

IN THE INCOME TAX APPELLATE TRIBUNAL
BANGALORE BENCHES “ A ” BENCH: BANGALORE
**BEFORE SHRI A.K. GARODIA, ACCOUNTANT MEMBER
AND
SHRI PAVAN KUMAR GADALE, JUDICIAL MEMBER**

IT(T.P) A. No.2532/Bang/2017
(Assessment Year: 2010-11)

M/s.Verisign Services India Private Limited, No.52, 3 rd Floor, 100 Ft. Road, Koramangala, Bangalore-560 034 PAN: AAACL8712L	Vs.	Dy. Commissioner of Income Tax, Circle 12(5), Bangalore.
(Appellant)		(Respondent)

IT(T.P) A. No.2511/Bang/2017
(Assessment Year: 2010-11)
(By Revenue)

Assessee By:	Shri Umashankar Gautam, Advocate.
Revenue By:	Shri C.H.Sundar Rao, CIT (D.R)

Date of Hearing :	26.09.2019
Date of Pronouncement :	15.10.2019

ORDER

PER SHRI PAVAN KUMAR GADALE, JM :

These are the cross appeals filed by the assessee and revenue against the order of learned CIT(Appeals) – 7, Bangalore passed

under Section 143(3) r.w.s. 144C and 250 of the Income Tax Act, 1961 ('the Act').

2. The assessee has filed the revised Grounds of appeal which are as under :

Software Development Services:

1. The Ld. AO in pursuance of the order of the Ld. TPO and the order of the Ld. CIT(A), erred on facts and law while applying related party transaction to sales filter of 25% instead of 10% as applied by the Appellant in the transfer pricing study. **[corresponding to ground no. 8 of original grounds]**
2. The Ld. AO in pursuance of the order of the Ld. TPO and the order of the Ld. CIT(A), erred on facts and law while including **Persistent Systems Limited** as a comparable whereas the same should have been excluded for the reasons of functional dissimilarity. **[corresponding to ground no. 9 of original grounds]**
3. The Ld. AO in pursuance of the order of the Ld. TPO and the order of the Ld. CIT(A), erred on facts and law while including **Infosys Technologies Limited** as a comparable whereas the same should have been excluded for the reasons of functional dissimilarity. **[corresponding to ground no. 10 of original grounds]**
4. The Ld. AO in pursuance of the order of the Ld. TPO and the order of the Ld. CIT(A), erred on facts and law while excluding **Akshay Software Technologies Limited** as a comparable whereas the same should have been included for the reasons of functional similarity. **[corresponding to ground no. 11 of original grounds]**
5. The Ld. AO in pursuance of the order of the Ld. TPO and the order of the Ld. CIT(A), erred on facts and law while excluding **LGS Global Limited** as a comparable whereas the same should have been included for the reasons of functional similarity. **[corresponding to ground no. 12 of original grounds]**

Also, the Ld. CIT(A), erred on facts and law while not appreciating the fact that the annual report of **LGS Global Limited** was duly submitted. **[corresponding to ground no. 15 of original grounds]**

6. The Ld. AO in pursuance of the order of the Ld. TPO and the order of the Ld. CIT(A), erred on facts and law while excluding **CAT Technologies Limited** as a comparable whereas the same should have been included for the reasons of functional similarity. **[corresponding to ground no. 13 of original grounds]**

Marketing Support Services:

7. The Ld. AO in pursuance of the order of the Ld. TPO and the order of the Ld. CIT(A), erred on facts and law while excluding **PAE Limited** as a comparable whereas the same should have been included for the reasons of functional similarity. **[corresponding to ground no. 16 of original grounds]**
8. The Ld. AO in pursuance of the order of the Ld. TPO and the order of the Ld. CIT(A), erred on facts and law while excluding **Empire Industries Limited (Seg)** as a comparable whereas the same should have been included for the reasons of functional similarity. **[corresponding to ground no. 17 of original grounds]**
9. The Ld. AO in pursuance of the order of the Ld. TPO and the order of the Ld. CIT(A), erred on facts and law while excluding **Salora International** as a comparable whereas the same should have been included for the reasons of functional similarity. **[corresponding to ground no. 18 of original grounds]**
10. The Ld. AO in pursuance of the order of the Ld. TPO and the order of the Ld. CIT(A), erred on facts and law while including **Asian Business Exhibition & Confrences Limited** as a comparable whereas the same should have been excluded for the reasons of functional dissimilarity.

