:

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1. **Kamdar & Kamdar Associates Private Limited:** The Tribunal found it gave consultancy on Foreign Trade Policy as a recognised export house, covering duty exemption, remission, promotional schemes and export-import registrations. Such advisory work needs no separate skill and is not different from BPO and back-office support.
2. **Interactive Manpower Solutions Private Limited:** Proposed by the TPO and objected to by the assessee as functionally dissimilar and as using its group's brand and technical know-how. The Tribunal found it engaged in recruitment process outsourcing, which falls under BPO. Nothing on record showed the brand and know-how affected its operating margin, and such impact cannot be presumed.

2. **ITAT: The Tribunal remitted the comparable selection and filters applied in the Asia Pacific shared services segment to the TPO for fresh examination.**

   Caterpillar India Pvt Ltd vs. DCIT [TS-622-ITAT-2026(CHNY)-TP] [07-08-2026] – IT(TP)A No.43/Chny/2023 and ITA No.718/Chny/2023 – AY 2016-17 - [2026] 189 taxmann.com 468 (Chennai - Trib.)

   The assessee provides shared services and information-technology-enabled services to AEs in the Asia Pacific region, benchmarking them using its own comparables, but the TPO applied export and employee cost filters to reject five companies for insufficient export revenue and ***Informed Technologies Ltd***. for functional dissimilarity, and selected ***Datamatics Business Solutions Ltd***. as a comparable, resulting in an adjustment that the CIT(A) left in place. The Tribunal, observing the same common grievance that the TPO had not appropriately considered the relevant information on record, found the grounds on the filters and comparables relevant and the matter needing re-examination, remitted the issues to the TPO to deal with them after a proper hearing, requiring the assessee to furnish substantiating evidence. The Tribunal did not adjudicate the individual comparables, and the grounds were allowed for statistical purposes.

3. **RBS Services India Pvt. Ltd. [Formerly known as RBS Business Services Pvt. Ltd.] vs. DCIT [TS-638-ITAT-2026(DEL)-TP] [14-08-2026] – ITA Nos. 4306 & 4467/Mum/2012 (cross-appeals) – AY 2007-08 - [2026] 189 taxmann.com 701 (Delhi - Trib.)**

   The assessee, formerly RBS Business Services Pvt. Ltd., renders back-office support, software and KPO services to NatWest Group entities. It benchmarked its back-office support services under TNMM, with itself as tested party and operating profit over operating cost as the profit level indicator. On its own comparables, its margin fell within the permitted tolerance range of the arithmetic mean. The TPO accepted TNMM

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but applied modified filters, including an ITeS revenue filter. He rejected two of the assessee's comparables, introduced new ones and adjusted on the higher resulting mean, denying a working capital adjustment for want of details. CIT(A) excluded some of the TPO's comparables but sustained the adjustment on the rest. The assessee challenged eleven of the TPO's comparables as functionally dissimilar or otherwise incomparable.

Tribunal rejected/ excluded TPO's Comparables:

1. **Mold-Tek Technologies Ltd.:** The Tribunal found it functionally dissimilar, as it provides highly specialised structural engineering and KPO services while the assessee provides general business support. ***[Hewit Associates (India) P. Ltd. vs ACIT [ITA No.5736/Del/2011] followed]***
2. **Eclers Services Ltd. and Vishal Information Technology Pvt. Ltd.:** The Tribunal found both functionally dissimilar, as they work largely through outsourcing with a very low employee cost ratio, whereas the assessee depends wholly on its own employees. ***[Rampgreen Solutions P. Ltd. [ITA No. 102/2015] followed]***
3. **Accentia Technologies Ltd.:** The Tribunal found that it failed the TPO's own ITeS revenue filter of 75%, reported a single healthcare segment with no separate IT services data, and had an acquisition and merger in the year. ***[Hewit Associates (India) P. Ltd. vs ACIT [ITA No.5736/Del/2011] followed]***
4. **HCL Comnet Systems & Services Ltd.:** The Tribunal found it functionally dissimilar, as it has telecommunication and IT-enabled services segments and higher intangible assets than the assessee. ***[Hewit Associates (India) P. Ltd. vs ACIT [ITA No.5736/Del/2011, ICC India Pvt. Ltd. vs DCIT [ITA No.25/Del/2012] followed]***
5. **Informed Technologies India Ltd.:** The Tribunal found it functionally dissimilar, as it mainly provides high-end financial data collection and analysis, its back-office support turnover was very small, and it had abnormal growth. ***[Hewit Associates (India) P. Ltd. vs ACIT [ITA No.5736/Del/2011] followed]***
6. **Iservices India Pvt. Ltd.:** The Tribunal found that it provides high-end diversified services such as web hosting, email, spam filtering and domain services, and that the TPO himself had excluded it as functionally dissimilar in a subsequent year.
7. **Asit C. Mehta Financial Services Ltd.:** The Tribunal found it functionally dissimilar, noting that the TPO himself had excluded it on that ground in a subsequent year.
8. **Genesys International Corporation Ltd.:** The Tribunal found that it provides GIS mapping services, had an extraordinary demerger of its engineering information division, and held intangible assets of 39.73% of total assets against 6.55% for the assessee.
9. **Cosmic Global Ltd.:** The Tribunal found that over 95% of its revenue came from translation and consultancy services, most of it outsourced, and directed its exclusion.

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Tribunal Accepted/ included TPO Comparable:

1. **Caliber Point Business Solutions Ltd.:** The assessee objected that it develops software products and outsources work to vendors. The Tribunal accepted the CIT(A)'s finding that the expenses were for software purchase and related development, and that the annual report showed processing charges, not data processing charges.

4. **Prometric Testing (P) Ltd vs. DCIT [TS-658-ITAT-2026(DEL)-TP] [21-08-2026] – ITA No.3563/Del/2015 – AY 2009-10 - [2026] 189 taxmann.com 944 (Delhi - Trib.)**

The assessee entered into international transactions with its AEs in the ITeS segment.

Tribunal rejected/ excluded *TPO's Comparables:*

1. **Vishal Information Technologies Ltd.; Cosmic Global Ltd.:** The Bombay High Court in PTC Software India had upheld their exclusion as companies engaged in outsourcing activities, with segmental details unavailable. **[*PCIT vs. PTC Software India Pvt. Ltd. [(2019) 101 taxmann.com 117 (Bom.)] followed]***
2. **Crossdomain Solutions Pvt. Ltd.:** The Delhi High Court in BNY Mellon International Operations had concluded that the company carries out KPO activities. **[*BNY Mellon International Operations [ITA No. 1226/Bom/2016 (Delhi)] followed]***

Tribunal Remitted Assessee Comparables:

1. **R System International Ltd.:** The company sells software products and provides software development services, and its segmental details are unavailable; the assessee relied on its acceptance in the preceding year. The Tribunal directed the assessee to plead and prove all segmental details before the TPO at its own risk, within three effective opportunities.
2. **Motif India Infotech Pvt. Ltd.:** The TPO had found its financials unavailable, but the assessee showed that they are now available. The Tribunal accepted the case in principle and directed the TPO to finalise it.
3. **Datamatics Financial Services Ltd.:** The TPO had rejected it for failing the service income filter, but the assessee's chart showed a very high service income to sales ratio. The Tribunal restored the issue to the TPO for fresh computation.

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5. **Red Hat India Private Limited vs. Assessment Unit [TS-662-ITAT-2026(Mum)-TP] [17-08-2026] – ITA Nos. 5800/Mum/2024 and 2423/Mum/2026 – AY 2021-22 and AY 2022-23 - [2026] 189 taxmann.com 850 (Mumbai - Trib.)**

   The assessee houses teams that provide customer support and back-office services such as accounting, financial reporting, procurement and IT helpdesk to its AEs, Red Hat US and Red Hat Ireland, under the AEs' supervision.

   Tribunal rejected/ excluded TPO's Comparables:

1. **MPS Ltd.:** The Coordinate Bench excluded it for AYs 2016-17, 2017-18 and 2020-21 because it performs diversified publishing-related functions that are not comparable to a routine ITeS provider working on a cost-plus model. No factual difference in FAR was shown, and the Tribunal followed those orders. ***[Red Hat India Private Limited, AY 2016-17 [ITA No. 1379/Mum/2021]; Red Hat India Private Limited, AY 2017-18 [ITA No. 801/Mum/2022]; Red Hat India Private Limited, AY 2020-21 [ITA No. 4065/Mum/2024] followed]***
2. **Integra Software Services Pvt. Ltd.:** It provides high-end publishing and digital solutions, owns proprietary products and platforms and undertakes significant research and development and marketing. It assumes higher risk and develops intangibles, which distinguishes it from the assessee.

6. **Incedo Technology Solutions Ltd. vs. DCIT [TS-664-ITAT-2026(DEL)-TP] [21-08-2026] – ITA No.6772/DEL/2025 – AY 2022-23**

   The assessee, a captive wholly owned subsidiary of its foreign group entity, is principally engaged in technical testing services, technical resource deployment and related Information Technology Enabled Services (ITeS).

   Tribunal rejected/ excluded TPO's Comparables:

1. **Tata Elxsi Limited:** The company provides design and engineering services to the consumer electronics, communications and transportation industries, along with digital content creation and R&D, and most of its revenue comes from software development. The Tribunal followed coordinate-bench rulings excluding it for significant R&D activities and substantial intangible assets. **[*Nagarro Software Pvt. Ltd vs. ITO [ITA No. 1542/DEL/2015; ITA No. 1608/DEL/2015]; Motorola Solutions India Pvt Ltd (Formerly known as Motorola India Pvt Ltd) vs DCIT [ITA No.5797/DEL/2012];*

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Yahoo Software Development India Pvt. Ltd vs JCIT [IT(TP)A No. 178/Bang/2022] followed]

2. **TTEC India Customer Solutions Pvt. Ltd.:** The company provides BPO services, namely transaction processing, email management, software consultancy, voice support and a technical helpdesk, and also offers technology solutions and AI-enhanced services, which cannot be compared with the assessee's ITeS.
3. **Cheers Interactive (India) Pvt. Ltd.:** The company provides ITeS and other services but has declared no segmental information. It relied on the jurisdictional High Court ruling excluding a comparable for want of segmental information. **[*M/s Mentor Graphics (Noida) Pvt. Ltd. [ITA No. 1969/ D/ 2006]; Sony India Private Limited vs. DCIT [ITA No. 1189/DEL/2005]; Steria India Ltd. Vs. Deputy Commissioner of Income-tax [2018] 92 taxmann.com 120 (Delhi) followed]***

7. **WNS Business Consulting Services Pvt. Ltd. vs. ACIT [TS-665-ITAT-2026(DEL)-TP] [25-08-2026] – ITA 663/DEL/2018 – AY 2011-12 - [2026] 189 taxmann.com 954 (Delhi - Trib.)**

The assessee exports IT-enabled BPO services, including back-office data operations and data processing, to financial services customers in the USA.

Tribunal rejected/ excluded TPO's Comparables:

1. **Eclerx Services Ltd.:** CIT(A) excluded it for having outsourced most of its services, and its human resources, infrastructure and intangibles differed from those of an entity operating from its own resources. The TPO was silent on outsourcing, and the assessee serves mainly through its own employees. ***[B.C. Management Services Pvt. Ltd. vs DCIT [2017] 83 taxmann.com 346 followed]***
2. **TCS E Serve Ltd. and Infosys BPO Ltd.:** CIT(A) excluded both as giant companies in this line of business with very high brand value, following the Coordinate Bench's view for the same assessment year in another assessee's case. The Revenue did not controvert the differences in volume, size and brand value. ***[B.C. Management Services Pvt. Ltd. [2017] 83 taxmann.com 346] followed]***
3. **Accentia Technologies Ltd.:** CIT(A) excluded it following the Coordinate Bench ruling for the same assessment year. That ruling found the company owned a brand and goodwill from acquisition and amalgamation, rendered medical transcription, KPO, DPO and high-end software services, and gave no segmental information. It was also excluded in the assessee's own case for AY 2009-10. ***[Execo India Pvt. Ltd. [[2016] 72 taxmann.com 339 (Del.)]; WNS Business Consulting Services Pvt. Ltd. (AY 2009-10) [ITA No.7439/Del/2017] followed]***

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4. **Acropetal Technologies Ltd. (Seg.):** CIT(A) excluded it following the Coordinate Bench ruling that the company performs engineering design services, which are KPO and not BPO. ***[Daksh Business Process [2016] 72 taxmann.com 44 (Del.)] followed]***
5. **ICRA Online Ltd.:** Initially proposed by the TPO, who excluded it after the assessee's objections and retained ICRA Techno Analytics Ltd., a comparable the assessee had itself included. The assessee inadvertently challenged ICRA Online's inclusion before the CIT(A) though it already stood excluded. Since it remained out of the final set, the Revenue had no surviving grievance.

Tribunal Accepted/ included Assessee Comparables

Informed Technologies India Ltd.: excluded by the TPO because rental income was not separately identified and segmental detail was unavailable. Its entire income came from data outsourcing charges, so the TPO's comparison against total revenue was flawed. CIT(A) had included it in the immediately preceding years without any Revenue appeal. Following consistency, inclusion confirmed.

8. Elanco Innovation and Alliance Centre India LLP vs. DCIT [TS-671-ITAT-2026(Bang)-TP] [24-08-2026] – IT(TP)A No.709/Bang/2026 – AY 2022-23

The assessee is an LLP providing IT-enabled services to its Elanco group AEs, including medical writing, statistics, data processing and commercial analytics support. It benchmarked the ITeS provision under TNMM, with OP/OC as the PLI and itself as tested party.

Tribunal rejected/ excluded TPO's Comparables:

1. **Tech Mahindra Business Services Ltd.:** annual report showed revenue only from voice-based call centre services for a single foreign customer. Though ITeS under Rule 10TA, such services are not comparable to the assessee's wide range of technical services. Excluded.
2. **Sutherland Global Services Pvt. Ltd.:** Its annual report showed it rendered only information technology services. The Tribunal held it not comparable to the assessee and directed exclusion.
3. **TTEC India Customer Solutions Pvt. Ltd.:** The Tribunal found it provided BPO services: transaction processing, email management, software consultancy, voice support and technical helpdesk. Even if IT-enabled, these were not comparable to the assessee's technical services. Excluded.

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4. **Sagacious Research Pvt. Ltd.:** Its entire revenue was consultancy fees from research and development management consultancy in the intellectual property domain. The Tribunal held it clearly not comparable and directed exclusion.

Tribunal Accepted/ included TPO Comparable

Domex E-Data Pvt. Ltd.: The Tribunal found it provides knowledge processing services such as patent analysis, technical editing and deep indexing of scientific research papers, similar to the assessee's documentation support, publishing and statistical analysis, both rendering technical services**.** ***[Amazon Development Centre (India) Pvt. Ltd. vs. CIT (TP) [(2023) 155 taxmann.com 597 (Bangalore – Trib.)] followed]***

9. **Where TPO characterized assessee's IT and ITeS services provided to AEs as KPO services and conducted fresh benchmarking, issue was remanded for fresh adjudication after considering assessee's proposed comparables and examining issue of re-characterization**

Manpowergroup Services India Pvt. Ltd. vs. ACIT [TS-675-ITAT-2026(DEL)-TP] [25-08-2026] – ITA 5922/DEL/2024 – AY 2021-22 - [2026] 190 taxmann.com 150 (Delhi - Trib.)

Assessee-company provided IT and ITeS services to its AEs. TPO characterized services as KPO and undertook fresh benchmarking. TPO made TP adjustment. It was observed that in assessee's own case in earlier assessment year on identical issue Tribunal remanded matter to file of AO with direction to examine comparables which were functionally similar and having segmental information and arrive at a finding with regard to TP adjustment to be made. Tribunal on facts, followed aforesaid order, issue was set aside to file of AO/TPO for fresh adjudication after considering assessee's comparables and also examination of issue of re-characterization. ***[Asstt. CIT v. Bechtel India (P.) Ltd. [2013] 29 taxmann.com 376 (Delhi - Trib.), Gate Global Solutions Ltd. v. Assistant CIT [2008] 24 SOT 3/[2007] 112 TTJ 1002 (Bangalore) (Banglore - Trib.), Approva Systems (P.) Ltd. v. Dy. CIT [2018] 92 taxmann.com 82 (Pune - Trib.), and Manpower Services India Pvt Ltd v. ACIT [S.A No. 371/Del/2024 and ITA No.3585/Del/2024, dated 25-9-2025] and Manpower Services India Pvt. Ltd. v. Asstt. CIT [MA No.445/Del/2025 dated 11-2-2026] (para 25) followed]***

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10. **Prometric Testing (P) Ltd vs. DCIT [TS-658-ITAT-2026(DEL)-TP] [21-08-2026] – ITA No.3563/Del/2015 – AY 2009-10 - [2026] 189 taxmann.com 944 (Delhi - Trib.)**

The assessee entered into international transactions with its AEs, including the provision of administrative and marketing support services, which it benchmarked in its transfer pricing documentation using its own quantitative filters. The TPO rejected those filters, applied additional quantitative filters of his own and redetermined the arm's length margin on the resulting set of comparables, and the CIT(A) sustained the addition. The correction of the margins of the assessee's comparables **Quadrant Communications** and **Icra Management Consultants** was left to the TPO's verification and reconciliation in the consequential computation. The assessee must plead and prove the correction at its own risk, within three effective opportunities of hearing.

ii. Characterization

11. **Where assessee, a subsidiary of US group, entered into service reseller agreements with AEs, characterized itself as reseller and applied TNMM but TPO/DRP treated it as ITeS provider without change in FAR profile or reasons, matter required reconsideration as prior-year DRP analysis had found it to be marketing support service provider and subsequent APA treated it as reseller, requiring fresh determination of characterization and, if reseller status was accepted, consideration of applicable arm's-length standard**

Akamai Technologies Solutions (India) Private Limited vs. ACIT [TS-659-ITAT-2026(Bang)-TP] [24-08-2026] – ITA No. 245/Bang/2016 – AY 2011-12 - [2026] 189 taxmann.com 821 (Bangalore - Trib.)

Assessee, an Indian company and subsidiary of a US-headed group, entered into Service Reseller Agreements with US and Swiss AEs and reported international transaction of purchase of services for resale. In TP documentation, assessee characterised itself as reseller and applied TNMM. TPO rejected TP study, treated assessee as ITeS provider, selected 10 comparables, and proposed adjustment. DRP upheld TPO's characterization. On appeal, assessee produced unilateral APA under section 92CC with CBDT covering AYs 2012-13 to 2015-16, wherein CBDT, after examining assessee's FAR, accepted TNMM as most appropriate method and characterized assessee as reseller, with transaction being at arm's length if operating profit margin was not less than 6 per cent -Tribunal held that since DRP had, in immediately preceding year, after detailed analysis, characterized assessee as

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marketing support service provider, but, in present year, without any change in facts or FAR profile, accepted TPO's characterization as ITeS provider without giving reasons, DRP's direction was to be set aside. Therefore, matter was remanded to Assessing Officer to re-adjudicate assessee's characterization and, if reseller was accepted, to consider arm's-length standard contemplated by APA.

b. Software Development Services

1. Soti India Private Limited vs. ITO [TS-606-ITAT-2026(Del)-TP] [30-07-2026] – IT(TP)A No.5554/Del/2024 & SA No.236/Del/2025 – AY 2021-22

The assessee provides software development services to its AE, benchmarked through its own comparable search applying an employee-cost-to-total-cost filter

Tribunal rejected/ excluded TPO's Comparables:

1. **Cybage Software Pvt. Ltd.:** Tribunal noted that its coordinate bench in Aristocrat Technologies had already found the company's segmental data unavailable in the database. Rejecting Revenue's contentions, it directed the TPO to exclude the company. ***[Aristocrat Technologies India (P.) Ltd. v. Deputy Commissioner of Income-tax [[2025] 176 taxmann.com 465(Del.)] followed]***
2. **Nihilent Ltd.:** the assessee sought exclusion on account of an extraordinary event. Following its order on Cybage, and noting the company's amalgamation with effect from 1 April 2020, the Tribunal directed exclusion.
3. **Orion India Systems Pvt. Ltd.:** Segmental data was not available on record, and the DRP had itself found the company engaged in computer programming and consultancy rather than in the software development services segment. The Tribunal directed exclusion.
4. **Athena Global Technologies Ltd.:** Accepted by the TPO after the re-verification directed by the DRP; the assessee sought exclusion as it maintains no segmental results. In the assessee's own case for the succeeding year the DRP had directed exclusion on that ground, unrebutted by the Revenue. The Tribunal directed exclusion. ***[Motorola Solutions Private Limited vs ACIT [(2014) 48 taxmann.com 248(Del.)] followed]***

2. NortonLifeLock Software Solutions Pvt. Ltd. vs. ACIT [TS-636-ITAT-2026(Mum)-TP] [04-08-2026] – ITA No.2520/Mum/2022 – AY 2018-19 - [2026] 189 taxmann.com 620 (Mumbai - Trib.)

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The assessee provides routine software development support, sales and marketing support and technical support services to its AEs.

Tribunal rejected/ excluded TPO's Comparables:

1. **Nihilent Limited:** Following a coordinate Bench, the Tribunal held it functionally dissimilar to a routine software development and support service provider. Its business is enterprise transformation, change management, digital transformation and enterprise IT services, without segmental reporting. ***[Ingram Micro India SSC Private Limited [ITA No. 1320/Mum/2021, order dated 29.01.2024] followed]***
2. **Infobeans Technologies Private Limited:** Following the assessee's own case for AY 2013-14, the Tribunal held it not comparable with a software development service provider. It sells software products, its activities are diversified, and segmental details are absent. ***[Assessee's own case for AY 2013-14 [ITA No. 7347/Mum/2017, order dated 27.09.2021] followed]***
3. **Cybage Software Private Limited:** Coordinate Benches had directed its exclusion for functional dissimilarity, on account of its onsite services, product development and R&D activities, and the Tribunal followed them. ***[Wipro GE Healthcare (P.) Ltd. [2023) 154 taxmann.com 97 (Bangalore-Trib.)] followed]***

Tribunal Remitted TPO Comparable:

SQS India BFSI Limited: The assessee showed that the company's related party transactions, at 74.56% of operating revenue, far exceeded the 25% RPT filter applied by both sides. Since the RPT computation had not been examined, the Tribunal remitted the comparable to the AO/TPO to verify that computation and the company's comparability under the filter.

Tribunal Remitted Assessee Comparables:

1. **Evoke Technologies Private Limited:** Rejected by the TPO and DRP for want of data and functional non-comparability. The assessee showed that current-year data was available and that the company is in IT design and development services with a single segment. Finding prima facie substance, the Tribunal restored the comparable to the AO/TPO. ***[ADP (P) Limited [(2022) 135taxmann.com 44 (Hyd-Trib.)]; Varian Medical System International (India) Private Limited [ITA No. 510/Mumbai/2022, dated 27 December 2023] applied]***

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2. **Maverick Systems Limited:** The assessee showed that the company renders software testing and computer programming services forming part of the software development life cycle. Finding prima facie substance, the Tribunal restored the comparable on the same terms. ***[ADP (P) Limited [(2022) 135taxmann.com 44 (Hyd-Trib.)]; Varian Medical System International (India) Private Limited [ITA No. 510/Mumbai/2022, dated 27 December 2023] applied]***

3. **Y Media Labs Private Limited vs. ITO [TS-646-ITAT-2026(Bang)-TP] [18-08-2026] – IT(TP)A No.712/Bang/2026 – AY 2022-23 - [2026] 189 taxmann.com 720 (Bangalore - Trib.)**

   The assessee provides software development services to its US AE. It benchmarked the transaction under TNMM, with itself as the tested party and operating profit to operating cost as the PLI, its margin falling within the range of its own comparables.

Tribunal rejected/ excluded TPO's Comparables:

1. **Happiest Minds Technologies Ltd.:** The annual report showed expertise across core and emerging technologies in many sectors and end-to-end digital services, a wide and complex scale of operations unlike the assessee's limited contract role.
2. **Robosoft Technologies Pvt. Ltd.:** The company earns revenue from software development and from software product licensing, and its RPT exceeded the TPO's own 25% filter.
3. **I D S Infotech Ltd.:** The Tribunal found the company provides IT and IT-related services across verticals and reports a single IT and ITeS segment, with no bifurcation of software development revenue.

Tribunal rejected/ excluded Assessee's Comparables:

1. **Celstream Technologies Pvt. Ltd.:** The annual report showed the company serving leading technology firms across many digital technologies and performing the entire product development lifecycle, unlike the assessee's limited role.
2. **Orchasp Ltd.:** The company earns revenue from software development, maintenance, licence sales, subscriptions and e-commerce, with no segmental bifurcation.

Tribunal Accepted/ included Assessee Comparables:

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1. **Rheal Software Pvt. Ltd.:** Rejected by the DRP as involved in a broad range of software development and IT outsourcing services. The annual report showed the company's entire revenue coming from software development services, with nothing supporting the DRP's findings.
2. **Kals Information Systems Pvt. Ltd.:** Rejected by the DRP for export concentration in the Asian market. The company's operating revenue comes from IT and software business services, with functions similar to the assessee's, and the Revenue showed nothing to explain how export concentration made it incomparable.
3. **Great Software Laboratory Pvt. Ltd.:** Rejected by the DRP as developing tailored, off-the-shelf and packaged software. The company provides design and development services for software applications, including customised and packaged software,
4. **Toxsl Technologies Pvt. Ltd.:** Rejected by the DRP as diversified and undertaking end-to-end software and IT consulting. The company earns all its revenue from software development services and designs and develops customer software solutions, as the assessee does, with no material supporting the DRP's findings.

Tribunal Accepted/ included TPO Comparables:

1. **Cybage Software Pvt. Ltd.:** The assessee claimed it is diversified with no segmental information. The company provides IT consulting and support services and separately reports revenue from software services and from sales of products, leaving that claim unsupported.
2. **Nintec Systems Ltd.:** The assessee claimed it offers future engineering technologies such as cognitive AI and IoT. The annual report showed the company delivering software development services and specialising in software product development, migration, multimedia design and web design.

Tribunal Remitted Assessee Comparable:

Brain Teclabs Pvt. Ltd.: The relevant financials/Annual Report for the year under consideration, were never examined by the lower authorities, the same was placed before the Tribunal, and the company undisputedly provides software development services. The TPO/AO must examine it and include the company if all filters are satisfied.

4. **Red Hat India Private Limited vs. Assessment Unit [TS-662-ITAT-2026(Mum)-TP] [17-08-2026] – ITA Nos. 5800/Mum/2024 and 2423/Mum/2026 – AY 2021-22 and AY 2022-23 - [2026] 189 taxmann.com 850 (Mumbai - Trib.)**

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The assessee provides software development services to its US AE on a cost-plus mark-up basis following the integration of Gluster India into it, benchmarking them against comparables in its transfer pricing study.

Tribunal rejected/ excluded TPO's Comparables:

1. **Nihilent Ltd.:** The Coordinate Bench had excluded the company for AYs 2016-17, 2017-18, 2018-19 and 2020-21 as engaged in diversified digital and enterprise services with no segmental financials. With no FAR difference shown, the Tribunal followed those orders. **[*Red Hat India Private Limited, AY 2016-17 [ITA No. 1379/Mum/2021]; AY 2017-18 [ITA No. 801/Mum/2022]; AY 2018-19 [ITA No. 2442/Mum/2022]; AY 2020-21 [ITA No. 4065/Mum/2024] followed]***
2. **Consilient Technologies Pvt. Ltd.:** Following the Coordinate Bench order for AY 2020-21, where the company failed the TPO's own turnover and export filters and its services were found more diversified than the assessee's software development services. **[*Red Hat India Private Limited, AY 2020-21 [ITA No. 4065/Mum/2024] followed]***
3. **Comviva Technologies Ltd.:** Following the Coordinate Bench order for AY 2020-21, where the company was found to earn diverse revenue without a separate software development segment, to spend on research and development and to own intangibles. **[*Red Hat India Private Limited, AY 2020-21 [ITA No. 4065/Mum/2024] followed]***
4. **Cybage Software Pvt. Ltd.:** Following the Coordinate Bench order for AY 2020-21. There the company was held a product company with its own data-science platform, research and development and AMP expenditure, unlike the assessee, a captive routine software development provider. **[*Red Hat India Private Limited, AY 2020-21 [ITA No. 4065/Mum/2024] followed]***
5. **Ksolves India Ltd.:** The company undertakes software development and proprietary product development across multiple technology platforms and earns revenue from products and services without segmental information, a diversified profile at variance with the assessee's.
6. **Moonfrog Labs Pvt. Ltd.:** The company develops and operates online gaming platforms and infrastructure, owns significant intangibles, incurs substantial platform-related expenses and earns income from multiple streams without segmental breakup, so its profile is at variance with the assessee's.

Tribunal Accepted/ included TPO Comparable:

Interglobe Technology Quotient Pvt. Ltd.: The Coordinate Bench had directed its inclusion in the assessee's own case for AY 2017-18, and the assessee's FAR was

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unchanged, so the Tribunal followed that order. **[*Red Hat India Private Limited, AY 2017-18 [ITA No. 801/Mum/2022] followed]***

5. **ITAT: The Tribunal remitted the grievances on comparable selection in the software development services segment to the TPO for fresh examination.**

   Caterpillar India Pvt Ltd vs. DCIT [TS-622-ITAT-2026(CHNY)-TP] [07-08-2026] – IT(TP)A No.43/Chny/2023 and ITA No.718/Chny/2023 – AY 2016-17 - [2026] 189 taxmann.com 468 (Chennai - Trib.)

   The assessee provides software development services to its AEs and benchmarked these in its TP study using its own comparables, but the TPO rejected them and selected others, including seven the assessee challenged as functionally dissimilar, non-contemporaneous or product- and intangible-led, and rejected Sasken Communication Technologies Ltd. as functionally dissimilar, resulting in an adjustment that the CIT(A) left in place. The Tribunal, observing that the assessee's common grievance was that the TPO had not appropriately considered the relevant information on record, found the grounds relevant and the matter needing re-examination, and remitted the issues to the TPO to deal with the grounds after giving the assessee a proper hearing and requiring it to furnish substantiating evidence; the Tribunal did not adjudicate the individual comparables, and the grounds were allowed for statistical purposes.

c. Engineering / Designing and related Consultancy Services

1. **Schneider Electric Systems India Pvt. Ltd. vs. ACIT [TS-648-ITAT-2026(CHNY)-TP] [19-08-2026] – IT(TP)A No.110/Chny/2024 – AY 2021-22 - [2026] 189 taxmann.com 793 (Chennai - Trib.)**

   The assessee provides engineering estimation services to its AEs through its EEC segment. It benchmarked the EEC-segment transactions under TNMM, using OP/OC as the PLI.

   Tribunal rejected/ excluded TPO's Comparables:

1. **Sundaram Business Services Ltd.:** Its annual report shows the company to be in ITeS, covering accounting, insurance, banking, human resources, knowledge process outsourcing, document conversion and data processing, with all revenue from that

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segment. The Revenue's plea that only the PSS segment was considered did not help, these activities being dissimilar to engineering estimation services.

2. **Concept Public Relations India Ltd.:** Its annual report shows the company to be engaged in marketing solutions covering integrated advertising campaigns, which is dissimilar to the assessee's engineering estimation services.

Tribunal Remitted Assessee Comparables:

Atlantis Labs Private Limited; Aabsys Information Technologies Private Limited; Shivamtech Engineering Design Private Limited: The DRP had directed their inclusion if they were part of the TPO's search matrix, but on giving effect the TPO found that they were not part of his independent search. The Tribunal directed the TPO to re-run the search and include them in the final list if they appear.

2. **Curia India Private Limited vs. DCIT [TS-660-ITAT-2026(HYD)-TP] [21-08-2026] – ITA No. 967/Hyd/2024 – AY 2020-21**

The assessee is engaged in manufacturing and contract research activities in the field of medicinal chemistry and provided contract R&D services to its AEs.

Tribunal rejected/ excluded TPO's Comparable:

Aurigene Discovery Technologies Ltd: The TPO had himself excluded companies with R&D service income below 75% of total operating revenue. Aurigene's segmental information showed research services and discovery and collaboration revenue of Rs. 19,443 lakhs against total revenue of Rs. 28,005 lakhs, which is about 69.43% and below the 75% threshold. Since Aurigene did not satisfy the TPO's own filter, the Tribunal directed its exclusion from the final set and recomputation of the ALP in accordance with law. Since exclusion of Aurigene made the assessee's other contentions academic, they were left open and not adjudicated, and the ground was allowed for statistical purposes.

d. Manufacturing & contracting

1. **Samsung India Electronics Pvt. Ltd. vs. Addl. CIT [TS-620-ITAT-2026(Del)-TP] [12-08-2026] – ITA Nos. 461/Del/2021 & 1955/Del/2021 – AY 2016-17 & AY 2017-18 - [2026] 189 taxmann.com 412 (Delhi - Trib.)**

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The assessee manufactures consumer electronics, home appliances and mobile phones in India under licence from its Korean parent, SEC. It benchmarked the international transactions of the licensed manufacturing segment on an aggregated basis under TNMM, using comparables selected by it.

Tribunal rejected/ excluded TPO's Comparables:

Frog Cellstat Ltd.: The Tribunal followed the Coordinate Bench's order for AY 2015-16, which excluded it. Its products are telecom equipment, not consumer electronics or home appliances. It has its own R&D function and intangibles, whereas the assessee depends on its AE for R&D, and its revenue is minuscule against the assessee's. Its profile was unchanged. ***[Samsung India Electronics Pvt. Ltd. [ITA No. 9482/Del/2019] followed]***

Tribunal rejected/ excluded Assessee's Comparable:

Amber Enterprises (India) Pvt. Ltd.: Excluded by the TPO for product dissimilarity. The Tribunal found the only common product was air conditioners, which alone contributed substantial revenue to that company, whereas the assessee has a diversified white goods segment.

Tribunal Accepted/ included Assessee Comparables:

1. **Value Industries:** The Tribunal found it engaged in manufacturing consumer electronic goods and home appliances such as washing machines, air conditioners and refrigerators, similar to the assessee's segment, and it passed the TPO's quantitative filters.
2. **Videocon Industries:** Proposed by the assessee. It manufactures washing machines, refrigerators, televisions and air conditioners, exactly the products the assessee manufactures, and it passed the TPO's quantitative filters.
3. **IFB Industries Ltd.:** Rejected by the TPO for failing the manufacturing turnover filter. The Tribunal found that on the financial statements manufacturing revenue exceeded the 75% threshold, and that the company also manufactures washing machines, microwaves and air conditioners, similar to the assessee's products.
4. **Penguin Electronics Ltd.:** Rejected by the TPO as diversified. The Tribunal noted it had been accepted as a valid comparable for AY 2015-16 and that its functional profile was unchanged. Following the principle of consistency, Included.

Tribunal Remitted Assessee Comparable:

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Trend Electronics Ltd.: Excluded by the TPO for having a different financial year. The assessee showed that the company changed its year-end from December to March, so that its statements for AY 2016-17 end in March 2016. Remitted to the AO/TPO to verify that the year-end for AY 2016-17 is March and not December.

2. **Samsung India Electronics Pvt. Ltd. vs. Addl. CIT [TS-620-ITAT-2026(Del)-TP] [12-08-2026] – ITA Nos. 461/Del/2021 & 1955/Del/2021 – AY 2016-17 & AY 2017-18 - [2026] 189 taxmann.com 412 (Delhi - Trib.)**

   The assessee sells telecommunication equipment imported from SEC Korea to third-party customers in India. It benchmarked the transactions under TNMM.

   Tribunal rejected/ excluded TPO's Comparables:

1. **PCS Technologies Ltd., Hughes Communication India Ltd., Planetcast Media Services Ltd., Altruist Technologies Pvt. Ltd., Avantel Ltd., AT&T Global Network Services India Pvt. Ltd. and Bharti Airtel Ltd.:** The Coordinate Bench for AY 2015-16 had excluded all seven as service companies not trading in goods, while the assessee derives its revenue predominantly from sale of telecom equipment. There was no change in the facts, and the Revenue did not controvert the earlier findings. ***[Samsung India Electronics Pvt. Ltd. [ITA No. 9482/Del/2019] followed]***
2. **Verizon Communications Pvt. Ltd.:** The Tribunal found it mainly provides internet lease line, MPLS and IPLC services, derives almost its entire revenue from services and fails the revenue filter, whereas the assessee derives most of its segment revenue from trading.

3. **PCIT-4 vs. Tetra Pak India Pvt. Ltd. [TS-625-HC-2026(Bom)-TP] [05-08-2026] – ITXA No.49 of 2020 (against ITAT order in ITA No.1610/PUN/2013) – AY 2005-06**

   HC: The High Court dismissed Revenue's appeal, holding that the ITAT's exclusion of two comparables raised no substantial question of law since the dispute was purely fact-driven and no perversity was shown.

   The assessee manufactures packaging material for food and drink products based on aseptic technology.

   High court upheld Tribunal's rejection/ exclusion of TPO's Comparables:

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1. **Bilcare Ltd.:** The ITAT excluded it as it packages pharmaceutical products, unlike the assessee's paper-based food packaging, primarily produces wraps, and ran clinical and research services with no segmental data for the year. The Court rejected the Revenue's reliance on the previous year's list, as segmental data in one year does not carry over.
2. **Karur KCP Packaging Ltd.:** The ITAT excluded it as it makes craft paper and polypropylene bags used mainly by the cement industry. The Revenue did not say these facts were wrongly recorded, and since the product was totally different from the assessee's, the exclusion raised no substantial question of law.

4. **Richemont India Private Limited (erstwhile known as RLG Retail Private Limited) vs. DCIT [TS-634-ITAT-2026(DEL)-TP] [17-08-2026] – ITA No. 3789/Del/2023 – AY 2012-13 - [2026] 189 taxmann.com 671 (Delhi - Trib.)**

The assessee trades in jewellery and diamonds.

Tribunal Remitted TPO's Comparables:

1. **Karp Jewellery Private Limited, Giv Diamond Private Limited, Pushpak Bullions Private Limited and Lakshmi Gold Khazaanaa Private Limited:** Their gross profit to sales computed by the TPO was 100% for the first three and 128.33% for the last, which appeared illogical. Since companies with such super profits must be excluded, the Tribunal set aside their inclusion as illegal. However, as the assessee contended that the profit and loss account of the four aforesaid companies was not available, the matter was remitted the matter for fresh decision.
2. **Jewelsouk Marketplace Limited:** TPO computed its gross profit margin as positive. The Tribunal found this erroneous against the negative margin shown in the assessee's computation and remitted the margin computation to the TPO for fresh decision after hearing the assessee.

Tribunal Remitted Assessee Comparable:

Starline Enterprises Ltd. (formerly L'avance Dirays Limited): Rejected by the TPO for want of its annual report, which the assessee had in fact filed before the TPO with its written submission. The Tribunal held the rejection illegal, held that Starline must be included in the benchmarking, and remitted the matter to the TPO for fresh decision. ***[Baxter India (P) Ltd. vs. ACIT [2017] 85 taxmann.com 285 (Delhi-Trib.) followed]***

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5. **Schneider Electric Systems India Pvt. Ltd. vs. ACIT [TS-648-ITAT-2026(CHNY)-TP] [19-08-2026] – IT(TP)A No.110/Chny/2024 – AY 2021-22 - [2026] 189 taxmann.com 793 (Chennai - Trib.)**

   The assessee executes contracts for manufacture, supply and erection of distributed control systems, emergency shutdown systems and related equipment in its IPS segment. It benchmarked its IPS-segment transactions with its AEs under TNMM, using OP/OC as the PLI.

   Tribunal rejected/ excluded TPO's Comparables:

1. **Novateur Electrical and Digital Systems Pvt. Ltd.:** The company had manufacturing and trading segments, so entity-level comparison was inappropriate, and without segmental data it had to be excluded.
2. **Havells India Ltd.:** The company deals in all types of electrical goods, instruments, consumer durables and FMCG products, and sells home appliances, air conditioners, refrigerators, washing machines and televisions. Rejected by applying the principle used for **Penguin** (see below) that diverse products preclude comparability.
3. **Aluminium Industries Ltd.:** It is undisputed that the company manufactures a wide range of products for the power transmission and distribution sector, has a secondary cone crusher machine line, and holds intangibles and incurs R&D expense.
4. **Tricolite Electrical Ltd.:** The TPO and DRP had themselves accepted the assessee's contention that the company, engaged in manufacture of power distribution solutions, belongs to a different sector and excluded it in AY 2015-16. Tribunal noted that revenue had not filed an appeal against the said comparable and thus excluded it by applying the principle of consistency.

   Tribunal rejected/ excluded Assessee's Comparables:

1. **Penguin Electronics Ltd.:** The TPO and DRP found it manufactures electromechanical domestic appliances with self-contained electric motor and parts, including kitchen appliances. Though its manufacturing function resembles the assessee's, the industry it caters to differs from the assessee's process and temperature control systems.
2. **Powerica Ltd.:** It is undisputed that the company manufactures DG sets and generates electricity from wind turbines, so its business differs from the assessee's.

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6. **Acme Cleantech Solutions Pvt. Ltd. vs. ITO (cross-appeals with ACIT) [TS-655-ITAT-2026(DEL)-TP] [19-08-2026] – ITA No.5194/DEL/2019 & ITA No.5193/DEL/2019 – AY 2013-14 - [2026] 189 taxmann.com 860 (Delhi - Trib.)**

   The assessee manufactures and provides services in the telecom sector. The international transaction is the sale of manufactured goods to AEs, which the assessee benchmarked using the cost-plus method. The TPO rejected the cost-plus method and adopted TNMM as the most appropriate method, retaining Techno Electric & Engineering Company and Keltron Component Complex as comparables, finding that both passed the filters and were functionally comparable, and proposed an adjustment. The CIT(A) confirmed TNMM but excluded Techno Electric because it provides engineering, procurement and construction services to sectors such as steel, fertilisers and metals, and excluded Keltron solely because it is a government company. The Revenue challenged both exclusions, contending that TNMM requires only broad functional similarity, and the Tribunal examined each comparable in turn, ultimately sustaining both exclusions and dismissing the Revenue's grounds on the comparables.

   Tribunal rejected/ excluded TPO's Comparables:

1. **Techno Electric & Engineering Company:** The company provides engineering, procurement and construction services to sectors such as steel, fertilisers and metals, whereas the assessee manufactures and provides services in the telecom sector. Although TNMM requires only broader similarity, the Tribunal found that the two operate in totally different sectors, and the Revenue did not controvert the CIT(A)'s findings on the company's functions.
2. **Keltron Component Complex Ltd.:** The Tribunal did not exclude the company merely for being a government company. It excluded the company because it manufactures aluminium electrolytic capacitors, so its product mix is not comparable with the assessee's, and mere broad functionality cannot make it a valid comparable under TNMM, following the jurisdictional High Court's requirement of product comparability. ***[Rampgreen Solutions Pvt. Ltd. Vs. CIT [2015] 377 ITR 533 (Delhi); Avenue Asia Advisors Pvt. Ltd. Vs. DCIT [ITA No.350/2016] followed]***

7. **Lama Rice Private Limited vs. DCIT [TS-663-ITAT-2026(DEL)-TP] [19-08-2026] – IT(TP)A No.66/Del/2026 – AY 2022-23**

   The assessee, a subsidiary of Lama Holdings Limited, procures Basmati rice in India on its AE's indents and exports it to that AE. It benchmarked the sales under TNMM on operating profit to operating cost.

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Tribunal rejected/ excluded TPO's Comparables:

1. **Athena Tradewinds Pvt. Ltd.:** The company runs a diversified commodities business, including agri-commodities and trading of crude edible oils, whereas the assessee trades only in rice. The TPO had relied on the company's website rather than its actual financial results.
2. **Shiv Shakti Inter Globe Exports P. Ltd.:** The company processes and mills rice, so its results carry processing and manufacturing margins, whereas the assessee's margins arise from trading alone. Its substantial cost of materials consumed confirmed that activity.
3. **Tanna Agro Impex P. Ltd.:** The company manufactures food products and claims substantial consumption of raw materials, so its asset base and business and financial risks differ from the assessee's, as the abnormal profits it declared also showed.
4. **GRM Overseas Ltd.:** The company processes and mills rice and declares substantial raw material consumption, so its functions, assets and risks differ from the assessee's.
5. **Chaman Lal Setia Exports Ltd.:** The company's functions, assets and risks profile differs from the assessee's, similarly to that of GRM Overseas Ltd.
6. **Sri Lalitha Enterprises Industries P. Ltd.:** The Tribunal did not accept the assessee's plea on non-basmati rice or super-normal profit, dealing in non-basmati rice being no reason by itself to reject the company. The company is, however, also engaged in milling and processing rice, unlike the assessee.

Tribunal Remitted Assessee Comparable:

Kothari Products Ltd.: Segmental data the TPO had overlooked showed trading at 98.87% of revenue and other activities such as real estate at only 1.13%. The TPO must consider that data and redo the benchmarking after hearing the assessee. ***[Commissioner of Income Tax-2 vs. Welspun Zucchi Textiles Ltd. [2017 (1) TMI 1037 dated January 6, 2017 followed]***

e. Administrative and marketing support services

1. **Prometric Testing (P) Ltd vs. DCIT [TS-658-ITAT-2026(DEL)-TP] [21-08-2026] – ITA No.3563/Del/2015 – AY 2009-10 - [2026] 189 taxmann.com 944 (Delhi - Trib.)**

   The assessee entered into international transactions with its AEs, including the provision of administrative and marketing support services.

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Tribunal rejected/ excluded TPO's Comparables:

1. **L & T Ramboll Consulting Engineers Ltd.:** Although the company claimed revenue from consultancy and engineering services, its director's report showed activities such as repair of bridges, six-lane roads, project reports, overbridges and road designs. These are not administrative and marketing support services.
2. **Apitco Ltd.:** Schedule II of the company's profit and loss account showed that it derived no income from, and carried out no, administrative and marketing support services.
3. **Zipper Trading Enterprises Ltd.:** The profit and loss account showed income from sales and services, without segmental details.
4. **Mahindra Consulting Engineers Ltd.:** A coordinate bench had already excluded it as not functionally comparable, since it does not carry out consultancy services of the kind in issue. ***[Alcatel-Lucent India Ltd. vs. ITO [ITA No.2209/Del/2014 dated 06.04.2018] followed]***
5. **Global Procurement Consultancy Ltd.:** A coordinate bench had held that the company has a different business model and does not carry out market support services. ***[Philip Morris Services India SA vs. DDIT [ITA No.827/Del/2014 dated 21.06.2018] followed]***
6. **Archohm Consultants Pvt. Ltd.:** A coordinate bench had held that the company provides architect services, not marketing support activities. ***[Terex Equipment Pvt. Ltd. vs. ACIT [ITA No.1882/Del/2014 (AY: 2009-10) dated 14.11.2018] followed]***
7. **IBI Chematur (Engineering & Consultancy) Ltd.:** Its profit and loss account declares income from engineering service charges, not from administrative and marketing services, and the Revenue could hardly dispute that its segmental details are unavailable.
8. **Semac Ltd:** A coordinate bench held that the company provides engineering consultancy for industrial projects, not administrative and marketing support services. ***[Alcatel-Lucent India Ltd. vs. ITO [ITA No.2209/Del/2014 dated 06.04.2018] followed]***
9. **Orient Engineering & Commercial Co. Ltd.:** A coordinate bench had already treated the company as engaged in commission agency and technical services, so it fails the FAR analysis. ***[Polycom (United Kingdom) Ltd. vs. DCIT [ITA No. 1293/Del/2014 (Del)] followed]***
10. **Killick Agencies & Marketing Ltd.:** A coordinate bench had held that the company is not engaged in marketing support services. ***[CIT vs. Phillip Morris Services India [ITA No. 1468/2018 (Del) AY 2009-10 decided on 21.06.2018] followed]***

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11. **TSR Darashaw Ltd.:** A coordinate bench had held that its segmental details are not available. ***[CIT vs. Phillip Morris Services India [ITA No. 1468/2018 (Del) AY 2009-10 decided on 21.06.2018] followed]***

Tribunal rejected/ excluded Assessee's Comparables:

1. **Sporting & Outdoor Ad-Agency Pvt. Ltd.; Colosceum Media Pvt. Ltd.; Social Media India Ltd.; Crystal Hues Ltd.; Indus Technical & Financial Consultants Ltd.:** The TPO's discussion showed that they are not functionally comparable, and their segmental details are not on record.

Tribunal Accepted/ included Assessee Comparable:

Ma Foi Management Consultants Ltd.: The TPO had rejected it only for a different financial year end. Following the Punjab & Haryana High Court, in case of Mercer Consulting (India) Pvt. Ltd, where it was t held that a suitable adjustment can be made and the comparable cannot be rejected on that account. Tribunal held that the TPO must include it in his afresh computation. **[*CIT vs. Mercer Consulting (India) Pvt. Ltd. [(2017) 390 ITR 615 (P&H)] followed]***

IV. Comparability – Intra Industry

a. Turnover Filter

1. **ITAT:** The Tribunal directed application of an upper turnover filter of ten times the assessee's turnover in selecting comparables for software development services and directed the TPO to recompute the arm's length price accordingly. **[Assessee's own case for AY 2021-22 [IT(TP)A No.67/Chny/2024] followed]**

Decision Minds India Private Limited vs. DCIT [TS-599-ITAT-2026(Chny)-TP] [29-07-2026] – IT(TP)A No.37/Chny/2026 & SA No.95/Chny/2026 – AY 2022-23

b. Super profits

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1. **Richemont India Private Limited (erstwhile known as RLG Retail Private Limited) vs. DCIT [TS-634-ITAT-2026(DEL)-TP] [17-08-2026] – ITA No. 3789/Del/2023 – AY 2012-13 - [2026] 189 taxmann.com 671 (Delhi - Trib.)**

   Assessee was a trader in jewellery and diamonds. Tribunal Remitted TPO's Comparables viz. **Karp Jewellery Private Limited, Giv Diamond Private Limited, Pushpak Bullions Private Limited and Lakshmi Gold Khazaanaa Private Limited** as their gross profit to sales computed by the TPO was 100% for the first three and 128.33% for the last, which appeared illogical. Since companies with such super profits must be excluded, the Tribunal set aside their inclusion as illegal. However, as the assessee contended that the profit and loss account of the aforesaid four companies was not available, the matter was remitted for fresh decision.

c. Related party transaction (RPT) filter

1. **ITAT:** The Tribunal remanded the RPT-filter (25 %) challenge to two comparables (i.e. **Roche Diagnostics India Pvt. Ltd.** and **Smiths Medical India Pvt. Ltd.)** for fresh verification.

   Konica Minolta Healthcare India Private Limited vs. DCIT [TS-593-ITAT-2026(Mum)-TP] [14-07-2026] – ITA No.4183/Mum/2024 – AY 2020-21

2. **ITAT:** Comparables viz **Mudra Online Technologies and ERM India Private Limited:** were excluded from the benchmarking of sourcing support services for failing the RPT filter (25 %) contrary to DRP directions.