Also, the Ld. CIT(A), erred on facts and law while not appreciating the fact that the annual report of **Asian Business Exhibition & Confrences Limited** was duly submitted. **[corresponding to ground no. 19 of original grounds]**
11. The Ld. AO in pursuance of the order of the Ld. TPO and the order of the Ld. CIT(A), erred on facts and law while including **HCCA Business Services Private Limited** as a comparable whereas the same should have been excluded for the reasons of functional dissimilarity.

Also, the Ld. CIT(A), erred on facts and law while not appreciating the fact that the annual report of **HCCA Business Services Private Limited** was duly submitted. **[corresponding to ground no. 19 of original grounds]**
12. The Ld. AO in pursuance of the order of the Ld. TPO and the order of the Ld. CIT(A), erred on facts and law while including **Hindustan Housing Company Limited** as a comparable whereas the same should have been excluded for the reasons of functional dissimilarity and on account of failing the related party transaction to sales filter of 25% as applied by the Ld. TPO and Ld. CIT(A).

Also, the Ld. CIT(A), erred on facts and law while not appreciating the fact that the annual report of **Hindustan Housing Company Limited** was duly submitted. **[corresponding to ground no. 19 of original grounds]**
13. The Ld. AO in pursuance of the order of the Ld. TPO, erred on facts and law while including **Killick Agencies & Marketing Limited** as a comparable whereas the same should have been excluded for the reasons of functional dissimilarity. **[corresponding to ground no. 19 of original grounds]**

14. The Ld. AO in pursuance of the order of the Ld. TPO and the order of the Ld. CIT(A), erred on facts and law in while not providing working capital adjustment. [corresponding to ground no. 20 of original grounds]

Corporate Tax Matters:

15. The Ld. CIT(A) erred on facts and law in while holding that the service tax refund cannot be said to be a profit derived from the undertaking or business of the Appellant and that it should be excluded while computing deduction under section 10A of the Act. [corresponding to ground no. 21 & 22 of original grounds]

3. The Brief facts of the case are that the assessee is a wholly owned subsidiary of Veri Sign Inc, USA and is engaged in the business of providing Capital Software Services and Marketing Support Services to its Associated Enterprises (AEs) and with STPI Scheme of Govt. of India for claiming deduction under Section 10A of the Act and Software Development Services and sales and support services. The assessee filed the Return of Income on 12.10.2010 with total income of Rs.7,14,01,486 under normal IT provisions and Rs.10,01,14,926 under MAT provisions and Return of Income was processed under Section 143(1) of the Act. Subsequently the case was selected scrutiny and Notices under Section 143(2) and 142(1) of the Act along with Questionnaire were issued. In compliance, the learned Authorised Representative of the assessee appeared from time to time and Books of Accounts are produced and details were furnished. The Assessing Officer found that the assessee has claimed deduction

under Section 10A of the Act of Rs.5,14,98,661 and the assessee company has entered into international transactions with AE which exceeded the prescribed limit and matter was referred to the TPO with prior approval of CIT. The assessee has Indian Infrastructure to provide authority of services and businesses to find internet security transact across Internet, telecommunications and networks. The TPO found the PLI of operating profit on cost is as under :

3. FINANCIAL RESULTS FOR THE FY 2009-10 AS PER THE P & L A/C

Operating Revenues *	69,95,84,250
Operating Expenses **	63,40,71,342
Operating (Profit)/Loss	6,55,12,908
Op Profit on cost %	10.33%

* Less other income

** Less : Finance charges, exchange loss.

4. The assessee's international and segmental information as per the TP Document referred at paras 3.1 and 3.2 as under :

3.1 The segmental information of the taxpayer company as per the TP document is as under:

Description	Software Services (Rs.)	Marketing support
Operating Revenue	61,29,46,784	8,66,37,466
Operating Cost	55,53,10,010	7,87,61,332
Operating profit	5,76,36,774	78,76,134
OP/ OC	10.38%	10%