   Newtimes Development India Private Limited vs. DCIT [TS-669-ITAT-2026(DEL)-TP] [24-08-2026] – ITA No. 6233/Del/2025 – AY 2022-23

3. The assessee provides routine software development support, sales and marketing support and technical support services to its AEs. It benchmarked the software development support services using comparables in its transfer pricing study. Tribunal Remitted TPO Comparable **i.e. SQS India BFSI Limited as** the assessee showed that the company's related party transactions, at 74.56% of operating revenue, far exceeded the 25% RPT filter applied by both sides. Since the RPT computation had not been examined, the Tribunal remitted the comparable to the AO/TPO to verify that computation and the company's comparability under the filter.

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NortonLifeLock Software Solutions Pvt. Ltd. vs. ACIT [TS-636-ITAT-2026(Mum)-TP] [04-08-2026] – ITA No.2520/Mum/2022 – AY 2018-19 - [2026] 189 taxmann.com 620 (Mumbai - Trib.)

4. **Where related party transactions of a company constituted 25.39 per cent of its total revenue and exceeded 25 per cent RPT filter applied by TPO, said company was to be excluded from comparables**

   Y Media Labs Private Limited vs. ITO [TS-646-ITAT-2026(Bang)-TP] [18-08-2026] – IT(TP)A No.712/Bang/2026 – AY 2022-23 - [2026] 189 taxmann.com 720 (Bangalore - Trib.)

   Tribunal ruled that where related party transactions of a company constituted 25.39 per cent of its total revenue and exceeded 25 per cent RPT filter applied by TPO, said company was excluded from comparables.

5. **ITAT: Comparables were excluded from the benchmarking of sourcing support services for failing the RPT filter contrary to DRP directions, being Government-owned, following a commission-based model, or being functionally dissimilar, and the matter was restored to the TPO for a fresh decision.**

   Newtimes Development India Private Limited vs. DCIT [TS-669-ITAT-2026(DEL)-TP] [24-08-2026] – ITA No. 6233/Del/2025 – AY 2022-23

   The assessee provides sourcing support services.

   Tribunal rejected/ excluded TPO's Comparables:

1. **Mudra Online Technologies Private Limited:** The DRP had directed exclusion of companies failing the RPT filter, and Mudra's related party transactions exceeded the 25% threshold. The TPO did not give effect to that direction, and the assessee's rectification application was rejected. The Tribunal held the inclusion illegal and set it aside.
2. **EdCIL (India) Limited:** The company is 100% Government-owned, being under the control of the Ministry of Education. The Tribunal followed the coordinate bench ruling excluding EdCIL as a Government undertaking. **[*SRF Limited [ITA No. 1448 & 1449/Del/2022 and 5618/Del/2024] followed]***
3. **Adbur Private Limited:** The company purchases or sells advertising space or time on a commission basis. As the coordinate bench held, such a commission-based revenue

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model is not comparable with a cost-plus model. **[*Brown Forman Worldwide LLC India [ITA No. 433 and 6139/Del/2012] followed]***

4. **Artefact Projects Limited:** The company earns all its revenue from project management and consultancy services for infrastructure projects, rendering engineering, architectural and project management services, especially for highways. Its functionality is dissimilar.
5. **Infollion Research Services Private Limited:** The company is a consultancy catering to sectors such as consumer goods, foods and beverages, technology and communications, and financial and banking services. Its functions are dissimilar to the assessee's.
6. **ERM India Private Limited:** The assessee contended that the company failed the RPT filter. The Tribunal gave no separate reasoning but covered it in its closing direction, setting aside the TPO's inclusion of these comparables.

d. Segmental Data

1. **ITAT:** The Tribunal declined to quash the assessment order for alleged non-compliance with the DRP's directions and instead restored the benchmarking of the project management and implementation services by considering segmental data, along with the working capital adjustment, to the AO/TPO for fresh computation. ***[Spectro Analytical Labs Private Limited [TS-110-ITAT-2026 (Del)-TP]; Bravura Solutions India LLP [TS-184-ITAT-2025(DEL)-TP]; Compare India Pvt Ltd. [2024-TII-166-ITAT-DEL-TP]; Anand NVH Products Pvt. Ltd. vs. NEAC, Delhi [W.P. (C) 7936/2021 dated 06.08.2021] distinguished]***

   Dimagi Software Innovations Pvt. Ltd. vs. ITO [TS-615-ITAT-2026(DEL)-TP] [07-08-2026] – ITA No.5894/Del/2024 – AY 2021-22

2. **ITAT:** The Tribunal set aside the final assessment order and remitted the ALP determination to the TPO to redo the segmental analysis separately, since the DRP had disregarded the assessee's segmental break-up in favour of an entity-wide approach.

   Tropical Industries International Pvt. Ltd. vs. National Faceless Centre [TS-667-ITAT-2026(DEL)-TP] [25-08-2026] – IT(TP)A No. 70/Del/2025 – AY 2022-23

e. Different financial year

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1. **Prometric Testing (P) Ltd vs. DCIT [TS-658-ITAT-2026(DEL)-TP] [21-08-2026] – ITA No.3563/Del/2015 – AY 2009-10 - [2026] 189 taxmann.com 944 (Delhi - Trib.)**

   The assessee entered into international transactions with its AEs, including the provision of administrative and marketing support services. The TPO rejected **Ma Foi Management Consultants Ltd** only for a different financial year end. Following the Punjab & Haryana High Court, in case of Mercer Consulting (India) Pvt. Ltd, wherein it was held that if a suitable adjustment can be made and the comparable cannot be rejected on that account. The Tribunal directed the TPO to accordingly include the same.

V. Computation / Adjustments

a. Operating / Non-operating Income / Expense

i. Operating Income

1. Foreign exchange gains arising out of business operations are to be treated as operating in nature while computing margins of assessee as well as of comparables. ***[Samsung India Electronics Pvt. Ltd. [ITA No. 2105/Del/2016]; Samsung India Electronics Pvt. Ltd. [ITA No.453/Del/2024] followed]***

   Samsung India Electronics Pvt. Ltd. vs. Addl. CIT [TS-620-ITAT-2026(Del)-TP] [12-08-2026] – ITA Nos. 461/Del/2021 & 1955/Del/2021 – AY 2016-17 & AY 2017-18 - [2026] 189 taxmann.com 412 (Delhi - Trib.)

2. The Tribunal held that export incentives (MEIS/government incentives) linked to export activity form part of operating income for computing the assessee's operating margin under TNMM and directed the AO/TPO to recompute the margin accordingly. ***[ZF Commercial Vehicle Control Systems India Ltd. [IT (TP) A Nos: 50 & 132/Chny/2034]; Hyundai Wia India Pvt. Ltd. [IT (TP) A No. 48/Chny/2024]; SAME Deutz Fahr-India Pvt. Ltd. [IT (TP) A No. 45/Chny/2024]; ZF Rane Automotive India (P.) Ltd. [[2025] 177 taxmann.com 442]; Greenland Exports (P.) Ltd. [[2017] 88 taxmann.com 988]; Aston Shoes (P.) Ltd. [[2026] 186 taxmann.com 1167]; Turbo Energy (P.) Ltd [[2026] 183 taxmann.com 751] followed]***

   Tech Clarities Private Limited vs. ITO [TS-626-ITAT-2026(CHNY)-TP] [11-08-2026] – IT(TP)A No.21/Chny/2026 – AY 2022-23

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3. Contract losses provision written back, miscellaneous income, provision no longer required written back, export incentives and foreign exchange gain are to be treated as operating in computing OP/OC margins under TNMM ***[Schneider Electric Systems India (P.) Ltd. v. ACIT [2025] 178 taxmann.com 361 (Chennai - Trib.), Schneider Electric Systems India v. Asstt. CIT [IT(TP)A.No.48/Chny/2021 dated 17-6-2022], Brakes India Ltd. v. Dy. CIT [2026] 182 taxmann.com 7 (Chennai - Trib.), and Temenos India (P.) Ltd. v. Dy. CIT [IT(TP)A No. 32 (CHNY) of 2024, dated 3-12-2024] followed]***

Schneider Electric Systems India Pvt. Ltd. vs. ACIT [TS-648-ITAT-2026(CHNY)-TP] [19-08-2026] – IT(TP)A No.110/Chny/2024 – AY 2021-22 - [2026] 189 taxmann.com 793 (Chennai - Trib.)

ii. Non-operating Expenses / Cost

1. The Tribunal held that amortisation of goodwill arising from acquisition of a business is a non-operating item and that the TPO could not treat it as operating expenditure for PLI computation. ***[Hitachi Solutions India Private Limited [IT TPA No. 17/Chny/2025 Dt. 6.6.2025] followed]***

Janes Defense India LLP vs. DCIT [TS-602-ITAT-2026(Del)-TP] [31-07-2026] – ITA No.5387/DEL/2024 – AY 2021-22

2. ITAT: Financing, non-recurring and non-operational items be excluded

Samsung India Electronics Pvt. Ltd. vs. Addl. CIT [TS-620-ITAT-2026(Del)-TP] [12-08-2026] – ITA Nos. 461/Del/2021 & 1955/Del/2021 – AY 2016-17 & AY 2017-18 - [2026] 189 taxmann.com 412 (Delhi - Trib.)

The assessee benchmarked the manufacturing and networking transactions under TNMM and computed its own and the comparables' operating margins, but the TPO recomputed these margins, resulting in a lower margin for the assessee, which the DRP upheld and which was sustained in the final assessment order. The Tribunal noted that the same dispute had arisen in AY 2014-15 and 2015-16, where the coordinate bench accepted the assessee's contention of incorrect margin computation and remanded the matter to the TPO with a direction that all items of income and expenditure having a nexus with business operations be considered and that financing, non-recurring and non-operational items be excluded; since similar facts existed, the Tribunal remanded this issue to the AO/TPO with the same direction, and the ground was allowed for statistical purposes. ***[Samsung India Electronics Pvt.***

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Ltd. [ITA No. 9481/Del/2019]; Samsung India Electronics Pvt. Ltd. [ITA No. 9482/Del/2019] followed]

3. **Where assessee, a wholly owned subsidiary providing US tax return preparation and software support services, sought COVID-19 cost adjustment and parity in treatment of forex fluctuations and depreciation in ALP computation, but authorities below had not examined evidence or ensured uniform treatment across assessee and comparables, claim for such adjustments required factual verification and could not be denied merely due to general pandemic impact, thus necessitating remand for fresh verification and re-computation.**

   Sureprep (India) Private Limited vs. ITO [TS-673-ITAT-2026(Mum)-TP] [25-08-2026] – ITA No.9156/Mum/2025 – AY 2022-23 - [2026] 190 taxmann.com 128 (Mumbai - Trib.)

   Assessee, a wholly owned subsidiary of US company, was engaged in preparation of US tax return and rendering software support services. TPO benchmarked preparation of US tax return and secondment segment under TNMM, computed assessee's operating margin at (-)2.27 per cent vis-a-vis comparables' arithmetic mean margin of 7.33 per cent, and proposed adjustment of about Rs. 1.30 crores. Assessee sought COVID-19 extraordinary cost adjustment on ground that confidentiality requirements prevented WFH savings and contended that foreign-exchange fluctuation on trade receivables/payables and depreciation must be treated uniformly as operating or non-operating for both assessee and comparables. Tribunal ruled that since authorities below had not examined supporting evidence, precise expenditure claimed as exceptional, or its treatment in comparable companies, claim required factual verification and could not be rejected only by observing that every enterprise faced pandemic. Since final assessment order did not contain a comparable-wise working demonstrating parity of treatment and record also did not establish whether depreciation was treated in same manner while computing margin of assessee and those of comparables, matter was remanded back for verification and re-computation.

4. **Where business support service income in manufacturing segments was treated as non-operating, corresponding matching expenses were also required to be excluded for purposes of comparison under TNMM and, accordingly, matter was remitted to TPO for necessary adjustment after giving opportunity of hearing to assessee**

   Caterpillar India Pvt Ltd vs. DCIT [TS-622-ITAT-2026(CHNY)-TP] [07-08-2026] – IT(TP)A No.43/Chny/2023 and ITA No.718/Chny/2023 – AY 2016-17 - [2026] 189 taxmann.com 468 (Chennai - Trib.)

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Assessee-company was engaged in manufacture of earthmoving equipment and diesel engines. TPO treated business support service income in manufacturing segments as non-operating income. Consequently, matching expenses were also to be excluded for purposes of comparison under TNMM. Accordingly, matter was set aside to file of TPO with direction to exclude relevant expenses after giving proper opportunity of hearing to assessee.

b. Working Capital Adjustment

1. The Tribunal remitted the working capital adjustment to the TPO for computation on the assessee's workings, following the binding Delhi High Court ruling in Kusum Healthcare. ***[PCIT vs Kusum Healthcare Pvt. Ltd. [TS-412-HC-2017(DEL)-TP] followed]***

WSP Consultants India Private Limited vs. Assessment Unit [TS-592-ITAT-2026(DEL)-TP] [29-07-2026] – ITA No.5386/DEL/2024 – AY 2021-22

2. The Tribunal remitted the working capital adjustment on outstanding payables, treated as an international transaction, to the TPO for consequential computation.

Unicharm India Private Limited vs. DCIT [TS-595-ITAT-2026(DEL)-TP] [30-07-2026] – ITA Nos. 5938 & 6088/Del/2018 and 7414/Del/2019 (assessee); ITA Nos. 6104 & 6203/Del/2018 (Revenue) – AY 2010-11, 2011-12 & 2012-13

3. The Tribunal remanded the working capital adjustment to the TPO for fresh consideration in light of the Kusum Healthcare ruling. ***[Pr. CIT v. Kusum Healthcare (P.) Ltd. [2018] 99 taxmann.com 431/ [2017] 398 ITR 66 (Delhi)] followed]***

Soti India Private Limited vs. ITO [TS-606-ITAT-2026(Del)-TP] [30-07-2026] – IT(TP)A No.5554/Del/2024 & SA No.236/Del/2025 – AY 2021-22

4. Where TPO denied working capital adjustment despite binding DRP directions allowing same, and such adjustment had consistently been allowed in preceding years, following principle of consistency, assessee was to be allowed working capital adjustment in manufacturing and networking segments. ***[Samsung India Electronics (P.) Ltd. v. Dy. CIT [2024] 165 taxmann.com 654 (Delhi - Trib.), Pr. CIT v. Ameriprise India (P.) Ltd. [2017] 78 taxmann.com 373 (Delhi), Pr. CIT v. Global Logic India Ltd. [2023] 155 taxmann.com 483 (Delhi) and Pr. CIT v. Fiserv India (P.) Ltd. [2018] 92 taxmann.com 471 (Delhi) followed]***

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Samsung India Electronics Pvt. Ltd. vs. Addl. CIT [TS-620-ITAT-2026(Del)-TP] [12-08-2026] – ITA Nos. 461/Del/2021 & 1955/Del/2021 – AY 2016-17 & AY 2017-18 - [2026] 189 taxmann.com 412 (Delhi - Trib.)

5. **Where assessee was a low-risk captive provider of back-office support, software and KPO services and TPO denied working capital adjustment, TPO was to allow working capital adjustment to assessee subject to furnishing necessary workings**

   RBS Services India Pvt. Ltd. [Formerly known as RBS Business Services Pvt. Ltd.] vs. DCIT [TS-638-ITAT-2026(DEL)-TP] [14-08-2026] – ITA Nos. 4306 & 4467/Mum/2012 (cross-appeals) – AY 2007-08 - [2026] 189 taxmann.com 701 (Delhi - Trib.)

   Assessee, a low-risk captive provider of back-office support, software and KPO services to its group. In course of TP assessment, TPO denied working capital adjustment. Tribunal held that since assessee was a service provider and working capital adjustment had a bearing on price charged, TPO was to allow working capital adjustment to assessee subject to furnishing necessary workings.

6. **Where impact of outstanding receivables had already been considered in working capital adjustment and such adjustment was in parity with assessee's credit/recovery policy, no separate adjustment on account of overdue receivables was warranted**

   RBS Services India Pvt. Ltd. [Formerly known as RBS Business Services Pvt. Ltd.] vs. DCIT [TS-638-ITAT-2026(DEL)-TP] [14-08-2026] – ITA Nos. 4306 & 4467/Mum/2012 (cross-appeals) – AY 2007-08 - [2026] 189 taxmann.com 701 (Delhi - Trib.)

   Assessee provided back-office support services to its AE. TPO made adjustment on account of notional interest on outstanding receivables after allowing a credit period of 45 days. Tribunal held that where impact of outstanding receivables had already been considered in working capital adjustment and such adjustment was in parity with credit/recovery policy followed by assessee, no separate adjustment on account of overdue receivables was warranted. ***[Pr. CIT v. Kusum Health Care (P.) Ltd. [2018] 99 taxmann.com 431/[2017] 398 ITR 66 (Delhi) followed]***

7. **Where differences in working capital materially impacted margins of comparables, assessee was entitled to working capital adjustment.**

   Red Hat India Private Limited vs. Assessment Unit [TS-662-ITAT-2026(Mum)-TP] [17-08-2026] – ITA Nos. 5800/Mum/2024 and 2423/Mum/2026 – AY 2021-22 and AY 2022-23 - [2026] 189 taxmann.com 850 (Mumbai - Trib.)

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Assessee benchmarked its international transactions under TNMM and claimed working capital adjustment to iron out differences in working capital levels between assessee and comparable companies. TPO denied adjustment on ground that monthly balances of sundry debtors and sundry creditors were not available. It was noted that Tribunal, in assessee's own case for earlier years, had held that assessee was entitled to working capital adjustment wherever differences in working capital materially impacted margin computation of comparables. Tribunal ruled that assessee was entitled to working capital adjustment, subject to furnishing of requisite details by assessee and verification thereof by Assessing Officer/TPO. ***[Red Hat India (P.) Ltd. v. Addl. CIT/ITO, National Faceless Assessment Centre, Delhi [2022] 136 taxmann.com 52 (Mumbai - Trib.) /ITA No. 1379/Mum/2021, Red Hat India (P.) Ltd. v. Addl. CIT/ITO [IT Appeal No. 801 (Mum) of 2022, dated 28-2-2025], Red Hat India (P.) Ltd. v. Assisstant CIT/ITO [2025] 177 taxmann.com 644 (Mumbai - Trib.) /ITA No. 2442/Mum/2022, Red Hat India (P.) Ltd. v. Dy. CIT [2026] 185 taxmann.com 185 (Mumbai - Trib.) /ITA No. 4065/Mum/2024, and Red Hat India (P.) Ltd. v. Asstt. CIT [IT Appeal No. 3853 (Mum.) of 2025, dated 12-1-2026] followed]***

8. The Tribunal remanded the assessee's working capital adjustment claim to the AO/TPO for verification of the computation, with a direction to grant the adjustment under Rule 10B (3) if found factually correct.

Nynas Naphthenics Pvt. Ltd. vs. DCIT [TS-629-ITAT-2026(Mum)-TP] [07-08-2026] – ITA No.6945/Mum/2024 – AY 2021-22

c. Capacity Utilization Adjustment

1. Where assessee claimed idle-capacity adjustment under TNMM in manufacturing segments and similar issues in earlier years had been restored to TPO, following consistency and judicial discipline, issue was remitted to TPO for reconsideration based on evidence and explanations furnished by assessee

Caterpillar India Pvt Ltd vs. DCIT [TS-622-ITAT-2026(CHNY)-TP] [07-08-2026] – IT(TP)A No.43/Chny/2023 and ITA No.718/Chny/2023 – AY 2016-17 - [2026] 189 taxmann.com 468 (Chennai - Trib.)

Assessee, a wholly owned subsidiary, was engaged in manufacture and sale of earthmoving equipment and diesel engines. It claimed idle capacity/economic adjustments under TNMM in manufacturing segments. TPO rejected claim. Co-ordinate Benches in assessee's own case for assessment years 2014-15 and 2015-16 had restored similar matter to TPO for reconsideration de novo. Since facts of year

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under consideration were similar to those of earlier assessment years, following principle of consistency and judicial discipline, issue was remitted to file of TPO for reconsideration based on evidence and explanations of assessee.

2. **Where assessee, a captive ITeS provider on a limited-risk cost-plus model, suffered extraordinary COVID-19-induced underutilisation of manpower and infrastructure leading to abnormal idle costs, such costs constituted a material difference affecting operating profitability and were required to be adjusted under rule 10B.**

Arcadia Consulting Services Pvt. Ltd. vs. ITO [TS-672-ITAT-2026(CHNY)-TP] [24-08-2026] – IT (TP)A No. 90/Chny/2024 – AY 2021-22 - [2026] 189 taxmann.com 956 (Chennai - Trib.)

Assessee, a private limited company, was a captive ITeS provider to its AE operating on a limited-risk cost-plus model. It reported international transactions of about Rs. 16.48 crores and claimed that COVID-19 caused extraordinary underutilisation of manpower and infrastructure. It identified abnormal idle costs of about Rs. 1.99 crores and after excluding these and finance cost, computed an adjusted operating profit of about Rs. 2.06 crores and an adjusted OP/OC margin of 14.25%. TPO rejected capacity-underutilization/abnormal idle-cost adjustment on ground that comparable companies' capacity or idle-cost data was not available in public domain. He included abnormal idle costs in operating cost, re-computed assessee's margin at 0.99 per cent, selected 15 comparables with a median OP/OC margin of 11.84 per cent and proposed a shortfall of about Rs. 1.77 crores as a transfer pricing adjustment under section 92CA. Tribunal held that extraordinary COVID-19-induced underutilization of assessee's manpower and infrastructure constituted a material difference affecting its operating profitability and abnormal idle costs attributable to such extraordinary underutilization were required to be appropriately considered under rule 10B. Further, TPO/DRP erred in rejecting adjustment merely on ground that corresponding capacity utilization or idle-cost information concerning comparable companies was not available in public domain. Rule 10B does not prescribe availability of identical comparable-company data as a condition precedent for making a reasonably accurate comparability adjustment. Since assessee had furnished sufficient material to demonstrate extraordinary circumstances, underutilization and abnormal costs attributable thereto, after giving effect to adjustment, assessee's operating margin would work out to 14.25 per cent, as against arm's length median margin of 11.84 per cent determined by TPO and, consequently, international transaction undertaken by assessee with its AE would be at arm's length and no transfer pricing adjustment would be warranted.

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d. Customs duty adjustment

1. Where assessee claimed customs-duty adjustment in earthmoving equipment segment owing to higher import intensity and non-Cenvatable customs duty incidence compared with comparables, following earlier-year decision, matter was remanded to TPO for reconsideration of customs-duty adjustment

Caterpillar India Pvt Ltd vs. DCIT [TS-622-ITAT-2026(CHNY)-TP] [07-08-2026] – IT(TP)A No.43/Chny/2023 and ITA No.718/Chny/2023 – AY 2016-17 - [2026] 189 taxmann.com 468 (Chennai - Trib.)

Assessee was engaged in manufacturing earthmoving equipment. It sought a customs-duty (non-Cen vatable) adjustment in its earthmoving equipment segment, contending that its import-to-total-purchase ratio was about 44 per cent compared to comparables' average of 15.42 per cent, resulting in higher customs duty incidence. However, customs-duty adjustment was not granted in TP assessment. Tribunal ruled that since no customs-duty adjustment had been granted despite higher import intensity and non-Cen vatable customs duty incidence, matter was restored to TPO for reconsideration in light of *Doowon Automotive Systems India (P.) Ltd. v. ACIT [IT(TP)A No. 7 (Chny) of 2018, dated 24-5-2022*]. ***[Caterpillar India (P.) Ltd. v. Dy. CIT [2025] 175 taxmann.com 572 (Chennai - Trib.) followed]***

e. Restrict Adjustment to AE Transactions

1. Transfer pricing adjustment is to be restricted proportionately only to international transactions entered into with associated enterprises and not to transactions with unrelated parties; hence, matter was to be remanded for recomputation of adjustment on such proportionate basis. ***[Samsung India Electronics (P.) Ltd. v. Dy. CIT [2024] 165 taxmann.com 654 (Delhi - Trib.), Pr. CIT v. Ameriprise India (P.) Ltd. [2017] 78 taxmann.com 373 (Delhi), Pr. CIT v. Global Logic India Ltd. [2023] 155 taxmann.com 483 (Delhi) and Pr. CIT v. Fiserv India (P.) Ltd. [2018] 92 taxmann.com 471 (Delhi) followed]***

Samsung India Electronics Pvt. Ltd. vs. Addl. CIT [TS-620-ITAT-2026(Del)-TP] [12-08-2026] – ITA Nos. 461/Del/2021 & 1955/Del/2021 – AY 2016-17 & AY 2017-18 - [2026] 189 taxmann.com 412 (Delhi - Trib.)

f. Others

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1. **ITAT: The Tribunal upheld the deletion of the adjustment on price difference on sales to AEs, following the assessee's own case for earlier years.**

   Sun Pharmaceutical Industries Ltd. vs. DCIT [TS-597-ITAT-2026(Ahd)-TP] [31-07-2026] – ITA No.885/Ahd/2019 and ITA No.969/Ahd/2019 – AY 2014-15

   The assessee is engaged in manufacturing, trading and export of pharmaceutical products in India and outside India, and also in leasing of assets and financing/financial services; the transactions in dispute were the assessee's sales of goods to its AEs. The TPO made an upward adjustment on account of the price difference on these sales, but the CIT(A) deleted the adjustment, holding that no upward adjustment was called for, relying on the orders in the assessee's own case for AY 2008-09 and AY 2009-10; the Revenue pleaded that its appeal against the AY 2008-09 order was pending before the Gujarat High Court, but the Tribunal nevertheless found the issue covered by its orders for those years, and since the CIT(A) had relied on them and there was no change in the factual matrix or legal proposition, it affirmed the CIT(A)'s order and dismissed the Revenue's ground. ***[Sun Pharmaceutical Industries Ltd. (assessee's own case, AY 2008-09) [ITA No. 3297/Ahd/2014]; Sun Pharmaceutical Industries Ltd. (assessee's own case, AY 2009-10) [ITA No.1663/Ahd/2016] followed]***

2. **Where TPO had not granted working capital adjustment to margins of comparables while benchmarking software development support services and sales and marketing support services segments, following decision of Tribunal in assessee's own case holding that working capital adjustment was allowable, matter was remanded to Assessing Officer/TPO for fresh consideration**

   NortonLifeLock Software Solutions Pvt. Ltd. vs. ACIT [TS-636-ITAT-2026(Mum)-TP] [04-08-2026] – ITA No.2520/Mum/2022 – AY 2018-19 - [2026] 189 taxmann.com 620 (Mumbai - Trib.)

   Tribunal ruled that where TPO had not granted working capital adjustment to operating margins of comparable companies while benchmarking Software Development Support Services segment as well as Sales and Marketing Support Services segment, following decision of Tribunal in assessee's own case holding that working capital adjustment was allowable, matter was to be remitted back to file of Assessing Officer/TPO for fresh consideration in accordance with law. ***[NortonLifeLock Software Solutions (P.) Ltd. vs. ACIT [2022] 135 taxmann.com 247 (Mumbai - Trib.) followed]***

3. **Where assessee, under TNMM, faced COVID-19 impacted reduction in sales, absence of sales during lockdown, and impaired fixed-cost absorption, benchmarking for arm's length pricing for relevant year should compare**

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assessee's current-year margin only with current-year margins of final set of comparables, not with multi-year averages, due to unique economic conditions

Schneider Electric Systems India Pvt. Ltd. vs. ACIT [TS-648-ITAT-2026(CHNY)-TP] [19-08-2026] – IT(TP)A No.110/Chny/2024 – AY 2021-22 - [2026] 189 taxmann.com 793 (Chennai - Trib.)

Assessee benchmarked its international transactions under TNMM and sought to compare its current-year margin with current-year margins of comparables, citing COVID-19 impact (reduction in sales, no sales during lockdown, fall in demand, and decline in third-party sales affecting fixed-cost absorption). Tribunal held that merely because all companies faced Covid lockdown pressure, adjustment could not be denied, since impact of decline in business varied from company to company. Current-year margin of final set of comparable companies was to be compared with current-year margin of assessee. ***[Schneider Electric Systems India (P.) Ltd. v. ACIT [2025] 178 taxmann.com 361 (Chennai - Trib.), Schneider Electric Systems India v. Asstt. CIT [IT(TP)A.No.48/Chny/2021 dated 17-6-2022], Brakes India Ltd. v. Dy. CIT [2026] 182 taxmann.com 7 (Chennai - Trib.), and Temenos India (P.) Ltd. v. Dy. CIT [IT(TP)A No. 32 (CHNY) of 2024, dated 3-12-2024] followed]***

4. **Where assessee claimed risk adjustment based on differences in risk profile in computation of arm's length price and matter was restored to Transfer Pricing Officer for fresh adjudication, TPO's revised proceedings must comprehensively address such risk adjustment claim anew in accordance with directions.**

Prometric Testing (P) Ltd vs. DCIT [TS-658-ITAT-2026(DEL)-TP] [21-08-2026] – ITA No.3563/Del/2015 – AY 2009-10 - [2026] 189 taxmann.com 944 (Delhi - Trib.)

5. **ITAT:** Deduction under section 80JJAA was held unavailable on income enhanced by TP adjustments, since the first proviso to section 92C(4) bars all Chapter VI-A deductions on such enhanced income. ***[Asstt. CIT v. Bechtel India (P.) Ltd. [2013] 29 taxmann.com 376 (Delhi - Trib.), Gate Global Solutions Ltd. v. Assistant CIT [2008] 24 SOT 3/[2007] 112 TTJ 1002 (Bangalore) (Banglore - Trib.), Approva Systems (P.) Ltd. v. Dy. CIT [2018] 92 taxmann.com 82 (Pune - Trib.), and Manpower Services India Pvt Ltd v. ACIT [S.A No. 371/Del/2024 and ITA No.3585/Del/2024, dated 25-9-2025] and Manpower Services India Pvt. Ltd. v. Asstt. CIT [MA No.445/Del/2025 dated 11-2-2026] (para 25) followed]***

Manpowergroup Services India Pvt. Ltd. vs. ACIT [TS-675-ITAT-2026(DEL)-TP] [25-08-2026] – ITA 5922/DEL/2024 – AY 2021-22 - [2026] 190 taxmann.com 150 (Delhi - Trib.)

VI. Specific Transactions

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a. Advertisement, Marketing and Promotion Expenses

1. **ITAT: The Tribunal held that AMP expenditure did not constitute an international transaction under either the bright line test or the functional intensity approach and deleted the AMP adjustment.**

   Unicharm India Private Limited vs. DCIT [TS-595-ITAT-2026(DEL)-TP] [30-07-2026] – ITA Nos. 5938 & 6088/Del/2018 and 7414/Del/2019 (assessee); ITA Nos. 6104 & 6203/Del/2018 (Revenue) – AY 2010-11, 2011-12 & 2012-13

   The assessee, a subsidiary of a Japanese group, trades in diapers and sanitary products in India under an exclusive licence to use its AE's brands. It benchmarked its AE purchases under TNMM and contended that its AMP spend, incurred with independent Indian agencies, was not a transaction with the AE. The TPO held AMP expenditure exceeding the bright line, the comparables' mean AMP-to-sales ratio, to have built brand intangibles owned by the AE, treated it as an international transaction and made an adjustment. The CIT(A) rejected the bright line test as an unjustified de-bundling of AMP from the integrated distribution function but nonetheless directed a fresh ALP computation by an AMP intensity adjustment to the comparables' margins. The Tribunal followed a coordinate bench decision holding that the Revenue must first prove an international transaction and its price. No provision of Chapter X contemplates an adjustment resting on a quantitative comparison of AMP spend. The intensity approach is only a mirror image of the bright line test, with the same defect, and the High Court declined to disturb that decision. AMP expenses therefore could not be an international transaction under either approach, and the Tribunal deleted the adjustment. The same issue was decided identically for AY 2011-12 and AY 2012-13. ***[Sony India Private Limited vs ACIT [2025 177 taxmann.com 325(Del)] followed]***

2. **Where AMP expenditure was incurred by assessee in course of its own business in India and not on behalf of AE, and there was no arrangement, understanding or agreement obligating assessee to incur such expenditure for brand promotion of AE, AMP expenditure could not be treated as a separate international transaction warranting separate benchmarking**

   Samsung India Electronics Pvt. Ltd. vs. Addl. CIT [TS-620-ITAT-2026(Del)-TP] [12-08-2026] – ITA Nos. 461/Del/2021 & 1955/Del/2021 – AY 2016-17 & AY 2017-18 - [2026] 189 taxmann.com 412 (Delhi - Trib.)

   Assessee-company was engaged in business of manufacturing, trading and networking of consumer electronics products. TPO treated AMP expenditure as an 'international transaction'. It was found that in assessee's own case for earlier years,

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Tribunal had consistently held that AMP expenditure could not be treated as a separate international transaction in absence of any arrangement, understanding or agreement obligating assessee to incur such expenditure for brand promotion on behalf of AE. Tribunal held that since AMP expenditure was incurred by assessee in course of its own business in India and not on behalf of AE, in absence of an international transaction, no separate benchmarking of AMP expenditure was permissible and, consequently, AMP adjustments were deleted. ***[Samsung India Electronics (P.) Ltd. v. Dy. CIT [2024] 165 taxmann.com 654 (Delhi - Trib.), Pr. CIT v. Ameriprise India (P.) Ltd. [2017] 78 taxmann.com 373 (Delhi), Pr. CIT v. Global Logic India Ltd. [2023] 155 taxmann.com 483 (Delhi) and Pr. CIT v. Fiserv India (P.) Ltd. [2018] 92 taxmann.com 471 (Delhi) followed]***

3. **ITAT:** The Tribunal deleted the TP adjustment on AMP expenditure by following its own earlier orders in the assessee's case, holding that AMP expenses incurred for the assessee's own business, absent any agreement or arrangement with the AE, do not constitute an international transaction. ***[Nivea India Private Limited [ITA Nos. 7744/Mum/2012, 1792/Mum/2014, 1105/Mum/2015, 903/Mum/2016 and 674/Mum/2017, ITA No. 6848/Mum/2017 followed]***

Nivea India Private Limited vs. ACIT [TS-621-ITAT-2026(Mum)-TP] [10-08-2026] – ITA No.4296/MUM/2024 – AY 2020-21

4. **ITAT: The Tribunal deleted the AMP expenditure adjustment made on both a substantive and a protective basis, holding that AMP expenses had already been included in the TNMM cost base under which the AO had accepted the assessee's other AE transactions at arm's length, so no separate benchmarking of AMP as an isolated element was permissible.**

Discovery Communication India vs. JCIT [TS-653-ITAT-2026(DEL)-TP] [19-08-2026] – ITA No.1977/Del/2017 – AY 2012-13 - [2026] 189 taxmann.com 864 (Delhi - Trib.)

The assessee, a subsidiary of Discovery Channel Mauritius Pvt. Ltd., acts as agent of its AEs, distributing their channels, selling airtime to Indian advertisers and sourcing programmes. It benchmarked its AE transactions of agency commission, marketing service fee and programme sourcing fee under TNMM on operating profit to operating cost, the operating cost including AMP expenses, and made no adjustment. It contended that AMP could not be benchmarked separately. The TPO left those transactions undisturbed but treated the AMP expenditure as a separate international transaction and adjusted it. The DRP upheld the adjustment substantively under the cost-plus method, enhanced it by disallowing the management service fee, and directed a protective adjustment under the bright line and intensity tests. Since the AO had accepted the AE transactions as at ALP under TNMM with AMP already inside the

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operating cost, no separate benchmarking of AMP was required. The jurisdictional High Court has held AMP to be a cost factored into the net profit of the inter-linked transaction, so that Rule 10B(1)(e) compares only the net profit margin. Once the comparables pass the functional analysis and the margin matches theirs, the price is at arm's length. Treating AMP separately without segregation yields incongruous results, and once TNMM is the most appropriate method the TPO cannot apply a different method to one element. Both the substantive and the protective additions were accordingly deleted. ***[Sony Ericsson Mobile Communications India (P.) Ltd. vs CIT [2015] 374 ITR 118 (Delhi); Magneti Marelli Powertrain India (P.) Ltd. vs DCIT [2016] 389 ITR 469 (Delhi. HC) followed]***

5. **ITAT: The Tribunal held that the assessee's AMP expenditure was not an international transaction and deleted both the substantive cost-plus method adjustment and the protective bright line test adjustment, following its own earlier-year order and the jurisdictional High Court decisions invalidating BLT.**

Zimmer India Private Limited vs. ACIT [TS-654-ITAT-2026(DEL)-TP] [19-08-2026] – ITA No.1368/Del/2017 – AY 2012-13 - [2026] 189 taxmann.com 859 (Delhi - Trib.)

The assessee distributes medical products in India and did not treat its AMP expenditure as an international transaction, the spend being on its own selling and distribution with third parties, not at its AE's instance. The TPO held the AMP expenditure to have been incurred on brand building for the AEs' benefit, requiring remuneration. He applied the cost-plus method for a substantive adjustment and the bright line test (BLT) for a protective one. The DRP rejected the assessee's objections, and the AO's final order incorporated only the substantive adjustment. The Tribunal followed the coordinate Bench's order in the assessee's own case for the preceding year. There, AMP was held not to be an international transaction because the TPO had established none, so benchmarking and ALP determination did not arise, and BLT was held to have no mandate under the Act. It also applied the jurisdictional High Court decisions invalidating BLT and holding that the Revenue must first show, on tangible material, that an international transaction exists. Such a transaction cannot be presumed from an assumed price, and no machinery provision exists for determining its ALP. Since the TPO had accepted the ALP of all the assessee's international transactions and no arrangement with the AE for AMP was shown, the Tribunal held the AMP expenditure not to be an international transaction. Both adjustments were deleted as contrary to law. ***[Sony Ericson Mobile Communication India Pvt. Ltd. v. CIT [2015] 55 taxmann.com 240/231 Taxman 113/374 ITR 118 (Delhi), Whirlpool of India Ltd. [2015] 64 taxmann.com 324/237 Taxman 49/381 ITR 154 (Delhi) and Zimmer India (P.) Ltd. v. Dy. CIT [2019] 107 taxmann.com 502 (Delhi - Trib.) followed]***

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6. ITAT: The final assessment order and the rectified final assessment order imposing an AMP adjustment through the TNMM intensity approach and the Bright Line Test were set aside, since coordinate benches have held both methods unsustainable.

Olympus Medical Systems India Private Limited vs. Assessment Unit [TS-661-ITAT-2026(DEL)-TP] [21-08-2026] – ITA No. 1238/Del/2025, ITA No. 3887/Del/2024 and ITA No. 5396/Del/2024 – AY 2012-13, 2020-21 and 2021-22

The assessee, an Indian company transacting with its AEs including the import of finished goods, benchmarked its international transactions through a company-wide TNMM analysis that it said already covered its AMP expenditure. The TPO treated the AMP expenditure as an international transaction and made a substantive adjustment under intensity-adjusted TNMM. In his view, excessive AMP showed a higher intensity of marketing functions than that of the comparables. He also computed a protective adjustment under the Bright Line Test. The DRP's original directions required benchmarking on the comparable AMP/sales ratio of 1.45% (i.e. BLT). The TPO and the AO passed their orders giving effect accordingly. The dispute was already in its third round of litigation, the Tribunal in the first round had first sent back the question whether AMP was an international transaction and later in the second round held that it was. In the second round then remitted the matter for fresh benchmarking under the most appropriate method, without any finding on the Bright Line Test. After the AO passed the final assessment order (incorporating the DRP's 1.45% benchmark), the assessee appealed the final assessment order. The CIT(DR) moved a rectification application before the DRP under Rule 13 of the DRP Rules where the basis for the rectification application was that the DRP's original order rejected TNMM intensity and substituting it with a BLT-style benchmark. This was treated by the CIT(DR) as containing an "error apparent on the face of the record," which the DRP was then asked to correct under Rule 13 by restoring the TPO's original TNMM intensity method. The DRP, by an order termed rectification, reviewed its own directions and restored the TPO's TNMM intensity method in place of the 1.45% comparable-ratio approach it had directed before. The AO then passed a rectified final assessment order reinstating that addition, while also retaining the protective Bright Line Test addition. Coordinate benches have held both the TNMM intensity approach and the Bright Line Test unsustainable. Since the final assessment order and the rectified order both rest on those methods, the Tribunal set aside both orders as illegal, leaving the remaining grounds academic or consequential. For AY 2020-21 and AY 2021-22 the additions were of the same nature, and the Tribunal applied its AY 2012-13 findings mutatis mutandis. ***[Sony India (P.) Ltd. v. ACIT [2025] 177 taxmann.com 325 (Delhi-Trib); Casio India Co. Pvt. Ltd. V. Dy. CIT [2019] 107 taxmann.com 307 (Delhi-Trib.); Widex India (P.) Ltd. v. ACIT [2019] 108 taxmann.com 125 (Chandigarh - Trib.) followed]***

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b. Commission

1. **Where TPO questioned assessee's characterization as marketing support service provider and recharacterized same as commission agent relying on survey material and dealer information, issue was remanded to TPO for fresh consideration since relevant material available on record required proper examination**

   Caterpillar India Pvt Ltd vs. DCIT [TS-622-ITAT-2026(CHNY)-TP] [07-08-2026] – IT(TP)A No.43/Chny/2023 and ITA No.718/Chny/2023 – AY 2016-17 - [2026] 189 taxmann.com 468 (Chennai - Trib.)

   Assessee provided marketing support services to its AEs. TPO questioned assessee's characterization as marketing support service provider and, relying on survey material and information obtained from dealers under section 133(6), made adjustment. Assessee contended that relevant information available on record had not been appropriately considered. Tribunal held that since relevant issues required re-examination in light of material available on record, matter was restored to file of TPO for fresh consideration after giving proper opportunity of hearing to assessee.

2. **ITAT: The Revenue's appeal against the CIT(A)'s remand on the nil-ALP determination of selling commission paid to AEs was dismissed, since the commission forms part of operating cost benchmarked under TNMM.**

   ACIT vs. Mphasis Software and Services (India) Private Limited [TS-677-ITAT-2026(Bang)-TP] [27-08-2026] – ITA No.1624/Bang/2025 – AY 2009-10

   The assessee provides software development, related services and business process outsourcing. It paid selling commission to its AEs for marketing assistance in securing offshore contracts subcontracted to it. The commission was benchmarked under TNMM at the entity level as part of the operating cost of its software development segment, as accepted in earlier years. The TPO accepted TNMM but treated the commission as a separate intra-group service. As the agreements did not specify the cost base, allocation or mark-up, he benchmarked it under CUP at nil. No objections were filed before the DRP, and the AO made the adjustment. CIT(A) followed the Tribunal's order in the group company's case for AY 2012-13. It directed the AO to verify whether the commission formed part of the operating expenses benchmarked at the entity level and to follow that approach if it did. The Tribunal followed the group company's case for AY 2009-10, which held that no separate adjustment is warranted where selling commission forms part of operating cost under TNMM. Once treated as operating cost in computing the margin, the commission cannot be isolated as a

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separate international transaction and given a nil ALP. Since the TPO had himself verified the facts while giving effect to the CIT(A)'s order and deleted the adjustment, no grievance survived. The Tribunal dismissed the appeal, leaving the AO/TPO free to take an appropriate view if that decision is distinguishable. ***[Mphasis Limited [ITA No. 242/Bangalore/2014] followed]***

3. **ITAT: Confirms deletion of adjustment qua brokerage payment, ALP cannot be fixed on mere estimate**

   DCIT vs. Ferani Hotels Pvt. Ltd. [TS-691-ITAT-2026(Mum)-TP] [25-08-2026] – ITA No.8090/Mum/2025 – AY 2015-16

   The assessee was engaged in the business of hotels and in the construction and development of real estate. It paid brokerage to KRRPL, its sole marketing and selling arm, at an effective rate of 2.87% for the sale of residential and commercial units. Since the payment was a specified domestic transaction under section 92BA as then applicable, the Assessing Officer referred it to the TPO, before whom the assessee explained that KRRPL was not an ordinary broker but rendered comprehensive marketing services. The TPO declined that rate, observed the normal brokerage rate in India was 2%, and restricted the arm's length brokerage accordingly, without any comparable uncontrolled transaction or independent market material. The CIT(A) deleted the adjustment, finding the 2% rate asserted without disclosing the method, without a comparable instance, and without examining KRRPL's actual functions. The Tribunal held an arm's length price cannot be fixed merely on an estimate or a general perception about the market rate. The TPO must benchmark by applying a recognised method under section 92C read with Rule 10B, using reasonably comparable uncontrolled transactions or other reliable material, the FAR of the parties being relevant. Merely stating that brokerage is normally 2%, without showing its source or establishing functional comparability, is not a reliable benchmarking exercise. Support was found in the succeeding-year order, where the Assessing Officer had restricted brokerage by relying on the very benchmarking done for the present year, which that bench held unjustified. The Tribunal upheld the deletion and dismissed the Revenue's ground. ***[Ferani Hotels Pvt. Ltd. A.Ys., 2016-17 and 2017-18 ITA Nos. 3859 & 3860/Mum/2024, order dated 26.12.2024 followed]***

c. Receivables

i. Principal International Transaction at Arm's Length

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1. **ITAT: The Tribunal upheld the separate TP adjustment for notional interest on outstanding receivables from the AE, holding that the abnormal credit period was not subsumed in the price of the main ITES transaction, which was accepted as arm's length only by virtue of the tolerance range.**

   Quislex Legal Services Pvt. Ltd. vs. ACIT [TS-610-ITAT-2026(HYD)-TP] [05-08-2026] – ITA No.400/HYD/2026 – AY 2020-21 - [2026] 189 taxmann.com 272 (Hyderabad - Trib.)

   The assessee, a wholly owned subsidiary of a US entity providing IT-enabled services to it, benchmarked the ITES transaction under TNMM with OP/OC as PLI and treated receivables as incidental, undertaking no separate benchmarking for them. The TPO accepted the ITES transaction as arm's length only after granting the tolerance range but treated the outstanding receivables as a separate international transaction and charged notional interest at the SBI short-term deposit rate since the credit period was abnormally long, and the CIT(A) restricted the adjustment by applying a LIBOR-based rate and allowing the 90-day credit period stipulated in the agreement. The assessee, not pressing its other grounds or challenging the rate or credit period allowed, contended only that no separate adjustment could be made once the main transaction was at arm's length, as receivables are intrinsic to it; the Tribunal held that a separate adjustment is unwarranted only where the price charged, even after discounting for the credit period, remains at or above the ALP such that the discounting is already subsumed in the price, but here the assessee's own margin was below the comparables' median and the main transaction was accepted as arm's length only because of the tolerance range, which did not show that the price already covered the cost of the credit allowed, and the receivables also formed a very large share of AE sales, showing the credit period exceeded even the 90 days agreed. The decisions relied on by the assessee did not apply, as most concerned royalty or working capital already forming part of an operating profit found to be at arm's length, and the Tribunal accordingly upheld the adjustment as sustained by the CIT(A) and dismissed the ground. ***[Signode India Ltd. v. ACIT IT Appeal No. 1376 (Hyd.) of 2024, dated 25.07.2025, ACIT v. Information Systems Resources Center (P) Ltd. [2015] 42 ITR (T) 203 (Mumbai), ACIT v. Intas Pharmaceuticals Ltd. [2025] 174 taxmann.com 867 (Ahmedabad - Trib.), Milacron India (P.) Ltd. v. Dy. CIT [2025] 174 taxmann.com 800 (Ahmedabad - Trib.), Hindustan Unilever Ltd. v. Dy. CIT [2024] 169 taxmann.com 117 (Mumbai - Trib.) distinguished]***

2. **Where working-capital and pricing differences were factored into margins on transactions with AEs, no separate adjustment for notional interest on delayed receivables was warranted**

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Uflex Ltd. vs. DCIT [TS-656-ITAT-2026(DEL)-TP] [21-08-2026] – IT(TP) Appeal No.272, 259, 260, 280 & 5367 (Del) of 2026 – AY 2020-21, 2021-22 & 2022-23 - [2026] 189 taxmann.com 995 (Delhi - Trib.)

Assessee sold goods/services to AEs and did not make separate adjustment on account of delayed receivables, contending that pricing/working-capital differences had already been factored into margins, including by charging higher prices to AEs than non-AEs. TPO/AO treated delayed receivables as a financing element and computed notional interest at 6.02 per cent (LIBOR + 300 bps). Commissioner (Appeals) deleted adjustment. Tribunal held that, since assessee had already factored working-capital adjustment on account of delayed payment of receivables into pricing of international transactions, no separate adjustment on account of delayed receivables was warranted.

ii. Where Assessee is Debt Free

1. **ITAT: The Tribunal remitted the interest imputation on outstanding AE receivables to the AO/TPO to verify whether the assessee is debt-free and whether its collection period is abnormal against the industry average.**

WSP Consultants India Private Limited vs. Assessment Unit [TS-592-ITAT-2026(DEL)-TP] [29-07-2026] – ITA No.5386/DEL/2024 – AY 2021-22

The assessee, provided design and engineering support services and low-end IT-enabled back-office support services, benchmarked those services under TNMM. The assessee had outstanding receivables from its AEs, it contended that receivables outstanding from AEs were merely a consequence of that transaction and not a separate international transaction, adding that it was debt-free with a shorter-than-comparable collection period so no adjustment was warranted. The TPO characterized the receivables outstanding beyond the permitted credit period as a separate international transaction in the nature of an unsecured loan and imputed interest at a LIBOR-linked rate on the reasoning that interest-bearing funds had financed the extra credit. The TPO reasoned that if the assessee were funding this extra credit period out of interest-bearing funds, it should be compensated for that cost; the DRP upheld the imputation while giving benefit of a longer credit period, which reduced the interest adjustment. The Tribunal noted the inconsistency of refusing a working capital adjustment while imputing interest on delayed receivables, and since the assessee claimed to be debt-free and would bear no interest cost in extending credit, it remitted the issue to the AO/TPO to analyse the balance sheet, holding that no adjustment for outstanding receivables can be made if the company is debt-free; it further held that once a working capital adjustment is granted the receivables issue stands addressed,

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and that a separate imputation is warranted only where the average collection period is abnormally high against the industry average which for the case in hand was not true as net collection period for assessee only about 15 days, compared to roughly 161 days for the comparable companies. The AO was further directed to determine the assessee's average collection period and its abnormality against industry average after a proper hearing and allowed the ground for statistical purposes.

2. **Where assessee was debt-free and outstanding trade receivables from AEs were not subject to any interest, no TP adjustment was warranted by imputing interest cost on such receivables and addition made by TPO was to be deleted**

   Schneider Electric Systems India Pvt. Ltd. vs. ACIT [TS-648-ITAT-2026(CHNY)-TP] [19-08-2026] – IT(TP)A No.110/Chny/2024 – AY 2021-22 - [2026] 189 taxmann.com 793 (Chennai - Trib.)