3.2 International Transactions (as mentioned in the 92 CE report)

Description	Amount (Rs.)
Software development services	61,29,46,784
Marketing support services	8,66,37,466
Purchase of Capital assets	19,20,719
Interest paid on External Commercial Borrowings (ECB)	15,44,031

5. The TPO called for the documents maintained under Section 92D of the Act, financials and copies of agreements. The assessee has filed the details on 14.3.2013 by letter dt.14.3.2013 with TP documents containing 16 comparables in respect of software development activities and applied the filters and TNMM method is treated as MAM. Whereas the TPO has issued Show Cause Notice and rejected the TP Study and applied the filter on companies current data and where the companies software development services in less than income of Rs.1 Crore was excluded and companies who have more than 25% Related Party Transactions (RPT) of sales were excluded and companies who have exports of less than 75% of sales were excluded and companies with Employees Cost which is having predominant losses for last three years including F.Y. are excluded whereas the TPO has rejected the assessee's submissions vide para 6 of the order and accepted assessee's comparables qualifying the filters applied by TPO in respect of L&T Infotech Ltd., Mindtree Limited, Sasken Communication Technologies, Think Soft Global Services. Whereas the TPO also selected comparables and made

analysis and a final set of comparables referred at para 9 page 23 of the TPO order as under :

9. FINAL SET OF COMPARABLES CONSIDERED BY THE TPO :

After considering the objections of the taxpayer to the comparables proposed in the show-cause notice, perusal of relevant annual reports and examination of additional comparables suggested by the taxpayer on the touchstones of filters and functionality, the final set of comparables are arrived as per the discussions in the following paragraphs.

Sl.No	Name	Sales	Cost	PLI
1	I C R A Techno Analytics Ltd.(seg)	11,89,81,000	9,52,60,000	24.94%
2	Infosys Ltd	2,11,40,00,00,000	1,45,81,00,00,000	44.98%
3	Kals Information Systems Ltd.(seg)	2,16,92,935	1,75,79,115	34.41%
4	Larsen & Toubro Infotech Ltd.	17,76,76,48,294	14,88,92,91,379	19.33%
5	Mindtree Ltd.(seg)	6,98,02,80,117	6,07,89,59,413	14.83%
6	Persistent Systems & Solutions Ltd.	6,67,28,828	5,78,33,452	15.38%
7	Persistent Systems Ltd.	5,04,41,30,000	3,86,97,20,000	30.35%
8	R S Software (India) Ltd.	1,61,83,71,419	1,46,73,31,694	10.29%
9	Sasken Communication Technologies	4,01,50,89,000	342,12,53,000	17.36%
10	Tata Elxsi(seg)	3,36,94,00,000	2,86,21,56,000	20.93%
11	Thinksoft Global Services Ltd.	74,55,94,965	63,70,04,595	17.05%
	AVERAGE MARGIN			22.71%

The TPO granted working capital and risk adjustment and determined the ALP of software development services of Rs.6,20,88,064 whereas in marketing segment, the assessee has submitted the TP document with 5 comparables. The TPO has rejected the TP Study and made analysis of the comparables selected by the assessee and thus final list of comparables selected referred at page 31 of the order as under :

FY: 2009-10					
Sl.	Company Name	OP	OC	OP / OC %	OP / Sales %
1	Asian Business Exhibition & Conferences Ltd.	19.97	33.21	60.1325	37.5517
2	Cyber Media Research Ltd. (IDC(India) Ltd)}	1.54	11.25	13.6889	12.0407
3	H C C A Business Services Pvt. Ltd.	3.61	18.91	19.0904	16.0302
4	Hindustan Housing Co. Ltd.	0.61	1.6	38.125	27.6018
5	I C C International Agencies Ltd.	0.42	3.06	13.7255	12.069
6	Killick Agencies & Mktg. Ltd.	0.5	2.88	17.3611	14.7929
7	Priya International Ltd.	1.25	10.89	11.4784	10.2965
			AVERAGE	24.8003	18.6261

6. The TPO has passed the order with ALP adjustment of Rs.1,16,56,676 under Section 92CA of the Act dt.29.01.2014. The Assessing Officer on receipt of the order under Section 92CA of the Act with an adjustments to ALP under Section 92CA of the Act of Rs.7,37,44,740 in respect of software development services segment and marketing segment and allowed deduction under Section 10A of the Act after adjustment and found that the assessee has considered the refund of Service Tax amount of Rs.31,22,710 as profit of business undertaking for deduction under Section 10A of the Act and accordingly reduced the claim under Section 10A of the Act and made addition of excess deduction

under Section 10A of the Act of Rs.47,22,865 along with TP Adjustment under Section 92CA and assessed the total income of Rs.14,98,69,091 and passed under Section 143(3) r.w.s. 144C of the Act dt.6.5.2014. Aggrieved by the order, the assessee has filed an appeal with the learned CIT(Appeals). Whereas the learned CIT(Appeals) considering the grounds of appeal, submissions on the deduction of 10A and the comparables selected on software development services and marketing support services has partly allowed the appeal. Aggrieved by the order of learned CIT(Appeals), the assessee has filed an appeal with the Tribunal.

7. At the time of hearing, the learned Authorised Representative argued on the Revised grounds of appeal and on software development services and prayed for exclusion of companies (i) Infosys Limited, (ii) Persistent Systems Limited and filed chart and submitted that the turnover of the Infosys Ltd. was Rs.21,140 Crores and PLI is 44.98% and the turnover is more than 476 times of assessee's turnover and also made submissions on profiles functioning and supported with Paper Book and judicial decisions and further argued that the Infosys Ltd. and Persistent Systems Ltd. be excluded and prayed for inclusion of Akshay

Software Technologies Ltd. which is functionally comparable and passes the filters and supported with judicial decisions. The Id. AR also submitted in respect of marketing segments for exclusion of 4 comparables out of 7 comparables selected. Contra, the learned Departmental Representative relied on the TPO order and raised objections for inclusion of comparables Akshay Software Technologies Ltd.

8. We heard the rival contentions and perused the material on record. The learned Authorised Representative has envisaged submissions on exclusion and inclusion of comparables on software development services. The Id. AR has filed a chart for exclusion of 11 comparables but at the time of hearing has pressed only exclusion of comparables under Software Development Services Segment (i) Infosys Ltd. and (ii) Persistent Systems Ltd. We have analysed the comparable of Infosys Ltd where the turnover is 476 times than the assessee's turnover and has a brand value and significant intangible assets and is engaged in product development, sales and marketing expenses amount to 4.6% of total sales and has heavily invested in significant R & D expenses in own laboratory scale of operations are functionally and profits

are derived predominantly due to premium branding. The learned Authorised Representative supported the arguments with the judicial decisions of co-ordinate Bench of Tribunal in the case of Cyprus Semi-conductor India Pvt. Ltd. for the Assessment Year 2010-11 in IT(TP)A No.434/Bang/2015; CSR India Pvt. Ltd. for Assessment Year 2010-11 in IT(TP)A No.256/Bang/2015; Softek India Pvt. Ltd. for Assessment Year 2010-11 in IT(TP)A No.396/Bang/2015 and CGI Information Systems and Management Consultants Pvt. Ltd. in IT(TP)A No.346/Bang/2015 for Assessment Year 2010-11. We find the co-ordinate Bench of Tribunal in the case of CGI Information Systems and Management Consultants Pvt. Ltd. (supra) has observed at pages 21 & 22 and held as under :

“ Infosys Ltd: The Hon’ble DRP had directed the exclusion of companies from the list of comparables on the ground that it owns intangibles and high brand value. And the coordinate bench in the case of Electronics for Imaging India P. Ltd., also recorded similar findings vide para 19 of the order which is reproduced below:

“We have heard the Id. DR as well as Id. AR and considered the relevant material on record. We note that in the case of Agnity India Technologies (P.) Ltd., (supra), the Delhi Bench of the Tribunal has considered the comparability of this company and the findings of the Delhi Bench of the Tribunal has been confirmed by the Hon’ble Delhi High Court. The Hon’ble Delhi High Court has observed that this company having brand value as well as intangible assets cannot be compared with an ordinary entity provide captive service. We further note that this company provides end to end business solutions that leverage cutting edge technology thereby enabling clients to enhance business performance. This company also provides solutions that span the entire software lifecycle encompassing technical

consulting, design, development, re-engineering, maintenance, systems integration, package evaluation and implementation, testing and infrastructure management service. In addition, the company offers software product for banking industry. Thus, this company is engaged in diversified services including design as well as technical consultancy, consulting re-engineering, maintenance, systems integration as well as products for banking industry.”