   Assessee was a debt-free company and dues payable shown in audited financials were entries made in relation to lease liability from an Ind AS perspective. TPO made adjustment towards interest on overdue receivables by applying six-month LIBOR plus 350 basis points and DRP directed addition of further 100 basis points. Tribunal held that there need not be any transfer pricing adjustment for imputing interest cost on outstanding trade receivables from AEs when assessee was a debt-free company. Consequently, addition on account of interest on overdue receivables was deleted. ***[Schneider Electric Systems India (P.) Ltd. v. ACIT [2025] 178 taxmann.com 361 (Chennai - Trib.), Schneider Electric Systems India v. Asstt. CIT [IT(TP)A.No.48/Chny/2021 dated 17-6-2022], Brakes India Ltd. v. Dy. CIT [2026] 182 taxmann.com 7 (Chennai - Trib.), and Temenos India (P.) Ltd. v. Dy. CIT [IT(TP)A No. 32 (CHNY) of 2024, dated 3-12-2024] followed]***

iii. Where Working Capital Adjustment is Granted

1. **ITAT: Directs AO to grant working capital adjustment; Clarifies no further adjustment qua overdue receivables required**

   Lumen IT India Private Limited vs. DCIT [TS-594-ITAT-2026(Bang)-TP] [30-07-2026] – IT(TP)A No.730/Bang/2026 – AY 2022-23

   The assessee provides software development and IT-enabled services to Qwest group companies. It benchmarked those transactions under TNMM with a working capital adjustment, contending that outstanding AE receivables were closely linked to them, so no separate interest adjustment arose. The TPO rejected the study under section 92C(3)(c), chose his own comparables and refused the working capital adjustment, for want of proof that working capital differences affected the margin. He treated the

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overdue receivables as an interest-free loan, benchmarked at LIBOR plus a spread. The DRP upheld the receivables adjustment as a separate international transaction, without deciding the objections on the working capital adjustment or the rate. In the giving-effect order the TPO found the software development and ITES transactions at arm's length, so only the reduced interest adjustment survived. The Tribunal held that Rule 10B requires adjustments to eliminate material differences affecting comparability. The assessee could not be made to prove their effect when the TPO had himself rejected its study, chosen the comparables and had access to their accounts. The precedents the DRP relied on bore no relevance to the grant of the adjustment. Without full effect being given to the comparables' working capital, the ALP could not be correctly determined. Since the overdue receivables arose only from these closely linked transactions, denial of the adjustment was contrary to the Act and the transfer pricing rules. The Tribunal directed the AO to grant the working capital adjustment and then determine the ALP. Once it is granted, no further adjustment for interest on the overdue receivables is required. The assessee is to furnish its computation before the AO if available.

2. **Where outstanding trade receivables from AE pertained only to provision of software development services and were closely linked with said transaction, both transactions were to be benchmarked using combined-transaction approach and, once working capital adjustment was granted under TNMM, impact of delayed receivables stood subsumed in profitability analysis and no separate adjustment for notional interest was warranted**

   Y Media Labs Private Limited vs. ITO [TS-646-ITAT-2026(Bang)-TP] [18-08-2026] – IT(TP)A No.712/Bang/2026 – AY 2022-23 - [2026] 189 taxmann.com 720 (Bangalore - Trib.)

3. **Where assessee, acting as agent for associated enterprises in distribution, advertising and marketing, disputed adjustment for interest on outstanding receivables by asserting that working capital adjustment had already been factored into margins and comparables' financials, matter required verification of such claim since it was not examined by TPO, necessitating reconsideration.**

   Discovery Communication India vs. JCIT [TS-653-ITAT-2026(DEL)-TP] [19-08-2026] – ITA No.1977/Del/2017 – AY 2012-13 - [2026] 189 taxmann.com 864 (Delhi - Trib.)

   Assessee-company acted as agent of its two AEs for distribution, advertising and marketing. TPO made adjustment on account of interest on outstanding receivables. Assessee claimed that working capital adjustment had already been made in margins charged from AEs and also necessary adjustments had been made in financials of comparables while benchmarking transactions. Tribunal held that since claim of

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assessee was not examined by TPO, matter was remanded back to TPO for verification. ***[Pr. CIT v. Kusum Health Care (P.) Ltd. [2018] 99 taxmann.com 431/ [2017] 398 ITR 66 (Delhi) followed]***

4. **ITAT: Delayed trade receivables from the AEs were held to be an international transaction linked to the ITeS transaction, but no separate notional interest adjustment was warranted once a working capital adjustment is granted under TNMM, and the AO/TPO was directed to compute it.**

   Elanco Innovation and Alliance Centre India LLP vs. DCIT [TS-671-ITAT-2026(Bang)-TP] [24-08-2026] – IT(TP)A No.709/Bang/2026 – AY 2022-23

iv. Uniform Policy for AE and Non-AE

1. **Where assessee had not charged interest on delayed payments from non-AEs, notional interest on outstanding receivables from AEs did not warrant a transfer pricing adjustment**

   DCIT vs. Kohinoor Foods Limited [TS-644-ITAT-2026(DEL)-TP] [19-08-2026] – ITA No.3892/DEL/2023 – AY 2013-14 - [2026] 189 taxmann.com 643 (Delhi - Trib.)

   Assessee had outstanding receivables from its AEs. TPO applied LIBOR plus basis points on outstanding receivables and computed notional interest. Coordinate Bench had observed that assessee had made substantial sales to non-AEs and had also not charged any interest on delayed payments from non-AEs. Tribunal held that where no interest had been charged from non-AEs on delayed payments, TPO as well as CIT(A) were not justified in sustaining addition of notional interest vis-à-vis outstanding receivables with AEs. ***[Kohinoor Foods Limited (AYs 2012-13, 2014-15 and 2015-16) [Tribunal order dated 31.07.2025] followed]***

2. **Where assessee engaged in international transactions of sales to AEs and non-AEs did not charge interest on delayed payments from either party and established that agreed prices already factored in the credit terms, no notional interest adjustment was warranted for delayed realisation of receivables from AEs.**

   Acme Cleantech Solutions Pvt. Ltd. vs. ITO (cross-appeals with ACIT) [TS-655-ITAT-2026(DEL)-TP] [19-08-2026] – ITA No.5194/DEL/2019 & ITA No.5193/DEL/2019 – AY 2013-14 - [2026] 189 taxmann.com 860 (Delhi - Trib.)

   Assessee's international transactions included sales to AEs giving rise to trade receivables. Assessee did not charge interest on delayed payments from either AEs or non-AEs and asserted that margins/prices factored agreed credit terms. TPO made

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adjustment on account of notional interest on delayed realization of receivables beyond agreed credit period. Tribunal held that where no interest was charged from both AEs and non-AEs and pricing factored in credit terms, no adjustment was warranted on account of notional interest on delayed receivables from AEs. ***[Acme Cleantech Solutions Ltd. v. Dy. CIT [2025] 180 taxmann.com 727 (Delhi - Trib.) followed]***

v. LIBOR / Interest Rate

1. **ITAT: The Tribunal upheld, in principle, the adjustment on interest on delayed trade receivables from AEs as a separate international transaction, restored the assessee's debt-free claim for verification with no adjustement if so verified. Else, directed re-computation at LIBOR plus 200 basis points with a 60-day credit period.**

   KORE.AI Software India Private Limited vs. ITO [TS-598-ITAT-2026(HYD)-TP] [29-07-2026] – ITA No.51/Hyd/2026 – AY 2022-23

   The assessee is a captive provider of software development, IT and marketing support services to its AEs on a cost-plus basis. It benchmarked those transactions on its operating margin against comparables, contending that the finance cost of delayed receivables was already embedded in its mark-up. The TPO accepted them as at arm's length but treated the delayed AE receivables as a separate international transaction, benchmarking them at LIBOR plus 450 basis points after a 30-day credit period. The DRP granted partial relief but upheld that adjustment. In the TPO's giving-effect order the other adjustment was deleted, leaving only the receivables adjustment before the Tribunal. The Tribunal rejected the embedded-cost contention, since Explanation (i)(c) to section 92B, inserted retrospectively from 01.04.2002, treats any receivable arising in the course of business as an international transaction. Delayed realisation lets the AEs use funds beyond the credit period without compensation, a distinct benefit requiring independent benchmarking. The assessee showed nothing establishing that its pricing compensated for the delay, so the adjustment was upheld in principle. On its alternative claim of being debt-free from August 2021, the Tribunal followed a coordinate bench ruling that a debt-free assessee, incurring no borrowing cost, bears no extra financing burden. It restored that limited issue to verify the debt-free position, with no adjustment for the period thereafter if verified. Else following a coordinate bench decision favouring LIBOR, the Tribunal directed LIBOR plus 200 basis points and a 60-day credit period instead of 30 days, the norm in the software development industry. Interest is to be recomputed for the delay beyond 60 days.

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[Temenos India Pvt. Ltd. Vs. DCIT [IT(TP)A No. 32/Chny/2024]; HARSCO India Private Ltd. v/s DCIT [ITA No. 1041/Hyd/2024] followed]

2. **ITAT: The Tribunal deleted the adjustment for notional interest on trade receivables from the AE, as the CUP-based rate (LIBOR) had not been derived from any segmental trend.**

Soti India Private Limited vs. ITO [TS-606-ITAT-2026(Del)-TP] [30-07-2026] – IT(TP)A No.5554/Del/2024 & SA No.236/Del/2025 – AY 2021-22

The assessee provides software development services to its AE, and it benchmarked its international transactions without accepting that its outstanding trade receivables were a separate transaction warranting notional interest. The TPO recharacterized the overdue receivables as a deemed loan, treated it as a separate international transaction, and imputed interest at the SBI lending rate; the DRP retained the adjustment but directed that six-month LIBOR plus 400 basis points be adopted as the CUP rate instead of the SBI rate. The assessee relied on High Court rulings that delayed receivables are not automatically an international transaction and that the TPO must first study the pattern of receivables over time; the Tribunal, while observing that trade receivables can hardly be disputed as amounting to an international transaction under Explanation (c) to section 92B, inserted retrospectively from 1 April 2002, examined the rate instead and found that the TPO had simply adopted the SBI lending rate as converted by the DRP to LIBOR plus 400 basis points in tune with the CUP method, with the Revenue pointing to no segmental comparable on record that prompted the DRP to adopt that direct method; since the adjustment had nowhere been computed as per segmental trends, the Tribunal could not concur with the DRP's direction adopting CUP and deleted the adjustment on that ground.

3. Where assessee faced delayed realization of receivables from associated enterprises arising from export transactions in foreign currency, arm's length interest was to be computed based on LIBOR plus 200 basis points after granting a normal credit period of sixty days, rather than by applying SBI deposit rates adopted by TPO. ***[Vidya Shankar Jaiswal v. ITO [2025] 174 taxmann.com 21/305 Taxman 83 (SC), Dy. CIT, Circle- 17 (1), Hyderabad v. Devgen Seeds & Crop Technology (P.) Ltd. [2017] 80 taxmann.com 58 (Hyderabad - Trib.), and OSI Systems (P.) Ltd. v. Dy. CIT [2024] 168 taxmann.com 22 (Hyderabad - Trib.) followed]***

DCIT vs. Indus Coffee Private Limited [TS-649-ITAT-2026(HYD)-TP] [19-08-2026] – ITA No.1139/HYD/2025 – AY 2016-17 - [2026] 189 taxmann.com 868 (Hyderabad - Trib.)

4. The Tribunal directed recomputation of interest on delayed trade receivables from AEs at LIBOR plus 200 basis points after a 30-day credit period, following its own case for

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AY 2018-19. ***[Curia India Private Limited vs. DCIT [ITA No. 389/Hyd/2022] followed]***

Curia India Private Limited vs. DCIT [TS-660-ITAT-2026(HYD)-TP] [21-08-2026] – ITA No. 967/Hyd/2024 – AY 2020-21

d. Loans

1. The assessee and Siam bank (in Thailand) advanced equal amounts of loan to Assessee's Thailand based AE, both at the rate of 7.5%. Accordingly, the assessee claimed the interest charged from its AE to be at arm's length. The TPO adopted the rate of 11.5% to be the ALP rate (i.e. 7.5% plus 4% additional risk premium). The Tribunal held that Siam commercial bank could not be considered as a comparable as the said bank was located in Thailand, whereas the assessee was located in India. Also, the loan provided by the assessee was unsecured and thus subordinate to the bank loan, carrying higher risk. The Tribunal thus partly allowed the assessee's ground by directing adoption of 9% as the ALP rate of Interest by following its earlier order in the assessee's own case for AY 2007-08 which was based on the reasoning that normal rate of borrowing in India is 9%. ***[Usha Martin Limited v. Asstt. CIT ITA No.68(Ran) OF 2017, dated 12-6-2025 followed]***

Usha Martin Ltd. vs. ACIT [TS-607-ITAT-2026(RAN)-TP] [29-07-2026] – ITA No.272/RAN/2017 – AY 2008-09 - [2026] 189 taxmann.com 177 (Ranchi - Trib.)

2. ITAT: The Tribunal upheld the deletion of the transfer pricing adjustment on interest charged on a foreign-currency loan to an AE, holding that LIBOR is the arm's length rate under CUP, following its own earlier rulings in the assessee's case.

The Indian Hotels Company Ltd. vs. Addl. CIT [TS-1519-ITAT-2018(Mum)-TP] [31-01-2018] – ITA No.371/Mum/2010, ITA No.841/Mum/2010 & CO No.169/Mum/2010 – AY 2005-06

The assessee, engaged in the business of running hotels including hotels owned by others, granted foreign-currency loans to its wholly owned subsidiary and AE, Taj International Hongkong Ltd., reporting the transaction in Form 3CEB with RBI approval and maintaining that LIBOR is the acceptable arm's length rate of interest. The AO, following the TPO, held that the interest charged on the loans was not at arm's length and made an adjustment, which the CIT(A) deleted. The Tribunal noted that the issue stood decided in the assessee's own case for AY 2003-04 and 2004-05, where the

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Coordinate Bench had held that, for lending of money in foreign currency to an AE, the CUP method is the most appropriate method and LIBOR, being the inter-bank rate, must be adopted as the arm's length rate, a view reached by following a Mumbai Bench ruling which in turn followed a Delhi Bench ruling. Since the issue was already decided in the assessee's favour, the Tribunal respectfully followed those orders and upheld the deletion of the adjustment, dismissing the Revenue's ground. ***[The Indian Hotels Company Ltd. [ITA No. 6712/Mum/2008]; [ITA No. 2678/Mum/2009] followed]***

3. **ITAT:** The Tribunal remitted the adjustment on interest on external commercial borrowings for AY 2012-13 to the AO/TPO, to determine the arm's length price strictly in accordance with the earlier remand directions in the assessee's own case.

BG Exploration & Production India Limited vs. DCIT [TS-630-ITAT-2026(DDN)-TP] [14-08-2026] – ITA Nos.131, 132 & 133/DDN/2026 and S.A. No.13/DDN/2026 – AY 2011-12, 2012-13 & 2019-20

The assessee, a non-resident Cayman Islands company in the Shell group engaged in prospecting, exploration and production of crude oil and natural gas through a project office in India, paid interest on external commercial borrowings, The AO/TPO determined the ALP by applying the CUP method and made an adjustment, and the DRP issued no direction on this adjustment, as the AO himself recorded in the final assessment order. The assessee contended that the issue was already decided in its favour for AY 2010-11 & 2011-12 where the Tribunal had itself set aside the issue to the AO/TPO to compute the ALP strictly in accordance with section 92C as TPO had fundamentally failed in his statutory duty. Under Section 92CA, the TPO's job is to actually *determine* the arm's length price of an international transaction by passing a reasoned order. Instead, in this case, the TPO had not computed the ALP of the interest payment at all. He had merely "analyzed and questioned" the international transaction (disputing the assessee's commercial rationale for shifting from a floating 2.33% rate to a fixed 6.18% rate, when that was in fact a legitimate business decision the TPO had no authority to second-guess), without ever applying a proper method to work out what the arm's length rate should be., also for AY 2011-12, the coordinate bench had remanded the interest adjustment Further, since the DRP had not decided this issue for AY 2012-13 and, in the interest of justice, the matter needed determination on the evidence placed before the Tribunal, it remitted the issue to the AO/TPO with a direction to determine the ALP in accordance with the directions of the Coordinate Bench for AY 2010-11, as followed for AY 2011-12 proceedings. ***[BG Exploration & Production India Limited [ITA No.1170/Del/2015] followed]***

4. **ITAT: The Tribunal directed that interest on the assessee's interest-free loans to its AEs be charged at LIBOR plus 200 basis points, modifying both the CIT(A)'s LIBOR-only direction and the TPO's LIBOR plus 400 basis points.**

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DCIT vs. Kohinoor Foods Limited [TS-644-ITAT-2026(DEL)-TP] [19-08-2026] – ITA No.3892/DEL/2023 – AY 2013-14 - [2026] 189 taxmann.com 643 (Delhi - Trib.)

The assessee, an Indian company with overseas AEs which it supports financially, advanced interest-free loans to two AEs, one in Dubai and one in the UK, contending that these were not international transactions and that the AEs, unable to raise debt locally, would otherwise have been liquidated. The TPO benchmarked interest at six-month LIBOR plus 400 bps, treating the RBI Master Circular ceiling of LIBOR plus 500 bps for long-term external commercial borrowings as an indirect basis and relying on the DRP's earlier view in the assessee's own case that LIBOR plus 400 bps was arm's length, while the CIT(A) restricted the adjustment to LIBOR alone, following the Tribunal's order for AYs 2012-13, 2014-15 and 2015-16. In the Revenue's appeal, the Tribunal noted that its coordinate bench order had found no infirmity in restricting the adjustment to LIBOR, but disagreed with that direction, reasoning that the interest rate applicable in the financial market is always LIBOR plus basis points and that courts have held LIBOR plus 200 bps to be a normal and reasonable rate; accordingly, in place of the TPO's LIBOR plus 400 bps and the CIT(A)'s LIBOR alone, it directed the AO/TPO to charge interest on the outstanding loans at LIBOR plus 200 bps and partly allowed the Revenue's grounds. ***[Kohinoor Foods Limited (assessee's own case, AYs 2012-13, 2014-15 and 2015-16) [Tribunal order dated 31.07.2025] declined to follow]***

5. **ITAT: The Tribunal upheld the deletion of the adjustment on interest paid on a foreign-currency ECB from the AE, holding that six-month LIBOR plus 500 basis points, within the RBI ceiling, reflected the arm's length rate.**

DCIT vs. Indus Coffee Private Limited [TS-649-ITAT-2026(HYD)-TP] [19-08-2026] – ITA No.1139/HYD/2025 – AY 2016-17 - [2026] 189 taxmann.com 868 (Hyderabad - Trib.)

The assessee manufactures and exports instant coffee. It availed an ECB from its AE and benchmarked the interest at six-month LIBOR plus 500 basis points under CUP, the rate being within the ceiling permitted by the RBI Master Circular. The TPO held that the RBI ceiling serves only foreign exchange regulatory purposes and does not fix the arm's length price, adopted six-month LIBOR plus 200 basis points and treated the excess interest as an adjustment. The CIT(A) deleted the adjustment, holding that the loan's tenure, unsecured nature and commercial risk supported the assessee's rate and that the TPO's uniform spread lacked any comparability analysis. The Tribunal held that, the loan being denominated in foreign currency, the arm's length rate had to be determined by reference to that currency and not by domestic Indian lending rates. The TPO cited no uncontrolled comparable showing that an independent lender would have made a similar long-term unsecured foreign currency loan at LIBOR plus 200 basis points. That spread rested on departmental practice rather than the

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comparability analysis Rule 10B requires, and a uniform spread ignoring tenure, security and credit risk would defeat the object of that Rule. The CIT(A) had not relied mechanically on the RBI Master Circular, treating it as one commercial indicator only. He founded his conclusion on the loan's commercial characteristics and on a binding jurisdictional Tribunal decision on similar borrowings, shown neither to be wrong nor reversed. Judicial discipline required following that decision, and the Tribunal upheld the deletion of the adjustment. ***[DCIT v. Devgen Seeds & Crop Technology Pvt. Ltd. [ITA No. 399/Hyd/2016, dated 24th March 2017]; CIT v. Cotton Naturals (I) Pvt. Ltd. [(2015) 231 Taxman 401 (Delhi)]; CIT v. Tecnimont (P.) Ltd. [(2018) 96 taxmann.com 223 (Bom.)] followed]***

6. **ITAT: The Tribunal directed deletion of the notional interest imputed on the exclusivity payment made to British Telecom, holding that the payment carried commercial substance and that, since no primary adjustment survived after the DRP's directions and the AO's verification,(as the exclusivity payment, though claimed as extraordinary expense was added back by assessee while computing income)- no consequential interest adjustment could attach and section 92CE was in any event inapplicable to the pre-2016 year.**

Tech Mahindra Ltd vs. DCIT [TS-652-ITAT-2026(Mum)-TP] [24-08-2026] – ITA 7487/MUM/2012 – AY 2008-09 - [2026] 189 taxmann.com 822 (Mumbai - Trib.)

The assessee, a joint venture between Mahindra & Mahindra Ltd. and British Telecommunications Plc (BT), develops computer software and renders allied IT services, BT being also its major customer. Under an Exclusivity Agreement it paid BT an exclusivity payment for a 90-day exclusive negotiation window for a large transformation programme, Project Andes. Though booked as extraordinary expenditure, the sum was added back in computing income and no deduction was claimed. The TPO held the payment unusual and not a genuine business transaction, and determined its ALP at Nil without applying any prescribed method. He re-characterised the same sum as an interest-free advance to BT, so as to impute notional interest. The DRP directed the AO to verify and delete the principal adjustment, no deduction having been claimed, but sustained the notional interest adjustment. On verification the AO made no principal adjustment in the final assessment order, so only the interest adjustment survived. The Tribunal found the payment commercially substantive. Press material showed upfront payments are not unknown in the IT industry for large, long-term contracts. An unconventional manner of securing a contract does not itself show want of commercial rationale, and the Revenue produced nothing to show the transaction was sham. The assessee's substantial later revenue from BT, offered to tax in India, supported that rationale. Since no primary adjustment survived, no consequential interest adjustment could attach; and the year preceding 1 April 2016, section 92CE's secondary adjustment

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provisions were inapplicable. The interest adjustment was accordingly directed to be deleted.

7. **ITAT: The Tribunal deleted the notional interest imputed on an upfront discount paid to BT in an earlier year and recharacterised as a continuing interest-free loan, since the primary adjustment on that discount had already been deleted for the year, it was paid and no independent primary adjustment existed for the year under consideration.**

   Tech Mahindra Ltd vs. DCIT [TS-652-ITAT-2026(Mum)-TP] [24-08-2026] – ITA 7487/MUM/2012 – AY 2008-09 - [2026] 189 taxmann.com 822 (Mumbai - Trib.)

   The assessee develops computer software and renders allied IT services. BT is its joint venture partner and major customer. In AY 2007-08, BT's RFP required an unconditional upfront benefit from the successful vendor. The assessee paid BT an upfront discount to secure a large multi-year software and IT services contract, without debiting it to the profit and loss account or claiming a deduction. For the year under consideration the TPO made no fresh ALP determination but, following his AY 2007-08 order, re-characterised the discount as a continuing interest-free advance and imputed notional interest. The DRP sustained the interest adjustment, which the AO retained. In AY 2007-08 the primary adjustment on the same discount had already been deleted, and a coordinate Bench had also deleted that year's interest adjustment. The Tribunal found the payment commercially driven, made under the terms of BT's RFP, with no deduction claimed for it. Contemporaneous material showed such upfront payments in large, long-term IT contracts, including uncontrolled ones, and the Revenue showed nothing against the transaction's genuineness or commercial substance. The assessee's later revenue from BT, offered to tax, corroborated its rationale. Since the discount was paid in AY 2007-08 and the primary adjustment for that year stood deleted, the year under consideration had no independent primary adjustment for a consequential adjustment to attach to. The year also commenced before 1 April 2016, so that proviso (ii) to section 92CE (1) made the secondary adjustment provisions inapplicable. The Tribunal therefore deleted the notional interest adjustment.

8. Where assessee advanced loan in USD to its AE out of internal accruals and charged interest at 4 percent based on six-month LIBOR but TPO substituted domestic borrowing rate with markup to determine arm’s length interest, since transaction was denominated in foreign currency and LIBOR-based benchmarking was adopted in earlier years for same loan, LIBOR plus 80 basis points constituted appropriate benchmark rate for such international transaction. ***[Tech Mahindra Limited v. Dy. CIT [IT Appeal Nos. 3643 & 3531 (Mum.) of 2012, dated 25-10-2023] followed]***

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Tech Mahindra Ltd vs. DCIT [TS-652-ITAT-2026(Mum)-TP] [24-08-2026] – ITA 7487/MUM/2012 – AY 2008-09 - [2026] 189 taxmann.com 822 (Mumbai - Trib.)

9. **Where assessee advanced loans in foreign currency to Associated Enterprises and charged interest between 6.5 per cent and 9.5 per cent, determination of arm's length interest rate based on SBI PLR was inappropriate and benchmarking should instead rely on a LIBOR-based rate (LIBOR plus appropriate basis points) reflecting the currency and international lending norms.**

Acme Cleantech Solutions Pvt. Ltd. vs. ITO (cross-appeals with ACIT) [TS-655-ITAT-2026(DEL)-TP] [19-08-2026] – ITA No.5194/DEL/2019 & ITA No.5193/DEL/2019 – AY 2013-14 - [2026] 189 taxmann.com 860 (Delhi - Trib.)