20. In view of this, we do not find any reason to differ from the findings of the Hon’ble DRP. Accordingly, we uphold the findings of the Hon’ble DRP. Thus, the grounds of appeal on this issue are dismissed.

21. In the result, the appeal filed by the revenue is dismissed.”

Considering the judicial decisions and facts, we direct the TPO to exclude Infosys Limited from final list of comparables in determining the ALP.

Similarly, the learned Authorised Representative argued for exclusion of Persistent Systems Ltd. which is functionally dissimilar and is engaged in rendering outsource product development services and engaged in various services and no segmental information is available for break up of software services and sale products. The company has extra-ordinary event and works on different business model and relied on judicial decisions, we find the co-ordinate Bench of the Tribunal in the case of CGI Information Systems Ltd. (supra) at pages 20 & 21 has held as under :

“ Persistent Systems Ltd: The Hon’ble DRP deleted the company from the list of comparables on noticing that the software segment consisted both of sale of

software services and products and no segmental information was available and it further noticed that the company was predominantly outsourcing software product development services. Even the coordinate bench in the case of Electronics for Imaging India P. Ltd., (supra) has recorded similar finding vide para 26 of order:

“Therefore, when this company is engaged in diversified activities and earning revenue from various activities including licencing of products, royalty on sale of products as well as income from maintenance contract, etc., the same cannot be considered as functionally comparable with the assessee. Further, this company also earns income from outsource product development. In the absence of any segmental data of this company, we do not find any error or illegality in the findings of the DRP that this company cannot be compared with the assessee and the same is directed to be excluded from the set of comparables.”

The revenue had not filed any evidence contradicting the above findings. Therefore, we do not find any reason to differ from the findings of the Hon’ble DRP.”

Accordingly we direct the TPO/A.O to exclude the Persistent Systems Limited from the final list of comparables.

9. The learned Authorised Representative has argued only for exclusion of two comparables under the Software Development Services segment and in respect of inclusion of Akshay Software Technologies Pvt. Ltd.. The Id. AR contention that the Akshay Software Technologies Pvt. Ltd. is functionally comparable and passes all the filters of RPT and is predominantly into Software Development Services and Revenue from software development of fixed price and fixed time frame contracts. Whereas the Id. DR objected to the inclusion and referred to Annual Report at page 940 of the Paper Book where 50% of the services out sourced and

do not fit into the category and has a different model of business and relied on the observations of the TPO. We find that this disputed issue is dealt by co-ordinate Bench of Tribunal in the case of Novell Software India Pvt Ltd Vs. DCIT for Assessment Year 2010-11 in ITA No.281/Bang/2016 at pages 15 to 17 as under :

“ 18. Additionally, the Assessee seeks inclusion of the following two companies, which were part of its TP study, in the final list of comparables:

- Akshay Software Technologies Ltd: The company is functionally comparable to the assessee. Originally, the TPO proposed to reject the said company as a comparable on the ground that there was no related party disclosure for FY 2009-10(Page 269 of the paper book). The assessee had objected to the same stating that on the basis of the annual report of the company, the related party transactions would only be 4.33% and that therefore, it ought to be included in the list of final comparables (Page 307 of the paper book). However, in the TP order, the TPO rejected the said company on the basis that 90% of its export revenues for the year were from Dubai operations, whereas the assessee earns 100% of its revenues from India. On the basis that the company and the assessee operated in different geographical areas, the TPO excluded the said company. The assessee submits that the company passes all the filters applied by the TPO and, therefore, the exclusion of the company solely on the basis that its operations lie in different geographical areas, which was not at all a filter applied by the TPO, is wholly arbitrary and thus the company ought to be included in final list of comparables.

In fact, in the assessee's own case for the immediately preceding assessment year, Akshay Software Technologies Ltd. ('Akshay' for short) has been accepted by the TPO and confirmed by the CIT(A) as being comparable to the Assessee.

In addition, Akshay is consistently figuring in the final list of comparables in the cases of several other similarly placed assesses for the same assessment year in question. Further, in Arowana Consulting Ltd. v.ITO in IT(TP)A No.235/Bang/2015, this Hon'ble Tribunal vide its order dated 29.06.2015 for AY 2010-11 directed that Akshay be included in the final list of comparables.”

The Id. AR drawn our attention to the decision of M/s. Arowana Consulting Ltd. Vs. ITO in IT(TP)A No.235/Bang/2015 at pages

5 to 12 referred at page Nos.1829 to 1836 of the Paper Book. We found the submissions made by the Id. AR appears to be realistic but these facts have not been verified and examined by the TPO therefore we restore the comparable Akshay Software Technologies Pvt. Ltd. to the file of TPO.

10. The Id. AR made submissions on marketing services segment for exclusion of comparables. The learned Authorised Representative filed chart for exclusion of 7 comparables. But at the time of hearing, the learned Authorised Representative has chosen to exclude four comparables i.e. (i) Asian Business Exhibition & Conferences Ltd., (ii) HCCA Business Services Pvt. Ltd., (iii) Hindustan Housing Co. Ltd. and (iv) Killick Agencies & Marketing Ltd. The learned Authorised Representative on the first comparable under marketing services segment prayed for exclusion of Asian Business Exhibition & Conferences Ltd. and explained that the comparable is functionally dissimilar and it is engaged in organizing exhibitions and conferences and derives revenue from sale of stall space in exhibitions and events and earn commission income from advertisement in external publications, sponsorship income and income from delegate fees and entry

charges and the Id. AR supported the arguments with co-ordinate Bench decisions and we find co-ordinate Bench in the case of Alcon Laboratories Pvt. Ltd. Vs. ITO for the Assessment Year 2010-11 in IT(TP)A 391/Bang/2015 dt.21.11.2017 at pages 4 & 5 paras 4 & 5 has observed as under :

“ 4. It was submitted by the learned AR of the assessee that in the C.O. filed by the assessee, the only grievance of the assessee is regarding one Comparable i.e. Asian Business Exhibition & Conferences Ltd. As per the assessee, this is not a good comparable and it should be excluded. In support of this contention, he placed reliance on a tribunal order rendered in the case of DCIT vs. Electronics for imaging India Pvt. Ltd. in IT (TP) A No. 212/Bang/2015 dated 24.02.2016 for the same assessment year, copy available on pages 349 to 381 of the paper book. In particular, our attention was drawn to Para 52 to 55 of this tribunal order on page 372 to 375 of the paper book. It was also pointed out that the tribunal has followed another tribunal order of Mumbai Bench rendered in the case of RGA Services India Pvt. Ltd. vide order dated 20.11.2015 in ITA No. 22/Mum/2015. The bench wanted to the assessment year involved in this order of the Mumbai Bench of the tribunal. In reply, he submitted that a copy of this tribunal order is available on pages 483 to 490 of the paper book and from the same, it can be seen that the assessment year involved in that order is same i.e. 2010 – 11. Learned DR of the revenue supported the orders of TPO, AO & DRP.

5. We have considered the rival submissions. We find that the issue in dispute is squarely covered in favour of the assessee by these two tribunal orders cited by the learned AR of the assessee for same assessment year. We find that in Para 8 of the tribunal order rendered in the case of DCIT vs. Electronics for imaging India Pvt. Ltd. (Supra), the profile of that assessee was noted and as per the same, that assessee was engaged in Software Development services and sales & Marketing Support Services. Both were benchmarked separately and the paras of the tribunal order referred to before us are in respect of Marketing Support Services. In the present case also, the dispute is regarding Marketing Support Services provided by the assessee. Hence, the profile of the present assessee and Electronics for imaging India Pvt. Ltd. is same. Hence, we respectfully follow this tribunal order and hold that in the present case also, this comparable i.e. Asian Business Exhibition & Conferences Ltd. should be excluded from the final list of comparable.”