Assessee-company had advanced loans to its Associated Enterprises (AEs) in foreign currency and charged interest in range of 6.5 per cent to 9.5 per cent. TPO benchmarked interest by applying SBI PLR at 12.6 per cent, resulting in transfer pricing adjustment. Tribunal held that for purpose of benchmarking arm's length interest rate on foreign currency loans advanced to AEs, a LIBOR-based rate (LIBOR + 300 bps) should be applied instead of SBI PLR. ***[Acme Cleantech Solutions Ltd. v. Dy. CIT [2025] 180 taxmann.com 727 (Delhi - Trib.) /ITA No. 3641/Del/2017 followed]***

10. **ITAT: The Tribunal directed that interest paid on ECBs from the AE be benchmarked at LIBOR plus 3%, following its own case for AY 2018-19.**

Curia India Private Limited vs. DCIT [TS-660-ITAT-2026(HYD)-TP] [21-08-2026] – ITA No. 967/Hyd/2024 – AY 2020-21

The assessee is engaged in manufacturing and contract research activities in the field of medicinal chemistry and had availed ECBs from its AE, benchmarking the interest paid on them at LIBOR plus 3%; the TPO rejected this benchmarking and adopted LIBOR plus 2%, without following any prescribed method or comparability analysis under Chapter X, proposing an adjustment sustained through the DRP's directions. Both parties agreed before the Tribunal that the issue was identical to the one decided in the assessee's own case for AY 2018-19, in which the Tribunal had noted that the TPO summarily brushed aside the assessee's detailed benchmarking in its transfer pricing study without any Chapter X comparability analysis, had also noted that the ECBs carried prior RBI approval and that LIBOR plus 3% was within the RBI ceiling, a relevant factor in determining the ALP, and had accordingly upheld the assessee's rate of LIBOR plus 3%. Finding no distinguishing feature brought by the Revenue for the year under consideration, the Tribunal, following the AY 2018-19 order, directed the TPO to benchmark the interest paid on ECBs at LIBOR plus 3%, allowing the ground

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for statistical purposes. [Curia India Private Limited vs. DCIT [ITA No. 389/Hyd/2022] followed]

e. Share application money

1. **ITAT: The Tribunal upheld the deletion of the adjustment on interest on loans to AEs, following the assessee's own case for earlier years**.

   Sun Pharmaceutical Industries Ltd. vs. DCIT [TS-597-ITAT-2026(Ahd)-TP] [31-07-2026] – ITA No.885/Ahd/2019 and ITA No.969/Ahd/2019 – AY 2014-15

   The assessee was engaged in manufacturing, trading and export of pharmaceutical products in India and outside India, and also in leasing of assets and financing/financial services The transactions in dispute were the interest-free advances given by the assessee to its AEs in respect of share application money pending allotment with them. Assessee's argued that the amount was share application money pending allotment of shares, not a loan. Therefore, the amount was to be treated as advance towards share application pending allotment. The TPO treated this as a disguised/re-characterized interest-free loan and imputed notional interest as he was dissatisfied with the contention of the assessee. The TPO made a transfer pricing adjustment on interest on the loans (advance towards share application money) to the AEs t, but the CIT(A) deleted the adjustment on interest on loans and held that no adjustment was called for on the share application money, relying on the Tribunal's order in the assessee's own case of AY 2008-09 wherein it was ruled that since the AE was a 100%-owned subsidiary, the assessee remained sole beneficiary of its earnings regardless of allotment delay, so re-characterizing the share application money as a "loan" and imputing notional interest was unjustified, no real benefit was foregone, and re-characterization is permissible only where *EKL Appliances' [2012] 345 ITR 241* two conditions [(i) Where the economic substance of a transaction differs from its form; or (ii) Where the form and substance of the transaction are the same, but the arrangements made in relation to it, viewed in their totality, differ from those which independent enterprises behaving in a commercially rational manner would have adopted.] are met, which was not the case here.; the Revenue pleaded that its appeal against the AY 2008-09 order was pending before the Gujarat High Court, but the Tribunal nevertheless found the issue covered by its orders in the assessee's own case for AY 2008-09 and AY 2009-10, and since the CIT(A) had relied on those orders and there was no change in the factual matrix or legal proposition, it affirmed the CIT(A)'s order and dismissed the Revenue's ground. ***[Sun Pharmaceutical Industries Ltd. (assessee's own case, AY 2008-09) [ITA No.***

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3297/Ahd/2014]; Sun Pharmaceutical Industries Ltd. (assessee's own case, AY 2009-10) [ITA No.1663/Ahd/2016] followed]

f. Convertible Debentures

1. ITAT: The Tribunal deleted the TP adjustment on interest paid on compulsorily convertible debentures issued to the AEs, holding that the CCDs retained the character of debt until conversion and that the interest had to be benchmarked against the SBI PLR rather than treated as Nil.

Neovantage Innovation Park Private Limited vs. ITO [TS-613-ITAT-2026(HYD)-TP] [07-08-2026] – ITA No. 1101/Hyd/2026 – AY 2022-23

The assessee develops and leases life sciences and biotechnology parks and provides managerial services. It benchmarked interest paid on rupee-denominated CCDs issued to its AEs as interest on debt at the rate actually paid, supported by its own comparables. The TPO rejected the study, treated the CCDs as equity on the strength of the equity component shown under Ind AS-32 and determined arm's length interest at Nil. The DRP upheld this, additionally relying on a Supreme Court decision in IFCI Ltd. Vs. Sutanu Sinha, 156 taxmann.com 681 treating CCDs as equity. The Tribunal rejected the assessee's reliance for the characterization issue (debt vs. Equity) on the Special Bench ruling of Hyderabad Infratech Pvt. Ltd. Vs. DCIT on CCDs as it was confined to the determination of interest payable on Fully and Compulsorily Convertible Debenture's appropriate benchmark, not the Debenture's/ instrument's legal character. The Tribunal followed a Mumbai Bench ruling that separate presentation of debt and equity components under Ind AS-32 does not alter that character. Since in the matter at hand these CCDs had admittedly not been converted during the year, they retained the character of debt, and the interest was allowable business expenditure. On the rate, the Tribunal followed its order in the assessee's own case for the earlier year, holding that rupee-denominated CCDs must be benchmarked against the SBI PLR, not international LIBOR rates. As the rate actually paid was below the prevailing SBI PLR, the transaction was at arm's length, and the Tribunal directed deletion. Since the adjustment failed on merits, the alternate contention on double disallowance under section 40(a)(i) was left open as unnecessary. ***[Hyderabad Infratech Pvt. Ltd. vs. DCIT [171 taxmann.com 385] distinguished] [Goldman Sachs India Finance Pvt. Ltd. vs. ITO [ITA No. 6766/Mum/2024] followed] [Neovantage Innovation Park Pvt. Ltd. for AY 2020-21 [ITA No. 923/Hyd/2024] followed]***

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g. Non-convertible Debentures

1. ITAT: The Tribunal deleted the notional interest adjustment on interest-free NCDs subscribed in the AE, (with redemption premium entitlement) holding that the TPO could not depart from the arm's length finding accepted for the identical transaction in an earlier year absent any change in facts or arrangement.

The British Institute of Engineering and Technology (India) Pvt. Ltd. vs. DCIT [TS-619-ITAT-2026(Mum)-TP] [11-08-2026] – ITA No.7905/Mum/2025 – AY 2022-23

The assessee, an educational institute, subscribed to non-convertible debentures issued by its AE carrying no interest but entitling it to a redemption premium varying with the holding period, reported the investment as an international transaction and benchmarked it under CUP; the TPO took the view that, in substance the NCDs are interest-free loans on the footing that the AE received funds free of cost and the AE has not incurred any expenditure for the debt received. Thus, it was held by TPO that the assessee had given an undue benefit to the AE. As regards the redemption premium payable to the assessee, the TPO held since the redemption date was not fixed, the effective return on investment could not be determined. TPO held that the consideration for the loan is a must, and since the assessee did not charge any interest on the amount of NCDs, the international transaction of investment in NCDs was not at arm's length. The TPO applied the Other Method, imputing interest at a GBP LIBOR-based rate on the closing balance of NCDs, including those subscribed in an earlier year, which the DRP upheld after rejecting the assessee's objections. The assessee pointed out that it had subscribed to identical NCDs in AY 2018-19 under an agreement with the same no-interest and redemption-premium terms, for which the TPO had examined the necessary details and documents in support of the ALP determined by the assessee and concluded no adjustment was required in its order u/s section 92CA(3) for AY 2018-19; the Tribunal for the matter in hand found that the TPO in the present year imputed interest even on the NCDs subscribed in that earlier year, thereby overturning, on his own motion and de hors the Act, his own earlier finding without any permissible proceeding to reverse it, and the Revenue did not dispute that the fundamental facts were similar across years. Holding that, although res judicata does not apply to assessment proceedings, uniformity and consistency must be maintained where facts and circumstances are identical, and that in the absence of any change in facts or arrangement a different stand could not be taken once the Revenue had accepted the position in the earlier year, the Tribunal deleted the adjustment and allowed the assessee's grounds. ***[Radhasoami Satsang v. CIT [1992] 193 ITR 321 (SC); Commissioner of Income-tax vs Gopal Purohit [2011] 336 ITR 287 (Bombay) followed]***

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h. Corporate Guarantee

1. **ITAT: Transfer pricing provisions applicable to guarantee commission received by the Indian PE from its Head Office but restricted the adjustment to the differential between the internal CUP rate and the commission already recovered. (0.46%)**

   DBS Bank Ltd vs. Addl. DIT (IT) (and cross-appeals) [TS-596-ITAT-2026(Mum)-TP] [29-07-2026] – ITA Nos. 4732/Mum/2015, 4644/Mum/2015, 5158/Mum/2016, 5703/Mum/2016, 7086/Mum/2017 and 6891/Mum/2017 – AY 2010-11, 2011-12 and 2012-13

   The assessee is the Indian branch of DBS Bank Ltd, a Singapore-based banking company. It issued bank guarantees to third parties in India for its Head Office and overseas branches, backed by their counter-guarantees. For AY 2010-11 it charged a fixed processing fee of 0.10% under the group's global pricing policy. The TPO rejected that policy and adopted an internal CUP, where it compared the average commission (1.2%) the PE (i.e. the branch) charged to unrelated domestic clients for guarantees it issued on its own account and and the processing fee (0.10%) recieved from AE. He computed the adjustment on 1.2% rate without netting off the 0.10% already received from Head Office. For AY 2011-12, the same internal-CUP approach was applied at a recomputed 1.01%. The CIT(A) sustained the adjustment for AY 2010-11 but reduced the arm's length commission rate to 0.50% for AY 2011-12. Assessee also contended that transfer pricing cannot apply between Head Office and its PE, being one and the same person. Following the Ahmedabad Special Bench, the Tribunal rejected the plea of per se inapplicability. Transactions between a foreign enterprise and its Indian PE can, if the statutory conditions are met, be international transactions eligible to arm's length determination under Chapter X. It declined to rule on the plea that collateral-backed third-party guarantees are not comparable, in view of the assessee's alternate plea of restricting the adjustment by considering the correct third-party average commission and netting of the same with commission charged from HO. Thus, taking the correct average third-party commission of 0.56% as arm's length and considering that the branch had already recovered 0.10 % from HO, the the Tribunal restricted the adjustment to the differential rate of 0.46% of the guarantee value and directed re-computation after verification and applied the same view to AYs 2011-12 and 2012-13. ***[TBEA Shenyang Transformer Group Company Ltd. v. DCIT [2024]169 taxmann.com 145 (Ahmedabad - Trib.) (SB); CIT v. Everest Kanto Cylinders Ltd. [(2015) 378 ITR 57(Bom)] followed]***

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2. **Where assessee provided a corporate guarantee in an international transaction, adjustment for guarantee commission was to be restricted to 0.5 per cent in line with the earlier decision.**

Usha Martin Ltd. vs. ACIT [TS-607-ITAT-2026(RAN)-TP] [29-07-2026] – ITA No.272/RAN/2017 – AY 2008-09 - [2026] 189 taxmann.com 177 (Ranchi - Trib.)

Tribunal ruled that where assessee entered into an international transaction involving provision of a corporate guarantee, issue of Corporate Guarantee being squarely covered by decision of Co-ordinate Bench in assessee's own case for assessment year 2007-08, Assessing Officer was directed to restrict adjustment to 0.5 per cent on account of Corporate Guarantee. ***[Usha Martin Limited v. Asstt. CIT ITA No.68(Ran) OF 2017, dated 12-6-2025 followed]***

3. **ITAT:** The Tribunal upheld the guarantee commission on corporate guarantees given to overseas subsidiaries at 0.5% as the arm's length rate, following the assessee's own case for earlier years. ***[CIT v. Everest Kanto Cylinder Ltd. [2015] 58 taxmann.com 254 (Bombay) followed]***

Aditya Birla Nuvo Limited vs. DCIT [TS-608-ITAT-2026(Mum)-TP] [30-07-2026] – ITA No.1112/Mum/2019 and ITA No.1513/Mum/2019 – AY 2014-15

4. **ITAT:** The Tribunal held that the letters of comfort issued by the assessee to banks for loans to its AEs, without charging a guarantee fee, fall outside the ambit of international transaction, and dismissed the Revenue's challenge to the deletion of the adjustment. ***[United Braveries (Holdings Ltd.) vs. Karnataka Estate Industrial Investment and Development Corporation Ltd. [MFA No. 4243 of 2007]; TVS Logistics Services Ltd. [2016) 72 Taxmann.com 89 (Chennai Trib)] followed]***

The Indian Hotels Company Ltd. vs. Addl. CIT [TS-1519-ITAT-2018(Mum)-TP] [31-01-2018] – ITA No.371/Mum/2010, ITA No.841/Mum/2010 & CO No.169/Mum/2010 – AY 2005-06

5. **ITAT:** The Tribunal held the negative lien granted by the assessee over its receivables and participating interests in oil and gas blocks, to secure its AEs' loans, to be an international transaction in the nature of a service under Explanation 1(c) to section 92, but remanded computation of its arm's length price to the AO/TPO for fresh determination. ***[Salomon v. Salomon and Company Limited [(1897) AC 22, (1896) UKHL1] followed] [CIT v. Cotton Naturals India Private Limited [(2015) 55 taxmann.com 523(Del.HC)] distinguished]***

JOGPL Private Limited vs. DCIT [TS-637-ITAT-2026(DEL)-TP] [19-08-2026] – IT(TP)A No.65/Del/2026 – AY 2022-23

6. **Where assessee provided corporate guarantee to its associated enterprises without charging commission and TPO benchmarked commission rate at 2**

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percent, but CIT(A) applied 1 percent following earlier Tribunal order, adjustment at 1 percent was considered fair and reasonable and CIT(A)'s order was to be sustained

DCIT vs. Kohinoor Foods Limited [TS-644-ITAT-2026(DEL)-TP] [19-08-2026] – ITA No.3892/DEL/2023 – AY 2013-14 - [2026] 189 taxmann.com 643 (Delhi - Trib.)

Assessee had given corporate guarantee to its AE's and had not charged any corporate guarantee commission. TPO treated same as separate international transaction and benchmarked transaction at 2 per cent of total loan against which guarantee was given. CIT(A) reduced corporate guarantee commission to 1 per cent based on Tribunal's decision in assessee's own case for earlier year. Tribunal, following its earlier decision, held that guarantee commission adjustment under TP at rate of 1 per cent was fair and reasonable. Therefore, order of CIT(A) was upheld. ***[Kohinoor Foods Ltd. v. Asstt. CIT [2014] 52 taxmann.com 454/[2015] 67 SOT 108 (Delhi - Trib.) followed]***

7. **Where assessee charged 0.40 per cent corporate guarantee commission based on internal benchmarking and interest-saving approach, and revenue failed to controvert same, rate of 0.40 per cent was reasonable and adjustment at 0.50 per cent was unwarranted**

   Uflex Ltd. vs. DCIT [TS-656-ITAT-2026(DEL)-TP] [21-08-2026] – IT(TP) Appeal No.272, 259, 260, 280 & 5367 (Del) of 2026 – AY 2020-21, 2021-22 & 2022-23 - [2026] 189 taxmann.com 995 (Delhi - Trib.)

   Assessee extended corporate guarantees to banks for facilities availed by its AEs and charged guarantee commission at 0.40 per cent based on internal benchmarking and historical acceptance for continuing guarantees. TPO/AO proposed adjustments by adopting higher rates. CIT(A) deleted adjustments in respect of continuing guarantees and restricted rate to 0.50 per cent for fresh guarantee, sustaining minor adjustment. Tribunal held that since assessee adopted an 'interest saving approach' under which 50 per cent of total benefit derived by AE from explicit support provided by assessee worked out to 0.40 per cent and was attributed as guarantee commission, and Revenue failed to controvert such approach, guarantee commission at 0.40 per cent was fair and reasonable and, consequently, adjustment sustained by Commissioner (Appeals) by applying 0.50 per cent rate was deleted. ***[Asstt. CIT v. Bahwan Cybertek (P.) Ltd. [2025] 181 taxmann.com 231 (Chennai - Trib.), Asstt. CIT v. Electrosteel Castings Ltd. IT Appeal No. 2303 & 2304 (Kol) of 2019, dated 17.05.2022, Dy. CIT v. Ashok Leyland Ltd. [2025] 177 taxmann.com 795 (Chennai - Trib.) distinguished]***

8. **ITAT:** The transfer pricing adjustment on corporate guarantees given to bankers of the AEs was restricted to a 0.5% guarantee fee, following the Coordinate Bench ruling in

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the assessee's own case for AY 2007-08. ***[Usha Martin Limited [ITA No.68/Ran/2017 dated 12.6.2025] followed]***

Usha Martin Ltd. vs. ACIT [TS-678-ITAT-2026(RAN)-TP] [27-08-2026] – ITA No.273/Ran/2017 – AY 2009-10 - [2026] 189 taxmann.com 177 (Ranchi - Trib.)

i. Royalty / Trademark

1. **ITAT: The Tribunal deleted the TP adjustment on royalty paid to the AE, holding that the TPO's CUP benchmarking failed for want of proper comparables and that, on the assessee's gross margin under RPM adjusted for royalty expenditure, the price fell within the permissible variation range.**

   ELCA Cosmetics Pvt. Ltd. vs. DCIT [TS-618-ITAT-2026(DEL)-TP] [11-08-2026] – ITA No.786/DEL/2021 – AY 2016-17

   The assessee distributes branded cosmetic products purchased from its AEs to Indian retailers and pays royalty to its AE under trademark and marketing know-how license agreements computed on net sales. Its TP study aggregated the royalty with the product purchases as inextricably linked and benchmarked the aggregate under RPM, with itself as tested party. The TPO rejected the aggregation, benchmarked the royalty separately under CUP using four franchise agreements from the RoyaltyStat database, and adjusted the excess over the average rate. The DRP upheld the TPO's order. The Tribunal found the four franchise agreements to be non-executed, unsigned templates, so the CUP benchmarking failed for want of proper comparables. It also rejected the aggregation, holding that since the AE recovered the royalty separately from the purchase price it had to be benchmarked separately. It distinguished two High Court decisions barring CUP on royalty alone where TNMM had been accepted. Here the TPO had rejected RPM, which captures only gross margin and does not absorb royalty, an operating expense below the gross profit line. As the TPO's approach was wrong, a remand would serve no purpose: the assessee's gross profit margin exceeded the comparables' and, after adjusting for royalty, matched it and fell within the permissible variation range. The Tribunal accordingly deleted the adjustment, clarifying that this benchmarking was adopted only to end a long-pending dispute and cannot apply to other years or assessees. ***[Gruner India (P.) Ltd. [2016] 70 taxmann.com 240 (Delhi – Trib.) followed] [Magneti Marelli [75 taxmann.com 213 (Del.)]; Cummins India [153 taxmann.com 223 (Bom.)] distinguished]***

2. **Where assessee, engaged in licensed manufacturing of consumer electronics and home appliances, paid royalty to its foreign AE for use of technical know-how and benchmarked same on an aggregated basis with licensed**

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manufacturing segment under TNMM, CUP could not be appropriately applied on basis of third-party royalty agreements relating to agricultural sector involving materially different products, technologies and economic parameters, and royalty adjustments were to be deleted

Samsung India Electronics Pvt. Ltd. vs. Addl. CIT [TS-620-ITAT-2026(Del)-TP] [12-08-2026] – ITA Nos. 461/Del/2021 & 1955/Del/2021 – AY 2016-17 & AY 2017-18 - [2026] 189 taxmann.com 412 (Delhi - Trib.)

Assessee, engaged in licensed manufacturing of consumer electronics and home appliances, paid royalty to its foreign AE under licence agreements for use of technical know-how and assistance in manufacture of consumer electronic goods and home appliances. Assessee aggregated royalty transaction with licensed manufacturing segment and benchmarked same under TNMM. TPO rejected aggregation and applied CUP using three third-party royalty agreements relating to agricultural sector and proposed adjustment of Rs. 1732.93 crores for assessment year 2016-17 and Rs. 2172.68 crores for assessment year 2017-18. It was found that comparable royalty agreements involved materially different products, technologies and economic parameters and lacked meaningful comparability for application of CUP. Therefore, Tribunal held that CUP method could not be appropriately applied for benchmarking royalty transaction and royalty adjustments made on this basis were to be deleted

3. **Where assessee benchmarked royalty paid to its AE for software distribution by applying internal CUP using another distribution agreement(between AE and third party) as comparable, TPO could not treat parties to comparable agreement as AEs merely by invoking section 92A(2)(g) without establishing participation(of AE) in management, control or capital under section 92A(1),(in the third party) and consequently could not reject internal CUP solely on that ground; mere fact that agreements were not identical could not justify rejection without examining whether differences materially affected price and whether reasonably accurate and objectively verifiable adjustments could eliminate their effect, and if CUP was incapable of reliable application, TPO was required to independently determine most appropriate method**

SAS Institute (India) Pvt. Ltd. vs. ACIT [TS-632-ITAT-2026(Mum)-TP] [17-08-2026] – ITA Nos. 6671 & 6672/Mum/2019 – AY 2008-09 & 2010-11 - [2026] 189 taxmann.com 656 (Mumbai - Trib.)

Assessee-company, engaged in the business of computer training and coaching institutes, entered into international transactions, including payment of royalty to its AE for software distribution. Assessee benchmarked the royalty transaction on a transaction-by-transaction basis by adopting the CUP method and compared its royalty arrangement with the distribution agreement entered into by the assessee and

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its AE, with the distribution agreement entered into between SAS Institute Inc., USA and MIA Computers Ltd., Israel. In the first round of proceedings, the TPO rejected the CUP method and proposed an adjustment. The Tribunal had directed examination of the applicability of the CUP method afresh and recording of proper reasons for accepting or rejecting the same. In remand proceedings, TPO rejected CUP on ground of material differences between agreements and rejected comparison on ground that MIA Computers was an AE of SAS Institute Inc. under section 92A(2)(g) and adopted TNMM. Revenue reiterated the said position before the Tribunal and contended that the conditions prescribed under section 92A(2)(g), by themselves, are sufficient to constitute an AE relationship. Tribunal ruled that fulfilment of a condition under section 92A(2) could not be viewed in isolation, divorced from requirement of participation in management, control or capital contemplated under section 92A(1). Further, since there was no material demonstrating participation by SAS Institute Inc. in management, control or capital of MIA Computers so as to satisfy requirement under section 92A(1), MIA Computers could not be treated as an AE of SAS Institute Inc. merely by invoking section 92A(2)(g).Consequently, distribution agreement between SAS Institute Inc. and MIA Computers could not be rejected as an uncontrolled transaction solely on ground that parties thereto were AEs Tribunal also ruled that mere fact that agreements were not identical in every contractual term would not, by itself, render transaction incapable of being used as CUP and TPO was required to examine whether differences materially affected price and, if so, whether reasonably accurate and objectively verifiable adjustments could eliminate their effect. If differences could be reliably quantified, appropriate adjustments were to be made and adjusted price considered for determining ALP under CUP method, whereas, if material differences could not be eliminated by reasonably accurate adjustments, comparable was not to be used under CUP method. If CUP was incapable of reliable application, TPO was directed to independently determine the most appropriate method in accordance with law. Matter remanded. ***[National Thermal Power Co. Ltd. v. CIT [1998] 97 Taxman 358/229 ITR 383 (SC), Jute Corpn. of India Ltd. v. CIT [1990] 53 Taxman 85/ [1991] 187 ITR 688 (SC) followed, ACIT v. Veer Gems [2017] 77 taxmann.com 127 (Ahmedabad - Trib.) distinguished]***

4. **ITAT: The Tribunal directed exclusion of two product-company comparables from the benchmarking of royalty and service fee under the subscription segment, directed correction of the margin computation, and held the assessee entitled to a working capital adjustment, following its own orders for earlier years.**

   Red Hat India Private Limited vs. Assessment Unit [TS-662-ITAT-2026(Mum)-TP] [17-08-2026] – ITA Nos. 5800/Mum/2024 and 2423/Mum/2026 – AY 2021-22 and AY 2022-23 - [2026] 189 taxmann.com 850 (Mumbai - Trib.)

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The assessee distributes open-source Red Hat software subscriptions in India (and provides related training and consulting). It pays royalty and service fee to its US AE under a licence and service agreement that assures it a fixed operating margin on the subscription segment. That payment was benchmarked against comparables selected in its transfer pricing study. The TPO rejected all of those comparables and, on a fresh search, introduced comparables yielding a markedly higher mean margin, making an adjustment which the DRP affirmed, and the TPO's effect order retained. Taking AY 2021-22 as the lead case, with findings applying mutatis mutandis to AY 2022-23, the Tribunal followed coordinate-bench orders in the assessee's own case. Those orders excluded ***K7 Computing (TPO's comparable)***, which sells its own security products, owns significant plant and intellectual property and spends heavily on promotion, unlike the limited-risk reseller assessee, ***and Innovana Thinklabs (TPO's comparable)*** as a product-development company. Since the assessee's FAR profile was admittedly unchanged and the Revenue produced no distinguishing material, the Tribunal directed exclusion of both, the remaining comparables being left academic by consent. ***Red Hat India Private Limited [ITA No. 2442/Mum/2022]; Red Hat India Private Limited, AY 2020-21 [ITA No. 4065/Mum/2024]; Red Hat India Private Limited, AY 2016-17 (remand round) [ITA No. 3853/Mum/2025] followed]***

5. **ITAT: The Tribunal excluded four education-sector comparables and included one segmental comparable in benchmarking the royalty and service fee under the services segment and directed proportionate-adjustment relief in line with earlier years, following its own orders.**

   Red Hat India Private Limited vs. Assessment Unit [TS-662-ITAT-2026(Mum)-TP] [17-08-2026] – ITA Nos. 5800/Mum/2024 and 2423/Mum/2026 – AY 2021-22 and AY 2022-23 - [2026] 189 taxmann.com 850 (Mumbai - Trib.)