The learned Authorised Representative argued on the second comparable HCCA Business Services Pvt. Ltd. to be excluded as it is functionally dissimilar and service provider of HR and Admn. Services like offering payroll processing, legal, regulatory and labour compliances and also into Software Development Services and has different services which are out of the purview of the assessee's services. We found this issue was dealt by the coordinate Bench in the case of Alcon Laboratories Pvt. Ltd. (supra) at pages 6 & 7 paras 8 & 9 has observed as under :

“ 8. We have considered the rival submissions. We find that in respect of all these three comparables, the DRP excluded them on this basis that these are functionally different. Before us, in respect of Hindustan Hosing Co. Ltd., the argument of the learned AR of the assessee is this that it should be excluded by applying RPT filter of 25% but since, actual RPT % of this company is not examined and commented upon by any of the lower authorities, we feel it proper to restore the matter back to AO/TPO for a fresh decision in respect of inclusion/exclusion of this comparable by applying 25% RPT filter. We order accordingly.

9. In respect of remaining two comparables i.e. 1) HCCA Business Services Pvt. Ltd. and 2) Killick Agencies & Mktg. Ltd., we find that as per the tribunal order rendered in the case of DCIT vs. Electronics for imaging India Pvt. Ltd. (Supra), it was held that these two are not good comparables because these are functionally different. We have already noted that this tribunal order is applicable in the present case. Hence, Hence, we respectfully follow this tribunal order and hold that in the present case also, these two comparables i.e. 1) HCCA Business Services Pvt. Ltd. and 2) Killick Agencies & Mktg. Ltd., are rightly excluded by DRP from the final list of comparable.”

The learned Authorised Representative argued for the exclusion of 3rd comparables under marketing sales segment M/s. Hindustan Housing Co. Ltd. The comparable is functionally different and is

engaged in provision of administrative and allied services which includes service charges from AC, lift, computer, photocopying, housekeeping, etc. and fails the RPT filter and incorrect mark up and we find that the said comparable was excluded in the case of Alcon Laboratories Ltd. (supra) at page 6 para 7 of Paper Book page 1450 of Paper Book as under :

“ 7. Regarding the appeal of the revenue, Learned DR of the revenue supported the draft assessment order passed by the AO and the order of TPO. Learned AR of the assessee supported the order of DRP. He also submitted that in the appeal of the revenue, the grievance of the revenue is regarding direction of DRP to exclude three comparables i.e. 1) HCCA Business Services Pvt. Ltd., 2) Hindustan Hosing Co. Ltd. and 3) Killick Agencies & Mktg. Ltd. He submitted that as per the same tribunal order rendered in the case of DCIT vs. Electronics for imaging India Pvt. Ltd. (Supra), it was held that these comparables are also not good comparables and in this regard, our attention was drawn to pages 369, 379 & 371 of the paper book. At this juncture, the bench pointed out that as per the tribunal order on page 379, the decision is this that since, the availability of comparables is not an issue and therefore, RPT percentage at 15% is approved. The bench pointed out that in the present case, there are only 6 comparables as per TPO and out of that 3 are already excluded by DRP and for 1 comparable, the assessee is in appeal before us and therefore, in the facts of the present case, it cannot be said that the availability of comparables is not an issue and hence, RPT percentage in the present case cannot be 15% and it has to be 25%. In reply, learned AR of the assessee submitted that the assessee is requesting to exclude only one comparable by applying RPT filter i.e. Hindustan Hosing Co. Ltd. where RPT % is 26.97%. The bench wanted to know as to whether RPT % of this comparable company is commented upon by any of the authorities below. In reply, he submitted that there is no such comment in the orders of the lower authorities and therefore, regarding this comparable, the matter may be restored to AO/TPO for a fresh decision after examining the RPT % of that company.”

The learned Authorised Representative submitted for exclusion of 4th comparable Killicks Agencies & Management Ltd. from the marketing segment which functionally dissimilar and acts as agent for various foreign agencies for sales of dredging equipment,

steerable rudder propulsions, maritime and aviation lighting, acoustic communication equipment, etc and offers after sales services involving in export of micro switches, engineering items, acoustics item and headsets and no segmental information is available. The comparable was excluded by the co-ordinate Bench of Tribunal in the case of Alcon Laboratories Pvt. Ltd. (supra) at page 7 para 9 as under :

“ 9. In respect of remaining two comparables i.e. 1) HCCA Business Services Pvt. Ltd. and 2) Killick Agencies & Mktg. Ltd., we find that as per the tribunal order rendered in the case of DCIT vs. Electronics for imaging India Pvt. Ltd. (Supra), it was held that these two are not good comparables because these are functionally different. We have already noted that this tribunal order is applicable in the present case. Hence, Hence, we respectfully follow this tribunal order and hold that in the present case also, these two comparables i.e. 1) HCCA Business Services Pvt. Ltd. and 2) Killick Agencies & Mktg. Ltd., are rightly excluded by DRP from the final list of comparable.”