   The assessee distributes Red Hat training content and provides consultancy through its Services segment, (alongside its subscription business.) It pays a service fee to its US AE under the same licence and service agreement, which assures it an operating margin on this segment, and benchmarked the payment against comparables in its transfer pricing study. For AY 2021-22 the TPO rejected those comparables, adopted a set including education-sector companies and made an adjustment; the issue arises only for that year, the TPO's order for AY 2022-23 recording this segment as at arm's length. The DRP affirmed the TPO's approach without relief. The coordinate Bench had already excluded TPO's comparables ***Sarla Holdings, Knowledgehouse, Eduspark International and Akash Educational Services*** in the assessee's own case for earlier years. Those companies run schools or coaching businesses and own intangibles such as goodwill and brand value, unlike a limited-risk distributor. Since the assessee's FAR was admittedly unchanged and the Revenue produced no fresh material, the Tribunal followed those orders and directed exclusion of all four.

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Compucom Software (Assessee's comparable), sought to be included on a segmental basis, had been rejected because its revenue was said to have declined on completion of projects, an extraordinary event; the audited financials in fact showed revenue increasing at segment and entity level, and the TPO had accepted the company in earlier years. No functional dissimilarity having been found below, the Tribunal directed its inclusion, the remaining comparables being left academic by consent. ***[Red Hat India Private Limited, AY 2017-18 [ITA No. 801/Mum/2022]; Red Hat India Private Limited, AY 2018-19 [ITA No. 2442/Mum/2022]; Red Hat India Private Limited, AY 2020-21 [ITA No. 4065/Mum/2024] followed]***

j. Management Fees / Intra Group Services

1. **ITAT: The Tribunal set aside the Nil ALP determined for management fees reimbursed to the AE and remanded the matter for fresh determination of the ALP, while also directing the AO to refer the transaction to the TPO in terms of the CBDT Instruction**.

Royal Multisport Private Limited vs. ACIT [TS-589-ITAT-2026(Mum)-TP] [20-07-2026] – ITA No.3602/Mum/2014 – AY 2009-10

The assessee owns the Rajasthan Royals franchise in the Indian Premier League. It reimbursed its Mauritian holding company, an AE, for management, strategic, financial and commercial services the AE had procured from third-party consultants, benchmarking the payment under TNMM as a recovery of actual cost without mark-up. The AO made no reference to the TPO, held the rendering, necessity and benefit of the services unsubstantiated under section 92D, rejected TNMM, applied CUP and determined the ALP at nil. CIT(A) upheld the adjustment, invoices covering only part of the expenditure and the AE's audited accounts not being furnished. The Tribunal held that Chapter X permits only an examination of whether the consideration is at arm's length. Tribunal held that revenue cannot question commercial expediency, business necessity or benefit, and must consider contemporaneous evidence of actual rendition. A nil ALP was therefore unjustified, but since the assessee conceded that invoices covered only part of the amount, ALP was remanded for fresh determination. The assessee also contended that a reference to the TPO was mandatory, the transaction value exceeding the threshold in CBDT Instruction No.03/2003. The Revenue replied that the Central Action Plan had raised that threshold to Rs.15 crore. The Tribunal held the Instruction mandatory, as the Supreme Court in PCIT vs. S.G. Asia Holding (India) Pvt. Ltd had treated it The Action Plan being a mere internal document on case selection that cannot modify the threshold. Declining to follow a coordinate Bench view to the contrary, it set aside the adjustment made without a reference and directed the

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AO to refer the transaction to the TPO, without annulling the assessment. ***[CIT vs. EKL Appliances Ltd. [(2012) 24 taxmann.com 199]; Benetton India (P) [(2025) 171 taxmann.com 536 (Del)]; PCIT vs. S.G. Asia Holding (India) Pvt. Ltd. [AIR ONLINE 2019 SC 1091] followed] [M/s Schlumberger India Technical Centre Pvt. Ltd. [ITA No. 640/Pune/2014] declined to follow]***

2. **ITAT: The Tribunal upheld the deletion of the adjustment on technical services availed from the AE, holding that the TPO's estimated man-hour valuation was not a method prescribed under the Act.**

   DCIT vs. ACC Limited [TS-601-ITAT-2026(Mum)-TP] [29-07-2026] – ITA Nos. 1371/Mum/2024, 4014/Mum/2025, 1370/Mum/2024 & 4016/Mum/2025; C.O. Nos. 198/Mum/2025 & 197/Mum/2025 – AYs 2014-15, 2015-16, 2016-17 & 2018-19

   The assessee, a cement manufacturer, availed technical services from its AE, Holcim Group Support Limited, for a course on ready-mix concrete, seminars and services on aggregates and construction material for AYs 2014-15 and 2016-17, benchmarked under TNMM. The TPO rejected TNMM, as the assessee had furnished only the agreement and had not proved rendition, benefit, or the AE's functions, assets and risks. He instead estimated the price at a fixed number of man-hours per month at a fixed hourly rate, adjusting part of the payment. The CIT(A) deleted the adjustment, following the assessee's own case for AY 2013-14, finding the services specialised and the valuation resting on an estimate with no prescribed method or comparable. The TPO had himself attributed a positive value to the services, so the dispute was about valuation, not whether services were rendered. Neither the man-hours estimate nor the hourly rate rested on any comparable uncontrolled transaction, the TPO having substituted an estimate not prescribed under section 92C (1). The issue was covered by the assessee's own case for AY 2013-14. That order held that TNMM consistently accepted for identical transactions cannot be discarded without a material change in facts, that the price must be determined by a prescribed method, and that the documentation proved actual rendition. Finding no material distinction shown by the Revenue, the Tribunal upheld the CIT(A)'s deletion for both years. ***[Assessee's own case for AY 2013-14 [ITA Nos. 800 and 1171/Mum/2022] followed]***

3. **ITAT: The Tribunal deleted the adjustment determining intra-group services at Nil ALP and upheld the assessee's aggregation of those services with the sale of software under TNMM.**

   Indus Valley Partners (India) Private Limited vs. DCIT [TS-605-ITAT-2026(Mum)-TP] [29-07-2026] – ITA No. 6243/Mum/2024 – AY 2021-22

   The assessee develops and sells software and provides related implementation and IT consulting services. It availed marketing support, managed and IT consulting services from its AE, IVP US, benchmarking them under TNMM with IVP US as tested party

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and aggregating the marketing support with its software sales. The TPO refused aggregation as the transactions were not closely linked. Relying on e-mails showing that the assessee's own director and employees performed the services, he fixed the ALP of both at Nil under the Other Method. The DRP substantially upheld the TPO's order. Rule 10A(d) permits aggregation of closely linked transactions, and the agreements, invoices and e-mails showed that IVP US performed the customer-facing distribution functions for the assessee's software abroad. The marketing support therefore belonged to the same commercial chain as the software sale, and the same aggregation had been accepted in the preceding and subsequent years. Having accepted TNMM for the software sale, the TPO could not carve out one linked element and benchmark it at Nil. A Nil ALP also required proof of what an independent party would pay under a prescribed method, and timesheets, invoices and W-2 forms established rendition by IVP US personnel. Since no comparable uncontrolled transaction showed that an independent enterprise would pay Nil, the Tribunal deleted the adjustment on both services. As the service cost was already within the operating cost base, the duplicative-adjustment ground was allowed as consequential. ***[Knorr-Bremse India (P.) Ltd. vs. ACIT [380 ITR 307] applied] [Faurecia Automotive Seating India (P.) Ltd. vs. ACIT [141 taxmann.com 126] distinguished] [ACIT vs. Cummins India Limited [ITA No. 126 of 2023]; CIT vs. Cushman and Wakefield (India) (P.) Ltd. [2014] 46 taxmann.com 317 (Delhi); Faurecia Automotive Seating India (P.) Ltd. vs. ACIT [141 taxmann.com 126] followed]***

4. **ITAT: The Tribunal deleted the transfer pricing adjustment on intra-group services for all three years, holding TNMM to be the most appropriate method by following its own earlier orders, notwithstanding the Revenue's pending High Court appeal against those orders.**

   BG Exploration & Production India Limited vs. DCIT [TS-630-ITAT-2026(DDN)-TP] [14-08-2026] – ITA Nos.131, 132 & 133/DDN/2026 and S.A. No.13/DDN/2026 – AY 2011-12, 2012-13 & 2019-20

   The assessee, a non-resident Cayman Islands company in the Shell group, explores for and produces crude oil and natural gas through a project office in India. It received intra-group services from its AEs, including management services unit charges, IT and time-writing recharges, payroll costs and reimbursements of third-party expenses, and benchmarked them together under TNMM. The TPO rejected TNMM, applied CUP using the amount approved by the joint venture partner, and made an adjustment. In remand proceedings the DRP held CUP the most appropriate method and confirmed the adjustment, declining to follow the Tribunal's orders for AY 2009-10 and 2010-11 only because the Revenue had not accepted them. For AY 2011-12 and 2012-13 the dispute was before the Tribunal a second time, its earlier order having remanded it to the DRP to apply TNMM in light of the assessee's AY 2010-11 case. The Coordinate

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Bench for AY 2010-11 had found the services received and useful, held interlinked transactions rightly clubbed and benchmarked together, and adopted TNMM, directing deletion. The Revenue reiterated its earlier arguments without controverting those findings, and the facts were unchanged. Respectfully following the AY 2010-11 order, the Tribunal deleted the adjustment for AY 2011-12 and, on identical facts, for AY 2012-13 and AY 2019-20. For AY 2019-20 notwithstanding the pendency of the Revenue's appeal in the High Court. ***[BG Exploration & Production India Limited [ITA No.1518/Del/2015]; BG Exploration & Production India Limited [ITA No.1170/Del/2015] followed]***

5. **Where assessee, an insurance/reinsurance company, made intra-group payments to AEs for support services and sought to admit additional evidence such as contemporaneous e-mails and contracts to substantiate actual receipt and benefit of services after TPO had determined ALP at nil, since lower authorities did not consider this evidence, matter was required to be restored for fresh adjudication to ensure effective verification of submissions.**

   Markel Capital Limited vs. DCIT [TS-633-ITAT-2026(Mum)-TP] [07-08-2026] – ITA No.1823/Mum/2026 – AY 2022-23 - [2026] 189 taxmann.com 661 (Mumbai - Trib.)

6. **ITAT: The Tribunal partly allowed the assessee's miscellaneous application, correcting a typographical omission of R&D support services and clarifying that the remand direction requires the TPO to verify only the assessee's claim restricted to 50% of the disallowance, without approving the TPO's ad hoc 50% determination.**

   Rubicon Research Limited (Formerly Known as Rubicon Research Private Limited) vs. DCIT [TS-635-ITAT-2026(Mum)-TP] [17-08-2026] – MA No. 338/Mum/2025 (arising from ITA No. 6647/Mum/2024) – AY 2021-22

   The assessee sought rectification under section 254(2) of the Tribunal's earlier order. That order had upheld rejection of TNMM and application of the Other Method for payments to its AE for R&D support services and other support services. The TPO had made an ad hoc adjustment of 50% of those payments, confirmed by the DRP. The Tribunal had held that ad hoc 50% determination improper, while restoring the benchmarking of 'other support services' to the TPO for fresh computation. The assessee contended that this direction enhanced the assessment from 50% to 100% and left the R&D support services ground unadjudicated. The Tribunal found the omission of 'R&D support services' a typographical error and modified the relevant paragraph so that the ad hoc disallowance is held improper for 'R&D support/other support services'. On the remand direction, it noted that the assessee had furnished details of both services below and that the authorities had accordingly accepted 50% of the payments. The rise in turnover and profit margin supported the benefit derived

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from AE's services. The Tribunal accordingly clarified that the matter stands restored to the TPO only for verifying the assessee's claim restricted to 50% of the disallowance, after hearing the assessee. It further clarified that upholding the Other Method did not approve the TPO's ad hoc 50% determination. The TPO must determine the ALP under Rule 10AB on relevant and reliable material, and if the Other Method proves unreliable must consider another prescribed method under section 92C read with Rule 10C, including TNMM. The clarification is not a review of the earlier findings.

7. **ITAT:** The Tribunal deleted the transfer pricing adjustment on management fees paid to the AE, following its consistent earlier-year orders in the assessee's own case holding that such fees require no separate benchmarking where the entity-level TNMM result is accepted. ***[NTT India (P.) Ltd. v. Dy. CIT [2026] 186 taxmann.com 726 (Mumbai - Trib.) followed]***

   NTT India Pvt Ltd vs. DCIT [TS-639-ITAT-2026(Mum)-TP] [17-08-2026] – ITA No. 6377/Mum/2024 – AY 2021-22 - [2026] 189 taxmann.com 697 (Mumbai - Trib.)

8. Where assessee had reimbursed support services fee to its AE on cost-to-cost basis but failed to furnish evidence substantiating receipt and benefit of such services before TPO, and additional evidence was filed before Tribunal, matter was to be remanded to Assessing Officer/TPO for verification. ***[Schneider Electric Systems India (P.) Ltd. v. ACIT [2025] 178 taxmann.com 361 (Chennai - Trib.), Schneider Electric Systems India v. Asstt. CIT [IT(TP)A.No.48/Chny/2021 dated 17-6-2022], Brakes India Ltd. v. Dy. CIT [2026] 182 taxmann.com 7 (Chennai - Trib.), and Temenos India (P.) Ltd. v. Dy. CIT [IT(TP)A No. 32 (CHNY) of 2024, dated 3-12-2024] followed]***

   Schneider Electric Systems India Pvt. Ltd. vs. ACIT [TS-648-ITAT-2026(CHNY)-TP] [19-08-2026] – IT(TP)A No.110/Chny/2024 – AY 2021-22 - [2026] 189 taxmann.com 793 (Chennai - Trib.)

9. **Where assessee paid transition fee to AE for transfer of ongoing IT-service agreements from third-party vendors, TPO determined its ALP at nil treating it as unnecessary/sham, since payment was made on cost-to-cost basis, without profit element, and provided commercial benefit to assessee, ALP could not be determined at nil without applying a prescribed method under section 92C read with Rule 10B and adjustment was to be deleted**

   Tech Mahindra Ltd vs. DCIT [TS-652-ITAT-2026(Mum)-TP] [24-08-2026] – ITA 7487/MUM/2012 – AY 2008-09 - [2026] 189 taxmann.com 822 (Mumbai - Trib.)

   Assessee, a JV between an Indian company and its AE (BT), was engaged in software development and IT services. Assessee paid a Transition Fee to AE under an agreement to enable smooth transition of ongoing IT services from third-party vendors to assessee. TPO determined ALP of Transition Fee at Nil, observing that there was

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no necessity for such payment and further treated transaction as sham/make-believe. It was noted that from material placed on record that assessee derived commercial benefit from transition to it of agreements with BT relating to IT services which had earlier been rendered by other IT service providers. It was also noted that payment was on cost-to-cost basis with no profit element and resulted in commercial benefit to assessee. Tribunal ruled that arm's length price of Transition Fee could not be determined at Nil without applying any prescribed method under section 92C read with Rule 10B, thus, TP adjustment was deleted. ***[CIT v. Johnson & Johnson Ltd. [2017] 80 taxmann.com 337 (Bombay), CIT (Large Taxpayer Unit) v. Johnson & Johnson Ltd. [2017] 80 taxmann.com 269/247 Taxman 136 (Bombay), CIT v. CA Computer Associates India (P.) Ltd. [2012] 25 taxmann.com 22/209 Taxman 382/[2013] 351 ITR 69 (Bombay), CIT v. Lever India Exports Ltd. [2017] 78 taxmann.com 88/246 Taxman 133 (Bombay), L'Oreal India (P.) Ltd. v. Addl/Jt/Dy/ Asstt. CIT, NAFC, Delhi [2022] 141 taxmann.com 168 (Mumbai - Trib.), Dy. CIT v. Hamon Cooling Systems (P.) Ltd. [2022] 145 taxmann.com 476 (Mumbai - Trib.), UPS Express (P.) Ltd. v. Dy. CIT [2022] 142 taxmann.com 172 (Mumbai - Trib.) and PPG Coatings India (P.) Ltd. v. Dy. CIT [2022] 139 taxmann.com 165 (Mumbai - Trib.) followed]***

10. **Where assessee, operating under an assured margin model, aggregated intra-group back-office, sales and marketing support services with its Subscription and Services segments and benchmarked same under TNMM as part of operating costs, arm's length price of such support services could not be determined at nil or benchmarked on a standalone basis and, where overall segment margins were at arm's length, no separate transfer pricing adjustment could arise**

    Red Hat India Private Limited vs. Assessment Unit [TS-662-ITAT-2026(Mum)-TP] [17-08-2026] – ITA Nos. 5800/Mum/2024 and 2423/Mum/2026 – AY 2021-22 and AY 2022-23 - [2026] 189 taxmann.com 850 (Mumbai - Trib.)

    Assessee availed intra-group back-office, sales and marketing support services in connection with its Subscription and Services segments and aggregated these transactions with respective segments for benchmarking under TNMM. TPO determined arm's length price of said services at nil and made separate adjustment. Tribunal held that where assessee operated under an assured margin model and the transactions were aggregated and tested under TNMM, arm's length price of impugned services could not be determined at nil on a standalone basis. Once overall margins of respective segments were demonstrated to be at arm's length, no separate transfer pricing adjustment was warranted in respect of said services.

11. **ITAT:** The Tribunal directed deletion of the Nil ALP determined for intra-group services under the 'other method', holding that no comparable uncontrolled transaction had

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been brought on record and that the TPO's role is confined to determining the ALP, not to assessing whether any benefit was received. ***[Bosch Chassis Systems India (P.) Ltd. vs. DCIT [2026] 185 taxmann.com 190 (Pune - Trib.); CIT vs. Lever India Exports Ltd. [Bombay HC]; Bostik India (P.) Ltd. vs. DC/ACIT [2025] 175 taxmann.com 583 (Bangalore - Trib.) followed]***

Vitesco Technologies India Pvt. Ltd. vs. Assessment Unit, NFAC [TS-668-ITAT-2026(PUN)-TP] [19-08-2026] – IT(TP)A No. 2474/PUN/2024 – AY 2021-22

12. **ITAT:** The nil-ALP adjustment on intra-group management and sales support services was deleted, following a coordinate bench ruling on identical administrative support services. ***[Corteva Agriscience India (P.) Ltd. vs. DCIT [ITA No. 1574 and 2473/Del/2018] followed]***

Munters India Humidity Control Private Limited vs. DCIT [TS-670-ITAT-2026(DEL)-TP] [25-08-2026] – IT(TP)A No. 83/Del/2026 – AY 2022-23

13. Where assessee availed intra-group services from AEs and detailed documentation was furnished in TP study report, but lower authorities failed to appreciate nature of such services while determining ALP of Salesforce Global payment at nil, issue was remanded for fresh adjudication after considering details furnished by assessee. ***[Asstt. CIT v. Bechtel India (P.) Ltd. [2013] 29 taxmann.com 376 (Delhi - Trib.), Gate Global Solutions Ltd. v. Assistant CIT [2008] 24 SOT 3/[2007] 112 TTJ 1002 (Bangalore) (Banglore - Trib.), Approva Systems (P.) Ltd. v. Dy. CIT [2018] 92 taxmann.com 82 (Pune - Trib.), and Manpower Services India Pvt Ltd v. ACIT [S.A No. 371/Del/2024 and ITA No.3585/Del/2024, dated 25-9-2025] and Manpower Services India Pvt. Ltd. v. Asstt. CIT [MA No.445/Del/2025 dated 11-2-2026] (para 25) followed]***

Manpowergroup Services India Pvt. Ltd. vs. ACIT [TS-675-ITAT-2026(DEL)-TP] [25-08-2026] – ITA 5922/DEL/2024 – AY 2021-22 - [2026] 190 taxmann.com 150 (Delhi - Trib.)

k. Reimbursements

1. **ITAT: The Tribunal dismissed the Revenue's appeal against deletion of the NIL arm's length price adjustment on communication, computer and professional charges recovered from the AEs, holding that the costs were fully recovered from the AEs with a mark-up while invoicing for services**

RBS Services India Pvt. Ltd. [Formerly known as RBS Business Services Pvt. Ltd.] vs. DCIT [TS-638-ITAT-2026(DEL)-TP] [14-08-2026] – ITA Nos. 4306 &

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4467/Mum/2012 (cross-appeals) – AY 2007-08 - [2026] 189 taxmann.com 701 (Delhi - Trib.)

The assessee, formerly known as RBS Business Services Pvt. Ltd., renders back-office support, software and KPO services to entities within the NatWest Group. It treated payments of communication, computer and professional charges to AE (being cost allocations by its AE made without mark-up) as part of its cost base while rendering back-office, software and KPO services to its AEs. It benchmarked the said services under TNMM after having recharged the costs to the AEs with a mark-up. The TPO determined the ALP of these payments at NIL and made an adjustment for the full amount, but the CIT(A) deleted it, finding that the TPO did not doubt the genuineness of the transactions, which were reported in Form 3CEB, that the costs were recharged to the AEs with a mark-up, and that the TPO had not analyzed the NIL determination or shown that the AE services were not rendered or that their cost was nil. In the Revenue's appeal, the Tribunal found that the Revenue had failed to controvert the CIT(A)'s findings, and since the assessee had completely recovered these expenses from its AEs with an ALP mark-up, no further adjustment was required, sustaining the deletion.

2. **Where assessee provided sales and marketing support services, incurred expenses on behalf of both foreign AEs and domestic group entities, and recovered sums on cost-to-cost basis, but TPO applied markup to entire reimbursements without distinguishing, adjustment on recoveries from domestic group entities fell outside scope of international transaction and required verification and allowance in accordance with law.**

BBC Global News India Private Limited vs. DCIT [TS-657-ITAT-2026(DEL)-TP] [21-08-2026] – ITA No.4460/DEL/2024 – AY 2020-21 - [2026] 189 taxmann.com 959 (Delhi - Trib.)

Assessee provided advertising sales and marketing support services and incurred expenses on behalf of group entities/AEs, recovering them on cost-to-cost basis. TPO made TP adjustment by applying 20 per cent markup on entire reimbursements of about Rs. 5.38 crores, treating all such reimbursements as relating to services provided to foreign AEs. Assessee contended that recoveries from domestic group entities (about Rs. 3.29 crores) fell outside scope of "international transactions" and were not liable to TP adjustment/markup. Tribunal ruled that since issue was covered by Tribunal's decision in *AT&T Communication Services (India) P. Ltd. v. Dy. CIT (2019) 101 taxmann.com 105 (Delhi - Trib.),* TPO was directed to verify claim and allow same as per law.

3. **Where assessee recovered third-party costs including business promotion and travel expenses from its foreign AEs, merely as reimbursement with no value addition or service element by assessee, and provided supporting invoices,**

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such reimbursements could not be treated as consideration for services, hence a markup was unwarranted and TP adjustment could not be sustained.

BBC Global News India Private Limited vs. DCIT [TS-657-ITAT-2026(DEL)-TP] [21-08-2026] – ITA No.4460/DEL/2024 – AY 2020-21 - [2026] 189 taxmann.com 959 (Delhi - Trib.)

Assessee recovered from its AEs third-party costs comprising business promotion expenses and other expenses (including BARC fees and travel), claimed to be paid to third parties and cross-charged at actuals. TPO applied a 20% markup on entire reimbursements, treating all reimbursements as consideration for services provided by assessee to its foreign AEs. It was noted that assessee had submitted relevant copy of third party and inter-company invoices on sample basis and since services were rendered by third party and assessee had not provided any value addition on above third-party services, it only made payment to them and recovered same from its AE. Tribunal therefore ruled that, same could not be treated as provision of services by assessee to its AE and could not be part of TP adjustments. ***[Pr. CIT v. CPA Global Services (P.) Ltd [2017] 88 taxmann.com 720/394 ITR 473 (Delhi) /in ITA 266/2017 followed]***

4. **Where assessee received reimbursements from overseas AEs for salary and wages under cross-charges for common employees but failed to provide detailed documentation or service logs evidencing sharing or provision of services, TP adjustment by applying markup on such reimbursement was justified and to be sustained in absence of adequate substantiation of services rendered or received.**

BBC Global News India Private Limited vs. DCIT [TS-657-ITAT-2026(DEL)-TP] [21-08-2026] – ITA No.4460/DEL/2024 – AY 2020-21 - [2026] 189 taxmann.com 959 (Delhi - Trib.)

Assessee received reimbursements from overseas AEs towards salary and wages of about Rs. 1.03 crores, stated to be cross-charges for common employees utilized by more than one group company and recovered at cost. TPO held that assessee failed to establish how its employees provided services to group entities and applied a 20% markup on entire reimbursements pool, including salary cross-charges, treating them as consideration for marketing support services to foreign AEs. Tribunal ruled that since assessee had not provided clear details of services provided or received/cross services from other employees of group AEs, in absence of such detailed information like service or log sheet of sharing services or obtaining services, TP adjustment on this component was to be sustained.

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VII. Miscellaneous

a. Appeal

1. **ITAT:** The Tribunal dismissed the appeal as infructuous, since the transfer pricing adjustment had been revised to Nil pursuant to the DRP's rectified directions and the AO had accepted the returned income.

   Fivetran India Private Limited vs. DCIT [TS-591-ITAT-2026(Bang)-TP] [30-07-2026] – IT(TP)A No.731/Bang/2026 – AY 2022-23

2. **ITAT:** The Tribunal held the assessee's appeal not maintainable before it, since the DRP's refusal to condone belated objections rendered the final order an assessment simpliciter appealable to the CIT(A), but granted liberty to file that appeal treating it as within limitation.

   Kingfa Science & Technology (India) Ltd. vs. ACIT/DCIT [TS-623-ITAT-2026(Chny)-TP] [05-08-2026] – IT(TP)A No.13/Chny/2025 – AY 2020-21

3. **ITAT:** The CIT(A)'s in limine dismissal of the appeal as time-barred was set aside because the physical filing was within limitation during the e-filing transition, and the royalty TP adjustment was remitted to the CIT(A) for decision on merits.

   SNF India Private Limited vs. ACIT/DCIT [TS-674-ITAT-2026(VIZ)-TP] [21-08-2026] – ITA No.240/Viz./2026 – AY 2012-13

b. APA / MAP

1. **ITAT:** The Tribunal directed the AO/TPO to pass the assessment order for the covered year in accordance with the terms of the unilateral APA, since the TP adjustment had been retained in disregard of the assessee's modified return.

   Nasdaq Corporate Solutions (India) Private Limited vs. DCIT [TS-604-ITAT-2026(Bang)-TP] [30-07-2026] – IT(TP)A No.2681/Bang/2025 – AY 2022-23

2. **ITAT:** The Tribunal dismissed the appeal as withdrawn since all the assessee's international transactions for the year stood covered by an Advance Pricing Agreement, resolving the issues raised in the appeal.

   Entain Software Development Services (India) Private Limited vs. DCIT [TS-603-ITAT-2026(HYD)-TP] [27-07-2026] – ITA No. 1011/Hyd/2026 – AY 2022-23

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3. **ITAT:** The Tribunal set aside CIT(A)'s order and remitted the TP issues to the jurisdictional CIT(A), holding that the first appellate order had ignored the assessee's plea to keep the appeal in abeyance pending MAP proceedings on the same issues. ***[KR Jagannathan [WTA No. 5 and 6/CHNY/2025 and MA No. 179 and 180/CHNY/2025] followed]***

   ZF Wind Power Coimbatore Private Ltd vs. JCIT [TS-627-ITAT-2026(Chny)-TP] [11-08-2026] – IT(TP)A No.20/Chny/2026 – AY 2020-21

c. Assessment / Reassessment / Revision / Rectification

i. Invalid order

1. **Where only a draft assessment order proposing disallowance of foreign travel expenses was issued without passing any final assessment order, issuance of demand notice under section 156 and penalty show-cause notice under section 271(1)(c) was unsustainable and to be set aside, as there was no final determination of income-tax payable in accordance with section 143(3).**

   Fidelity Information Services India Pvt. Ltd. vs. DCIT [TS-628-HC-2026(P&H)-TP] [12-08-2026] – CWP No. 11215 of 2021 – AY 2016-17 - [2026] 189 taxmann.com 580 (Punjab & Haryana)

   Assessee-company, an Indian subsidiary providing software development services to its US associate, filed its return for assessment year 2016-17. Assessee's case was referred to TPO, who found no variance due to an existing APA. AO issued a draft assessment order under section 144C proposing disallowance of foreign travel expenses, explicitly stating it was a draft with no demand or penalty notice and granting 30 days for objections. Assessee challenged this draft order via writ, where revenue claimed it was a final order, but no subsequent assessment order was passed. However, a demand notice under section 156 and a penalty show-cause notice under section 271(1)(c) were later issued. The High Court held that since impugned draft assessment order was only a proposal, there was no final determination of income-tax payable by assessee and thus impugned demand of income-tax dues sought to be made from assessee was unsustainable. Since before raising of a demand under Section 156, Section 143(3) clearly provides for the determination of a sum payable by the assessee through passing of a final assessment order which in the case in hand was found missing, impugned demand notice under Section 156 and penalty notice under Section 271(1)(c) were to be set

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aside. Section 292B could not cure the procedural defect. ***[Honda Cars India Ltd. v. Dy. CIT [2016] 67 taxmann.com 29/285 CTR 39/382 ITR 88/240 Taxman 707 (Delhi) /(2016) SCC OnLine Del 921, Pankaj Extrusion Ltd. v. Asstt. CIT (OSD) [2011] 10 taxmann.com 17/241 CTR 390/198 Taxman 6 (Gujarat) /(2011) SCC OnLine Guj 1309, and Classic Legends (P.) Ltd. v. Assessment Unit [2025] 178 taxmann.com 457/[2026] 484 ITR 550/[2025] 307 Taxman 95 (Bombay) /(2025) SCC OnLine Bom 3331 followed]***

ii. Time Barred

1. **ITAT: The Tribunal held the final assessment order barred by limitation under section 144C(13) and null and void, since the limitation period ran from the date the DRP directions were uploaded on the ITBA portal and not from the date of their manual receipt by the AO.**

   Musashi Auto Parts India Pvt. Ltd. vs. DCIT [TS-614-ITAT-2026(DEL)-TP] [07-08-2026] – IT(TP)A No.195/Del/2026 – AY 2022-23

   The assessee challenged the final assessment order, passed pursuant to the DRP's directions, as barred by limitation under section 144C(13); the DRP directions were dated 29.12.2025, the section 144C(5) intimation letter carried the same date, and the ITBA portal screenshot showed the directions were uploaded on 30.12.2025, while the AO passed the final assessment order on 19.02.2026, and the Revenue contended that the relevant date of receipt was 27.01.2026, when the AO manually received the directions. Section 144C(13) requires the AO to complete the assessment within one month from the end of the month in which the DRP directions are received, and the Tribunal followed the coordinate bench ruling in Honda R&D (India), which applied section 13 of the Information Technology Act, 2000 and section 144B to faceless proceedings and held that receipt of an electronically uploaded DRP order occurs on upload to the ITBA portal, not extended by the time taken to transmit the directions internally to the AO. Since the directions here were uploaded on 30.12.2025, the Revenue's plea of manual receipt on 27.01.2026 could not postpone the start of limitation, and the final assessment order dated 19.02.2026 was passed beyond the period prescribed under section 144C (13), so the Tribunal held the order barred by limitation and null and void, accepted the jurisdictional ground and left the remaining grounds open. ***[Honda R & D (India) P. ltd. Vs. ACIT [ITA No. 1733/Del/2022] followed]***

2. **ITAT: The Tribunal held the final assessment order barred by limitation under section 144C(13), with limitation running from the date the DRP directions were uploaded on the ITBA portal.**

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Express Freight Railway Consortium vs. DCIT [TS-642-ITAT-2026(DEL)-TP] [19-08-2026] – IT(TP)A No.78/DEL/2026 – AY 2022-23

The DRP issued its directions on 28.10.2025 and uploaded them on the ITBA portal that day, as the TPO's giving-effect order also certified. The AO passed the final assessment order under section 144C(13) on 24.12.2025, which the assessee challenged as time-barred, not pressing its other grounds. Tribunal held that under the E-assessment Scheme, 2019 all orders must be uploaded on the ITBA portal, and following the Delhi High Court the Tribunal held that such upload is valid and sufficient service. Limitation under section 144C(13) therefore ran from 28.10.2025, so the final order was due by 30.11.2025, one month from the end of the month of receipt. The order passed on 24.12.2025 was beyond that period and beyond jurisdiction. The Tribunal held the assessment order barred by limitation. ***[Louis Dreyfus Company India Private Limited v. DCIT 13(1) [[2024] 159 taxmann.com 244 (Delhi)]; Fiber home India Private Limited followed]***

3. Where as a consequence of retrospective insertion of sub-section 3AA to section 92CA, TPO's order passed on 01.11.2019 for AY 2016-17 was within prescribed limitation, earlier finding of Tribunal treating TPO's order as time-barred was unsustainable and required to be set aside. ***[Zydus Lifesciences Ltd. v. Addl. CIT, National e-Assessment Centre, Delhi [2024] 163 taxmann.com 349 (Ahmedabad - Trib.) set aside]***

Zydus Lifesciences Ltd vs. PCIT [TS-650-HC-2026(GUJ)-TP] [13-08-2026] – R/Tax Appeal No. 69 of 2025 – AY 2016-17 - [2026] 189 taxmann.com 723 (Gujarat)

4. ITAT: Quashes final assessment order as time-barred in second round of proceedings

Etisalat Software Solutions Pvt. Ltd. vs. ACIT [TS-666-ITAT-2026(Bang)-TP] [24-08-2026] – ITA No. 92/Bang/2026 – AY 2017-18

The assessee provides software development services to its AEs, benchmarked against comparables. In the second round of proceedings the TPO passed a fresh order on 30 September 2024 proposing an adjustment, and the AO, after DRP directions, passed the final assessment order on 12 November 2025 retaining it. The assessee raised an additional ground, admitted as jurisdictional and bona fide, that both orders were barred by limitation. The Tribunal's earlier order of 20 September 2022 was received by the PCIT on 17 October 2022. Since that order neither set aside nor cancelled the assessment, section 153(3) did not apply directly and no further extension under section 153(4) was available. It fell under section 153(5), whose second proviso ties the limit to section 153(3), namely 12 months from the end of the financial year of receipt, expiring on 31 March 2024. The Tribunal followed the jurisdictional Karnataka High Court, which distinguished a Tribunal remand to the TPO

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under section 92CA (3) from an AO's reference under section 92CA (1) and held that no extension under section 153(4) arose. The TPO's order of 30 September 2024 was accordingly beyond time, and even on the Revenue's own contention that limitation ran to 31 March 2025 the final assessment order was late. The Tribunal quashed the assessment, the remaining grounds on the adjustment and the comparables becoming infructuous. ***[United Spirits Ltd vs. DCIT [(2026) 184 taxmann.com 286] followed]***

iii. Order not in Conformity with DRP Directions

1. **Where AO passed final assessment, demand and penalty orders while assessee's objections to DRP were pending and DRP later partly allowed objections resulting in TPO modifying original order, such final assessment, demand and penalty orders were to be set aside and matter restored for AO to pass fresh order as per revised DRP and TPO directions.**

   UCWeb Mobile Pvt. Ltd. vs. Assessment Unit, National Faceless Assessment Centre [TS-617-HC-2026(P&H)-TP] [07-08-2026] – CWP No. 4329 of 2024 – AY 2021-22 - [2026] 189 taxmann.com 387 (Punjab & Haryana)

   Assessee, an "eligible assessee", filed its return for A.Y. 2021-22. Case was selected for scrutiny. TPO, by order dated 29.10.2023, proposed an addition of about Rs. 60.10 crores, on basis of which AO issued a draft assessment order dated 06.11.2023. Assessee filed objections before DRP within time but did not intimate AO. While objections were pending, AO passed a final assessment order dated 15.12.2023, carrying addition of about Rs. 60.10 crores and issued a demand notice and a penalty notice. Assessee challenged these before High Court, which stayed operation of final assessment order. Meanwhile, DRP, by directions dated 27.08.2024, partially accepted assessee's objections, and TPO, by order dated 17.09.2024, modified his earlier order. Assessee requested AO to pass a fresh final assessment order, but AO refused. Tribunal ruled that in view of mandate of Section 144C and binding nature of DRP's directions, impugned final assessment order, demand notice, and penalty notice, all dated 15.12.2023, were to be set aside and matter was to be restored to stage of Section 144C(13) for AO to pass a fresh final assessment order in line with DRP's directions and TPO's revised order. ***[Pepsico India Holdings (P.) Ltd. v. Assessment Unit Income-tax Department National Faceless Assessment Centre [2023] 157 taxmann.com 143/[2024] 465 ITR 622/297 Taxman 76 (Delhi) / (2023) SCC OnLine Del 7661, and Open Silicon Research (P.) Ltd. v. Assessment Unit, National Faceless Assessment Centre, Income-tax Department, New Delhi [2023] 154 taxmann.com 11/456 ITR 546 (Karnataka) / (2023) SCC OnLine Kar 80 followed]***

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2. **Where AO retained transfer pricing adjustment in final assessment without following binding DRP directions that classified assessee's activities as sales and marketing services and required redetermination of arm's length price, such final assessment order not conforming to DRP's directions was liable to be quashed.**

   Akamai Technologies Solutions (India) Private Limited vs. DCIT [TS-643-ITAT-2026(Bang)-TP] [20-08-2026] – ITA Nos.247/Bang/2015 and 177/Bang/2015 – AY 2010-11 - [2026] 189 taxmann.com 807 (Bangalore - Trib.)

   Assessee-company, a subsidiary of a Netherlands entity, operated under a service reseller agreement to market, resell, and support group services in India. It reported international transactions including purchase of Akamai services for resale and reimbursements. TPO determined arm's length price and proposed a transfer pricing adjustment by treating assessee as an ITeS service provider and rejecting assessee's TP study. DRP, after examining reseller agreement and records, rejected TPO's ITeS characterization and held that assessee's activities were in nature of sales and marketing services. It directed that arm's length price be determined under transactional net margin method by selecting appropriate comparables after giving assessee an opportunity of being heard. However, in final assessment, AO recorded that TPO had communicated that his earlier order could not be modified considering DRP's directions and, accordingly, AO retained transfer pricing adjustment as in draft assessment, without giving effect to DRP's directions. Tribunal held that since final assessment order was not passed in conformity with binding DRP directions, impugned assessment order was quashed. ***[Pr. CIT v. Flextronics Technologies (India) Private Limited [2023] 148 taxmann.com 123/459 ITR 493 (Karnataka) followed]***

3. **ITAT:** The Tribunal held the final assessment order bad in law for retaining the unreduced IGS adjustment despite the DRP's direction reducing it, holding that section 144C(10) read with section 144C(13) makes conformity with the DRP's directions mandatory and that a subsequent section 154 rectification could not cure the defect. The final assessment order was accordingly held bad in law for want of conformity with the DRP's directions. ***[ESPN Star Sports Mauritius S.N.C. ET Compagnie vs. Union of India [(2016) 241 Taxman 0038 (Delhi)]; Principal Commissioner of Income-tax vs. Flextronics Technologies (India) (P.) Ltd. [2023] 459 ITR 493 (Karnataka) [09-01-2023]; LG Electronics Inc. vs. Addl. CIT [ITA Nos. 646 to 653/Del/2021]; Global One India (P.) Ltd. vs. DCIT [(2019) 112 taxmann.com 185 (Delhi-Trib.)]; HSI Automotives (P.) Ltd. vs. DCIT [2026] 186 taxmann.com 721 (Chennai - Trib.) [28-04-2026]; Cambridge University Press and Assessment India (P.) Ltd. vs. DCIT [2026] 185 taxmann.com 968 (Delhi - Trib.) [24-04-2026] followed] [Hitachi Astemo Haryana Private Limited vs. DCIT [ITA No. 1005/Del/2022] distinguished]***

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Vitesco Technologies India Pvt. Ltd. vs. Assessment Unit, NFAC [TS-668-ITAT-2026(PUN)-TP] [19-08-2026] – IT(TP)A No. 2474/PUN/2024 – AY 2021-22

iv. Rectification of Apparent Mistake

1. **ITAT:** The Tribunal dismissed the Revenue's miscellaneous application under section 254(2) seeking recall of its earlier order quashing a time-barred final assessment order, holding the application an impermissible attempt at review.

   ACIT vs. CBRE South Asia Pvt. Ltd. [TS-624-ITAT-2026(Del)-TP] [12-08-2026] – MA No.372/Del/2026 (arising out of ITA No.2282/Del/2024) – AY 2019-20

v. Natural Justice

1. **HC: The TPO's order under section 92CA (3) was set aside and remanded because the mandatory show cause notice under the proviso to section 92C (3) was never served, a notice under section 92CA (2) seeking information not being such a notice.**

   Flyjac Logistics Private Limited vs. DCIT [TS-676-HC-2026(BOM)-TP] [25-08-2026] – Writ Petition No.2279 of 2023 – AY 2020-21

   The Assessing Officer referred its international transactions with AEs to the TPO under section 92CA (1). The TPO issued several notices under section 92CA (2) seeking information, which the petitioner answered, and a show cause notice dated 28.02.2023 under section 92C (3), which it did not answer. He then passed an order under section 92CA (3) proposing an adjustment, holding that no further opportunity was needed since statutory notices had been issued over the preceding twelve months and the petitioner's evidence was inadequate. The petitioner challenged that order directly by writ petition, no appellate authority having considered the matter, contending that the show cause notice was never served or uploaded on its portal. The Revenue admitted that the notice was not served. The Court held that section 92CA(3) requires the TPO to determine the arm's length price in accordance with section 92C(3). Its proviso mandates a show cause notice before the price is determined on material in the officer's possession. That requirement binds the TPO, and a notice under section 92CA (2) seeking information cannot stand in for it. Since the only such notice, that of 28.02.2023, was admittedly never served, the petitioner had no occasion to reply, and the order was bad in law. The Court set aside the order and remanded the matter to

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the TPO at the stage of issuing the show cause notice. The petitioner was directed to reply within two weeks of the judgment being uploaded, and the TPO was directed to pass a fresh order after a personal hearing, preferably within twelve weeks.

d. Penalty

1. **Where assessee furnished its TP study report within 10 days of TPO's notice under section 92D (3), but penalty notice under section 271G failed to specify information or documents allegedly not furnished, penalty levied at 2 per cent of international transactions was unsustainable and was to be deleted**

   Senatech India Pvt. Ltd. vs. DC/ACIT [TS-645-ITAT-2026(DEL)-TP] [19-08-2026] – ITA No.7827/Del/2025 – AY 2020-21 - [2026] 189 taxmann.com 644 (Delhi - Trib.)

   Assessee-company's international transactions were referred to TPO. TPO issued show cause notice dated 06-06-2023 under section 92CA (2). Assessee replied on 21-07-2023 and attached transfer pricing study report. TPO passed order making adjustments by ignoring study on ground of late submission. Separately, TPO issued notice under section 274, read with section 271G, stating that assessee failed to furnish information or documents under section 92D, without specifying which information or document was not furnished. After assessee's reply, TPO levied penalty under section 271G at 2 per cent of value of international transactions. Tribunal held that where penalty notice did not specify exact information/documents under section 92D alleged as not furnished, penalty was not sustainable. Further since only notice under section 92D (3) was show cause dated 17-07-2023 and assessee filed transfer pricing study report on 21-07-2023 within statutory 10 days and notice issued under section 274 read with section 271G initiating penalty did not specify particular information or documents allegedly not furnished, impugned penalty was deleted. ***[CIT v. Leroy Somer & Controls (India) (P.) Ltd [2013] 37 taxmann.com 407/218 Taxman 216/ [2014] 360 ITR 532 (Delhi) and CIT v. Gillette India Ltd [2018] 99 taxmann.com 231/259 Taxman 352 (SC) followed]***

2. **Where assessee providing cloud computing support services to its AE reported all international transactions and maintained prescribed documentation, but penalty for TP adjustment was levied without identifying any specific clause of section 270A (9) or substantiating failure to disclose material facts, penalty was unsustainable as TP adjustment was excluded under section 270A(6)(d)**

   ACIT vs. Alibaba Cloud India LLP [TS-631-ITAT-2026(Mum)-TP] [14-08-2026] – ITA No.3496/Mum/2026 – AY 2021-22 - [2026] 189 taxmann.com 679 (Mumbai - Trib.)

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Assessee–LLP rendered cloud computing support services to its AE. It disclosed international transactions in Form 3CEB and maintained prescribed documentation under section 92D. TPO proposed TP adjustment in respect of international transaction for cloud computing support services arising from rejection of assessee's benchmarking and application of a different Most Appropriate Method. On basis of said adjustment, AO levied penalty under section 270A for under-reporting in consequence of misreporting, alleging failure to disclose material facts. CIT(A) deleted penalty holding that neither assessment order nor penalty order specified particular clause of section 270A (9) under which misreporting was alleged; that assessee had duly reported transactions and maintained prescribed documentation; and that adjustment stemmed from rejection of assessee's benchmarking methodology and application of a different Most Appropriate Method. Tribunal held that since Revenue failed to establish that case fell within any statutory instance of misreporting of income under section 270A (9), and TP adjustment was excluded from under-reported income under section 270A(6)(d), penalty levied under section 270A was unsustainable. ***[Veena Estate (P.) Ltd. v. CIT [2024] 158 taxmann.com 341/461 ITR 483 (Bombay) and Maharaj Garage & Co. v. CIT [2017] 85 taxmann.com 86/[2018] 400 ITR 292 (Bombay) distinguished]***

e. Stay

1. **ITAT: The Tribunal extended the stay of recovery of the disputed demand by a further 180 days, or until disposal of the appeal or acceptance of the APA by the assessee, whichever is earlier.**

   Volvo CE India Private Limited vs. DCIT [TS-611-ITAT-2026(Bang)-TP] [07-08-2026] – SA No. 137/Bang/2026 (arising out of IT(TP)A No. 2377/Bang/2024) – AY 2021-22

   The assessee applied under section 253(7) read with section 254(2A) for a further extension of the stay of recovery of the disputed demand, which had earlier been granted by coordinate benches and continued through successive orders subject to a bank guarantee of about one-fifth of the outstanding demand already furnished by the assessee, seeking extension because the year was a covered year in its pending APA and it had raised a limitation ground based on the Madras High Court's decision in Roca Bathroom, while the Revenue contended that, after the Finance Act 2026 amendment, the limitation ground now favoured it and sought part payment of the demand with a bank guarantee for the balance; Tribunal noted that the pendency of the appeal was not attributable to the assessee, that the year was a covered year in the APA and that the assessee had complied with the earlier bank-guarantee

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condition, and since it had already found a prima facie case, balance of convenience and relative hardship in the assessee's favour, it extended the stay and directed the AO to keep recovery of the disputed demand in abeyance for a further 180 days, or until disposal of the appeal or acceptance of the APA by the assessee.

2. **ITAT:** The Tribunal granted a stay of the outstanding demand for 180 days or until disposal of the appeal, subject to payment of 20% of the demand, holding that the assessee had a prima facie case on its consistently accepted benchmarking method.

   Purflux Engine Systems India Pvt. Ltd. (formerly known as Sogefi Engine Systems India Pvt. Ltd.) vs. DCIT [TS-612-ITAT-2026(Bang)-TP] [07-08-2026] – SA No.83/Bang/2026 – AY 2021-22

3. **ITAT:** The Tribunal extended the stay of the outstanding demand for a further 30 days or till disposal of the assessee's pending appeal, whichever is earlier. The Tribunal noted that the assessee's appeal had been finally heard on 21.05.2026 but the order was still awaited, and in these circumstances considered it appropriate to extend the stay of the outstanding demand for a further 30 days from the date of the order or till disposal of the appeal, whichever is earlier.

   Vitesco Technologies India Private Limited vs. DCIT [TS-640-ITAT-2026(PUN)-TP] [07-08-2026] – S.A. No.25/PUN/2026 (arising out of IT(TP)A No.2474/PUN/2024) – AY 2021-22

4. **ITAT:** The Tribunal extended the stay of recovery of the disputed demand for a further 180 days, or until disposal of the appeals if earlier, since the appeals remained unlisted only because the underlying AMP issue was sub judice before the Supreme Court.

   Canon India Pvt. Ltd. vs. DCIT [TS-641-ITAT-2026(DEL)-TP] [19-08-2026] – SA Nos. 337 to 339/DEL/2026 – AY 2013-14, 2020-21 & 2021-22

f. Section 10A/10B/80-IA

1. **Where assessee transferred steam generated from captive power plant as a form of power to non-eligible units and TPO determined its arm's length price at nil considering steam a valueless by-product, such approach was not sustainable since steam supplied constitutes power in an inter-unit transaction and its ALP requires actual determination, so assessee's pricing methodology was correctly accepted.**

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Nirma Limited vs. DCIT [TS-651-ITAT-2026(Ahd)-TP] [21-08-2026] – ITA No. 1569 & 1570/AHD/2026 – AY 2018-19 & 2020-21 - [2026] 189 taxmann.com 843 (Ahmedabad - Trib.)

Assessee had inter-unit transfer of steam generated from its captive power plant to its non-eligible unit(s). TPO made adjustment by holding that steam was generated as a by-product during power generation and, being a by-product, had no cost; accordingly, arm's length price of steam was determined at nil. CIT(A) deleted addition, observing that steam, being a form of power supplied in inter-unit transactions, could not be valued at nil; ALP had to be determined, and assessee's pricing methodology was accepted. Tribunal held that the view of TPO that steam being a by-product does not command any value and determination of its ALP at nil could not be sustained. It agreed with CIT(A)'s reliance on the coordinate Bench ruling in *Vishal Fabrics Ltd*., where an external market price paid by independent buyers was held a valid benchmark for an internally transferred product. It also agreed with the reliance on the jurisdictional High Court ruling in *Gujarat Alkalies & Chemicals Ltd*. Comparables under section 80-IA (4) are not confined to internal cost, and the prevailing market rate for power sold to independent customers is the yardstick. The Tribunal accordingly upheld the deletion and dismissed the Revenue's grounds***. [Vishal Fabrics Ltd. [ITA No. 1802/Ahd/2019]; CIT vs. Gujarat Alkalies & Chemicals Ltd. [395 ITR 247 (Guj) (2017)] followed]***

g. TP adjustment Vs Book profit u/s 115JB

1. **ITAT:** The Tribunal directed exclusion of the TP adjustment from book profit under section 115JB, with book profit to be recomputed after the modified return is verified. ***[Innovative Textiles Limited vs. DCIT [ITA No. 1160/Del/2022, order dated 24.09.2025]; Apollo Tyres Limited [255 ITR 273] followed]***

   Indus Valley Partners (India) Private Limited vs. DCIT [TS-605-ITAT-2026(Mum)-TP] [29-07-2026] – ITA No. 6243/Mum/2024 – AY 2021-22

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