Accordingly, considering the co-ordinate Bench decision where the comparables are functionally different and co-ordinate Bench decision in the case of ITO Vs. Alcon Laboratories Pvt. Ltd. (supra) is applicable to the present case. We direct the TPO to exclude the comparables from the final list of comparables for determination of ALP as under :

1. Asian Business Exhibition & Conferences Ltd.
2. HCCA Business Services Pvt. Ltd.

3. Hindustan Housing Company Ltd.

4. Killicks Agencies & Marketing Ltd.

11. The Id. AR argued that the learned CIT (Appeals) has erred in observing that service tax refund cannot be said to be profit derived from the undertaking or business of the assessee and hence should be excluded. We find the CIT (Appeals) at page 19 para 12.1 has dealt on the issue as under :

12.1 The submission of the appellant has been considered. The case laws relied are found to be not directly on the issue of service tax refund. Deduction under section 10A is to be allowed on the profit and gains derived from export of article or things or computer software. Thus, the receipt of the profit has to be derived from actual conduct of the business of the undertaking and receipt or profit which are not derived from actual conduct of the business are ancillary profit which cannot be said to be profit derived from the undertaking or business. Therefore, the receipts which arises out of actual export of specified business or services from undertaking can only be said to be profit from the undertaking. Reliance is placed on the following judicial decisions :

- i. *Menon Impex (P) Ltd. (Madras) 259 ITR 403*
- ii. *India Cement International (Madras) 304 ITR 322*
- iii. *Orchid Chemicals & Pharmaceuticals Ltd. (ITAT, Chennai) 97 ITD 277*
- iv. *ABI Shiwtech (I) Ltd. 2007-TIOL 203 ITAT-MAD*
- v. *K. Mohan & Co. (Exports)(P) Ltd. (ITAT, Bangalore) 126 ITD 59*
- vi. *Convergys India Securities Pvt. Ltd. 2011-TIOL 352 ITAT-DEL*
- vii. *Srinivasa Cystine Ltd. (ITAT, Hyderabad) 92 ITD 460*

In view of above, service tax refund received by the appellant cannot be said to have been received from export of article or things or computer software. Hence, the decision of the AO to exclude the amount of service tax refund for the purpose of computation of deduction under section 10A is found to be correct. The appeal of the appellant on this ground is dismissed.

We are of the opinion that the nature of service tax has to be verified and accordingly we remit this issue to the file of Assessing Officer for fresh consideration and allow the grounds of appeal for statistical purposes.

12. In the result, the assessee's appeal is partly allowed for statistical purposes.

13. Now we shall take up the revenue's appeal in IT(TP)A No.2511/Bang/2017, the Revenue has raised the following grounds of appeal :

1. *The order of the learned CIT(A) is opposed to law and facts of the case.*
2. *The CIT(Appeals) ought to have considered that that the expenditure incurred in foreign currency, towards telecom charges and other expenses in connection with rendering technical services outside India, to be excluded only from export turnover and not from total turnover for the purpose of computation of deduction u/s 10A of the Act, since such exclusion is permitted to arrive at the export turnover only as per the definitions given in Sec. 10A and total turnover has not been defined in the same.*
3. *"Whether the CIT(A) is correct in law in following the judgements of jurisdictional High Court in the case of CIT vs. Tata Elxsi Ltd., which has not become final since the same has not been accepted by the Department and SLPs are pending before the Hon'ble Apex Court"?*

4. *"The CIT(A) erred in excluding 3 companies as comparables on functional dissimilarity"?*
5. *"Whether the CIT(A) is right in not appreciating in fact that transfer pricing is not an exact science and no two entities can be exact replicas"?*
6. *"Whether the CIT(A) is right in trying to find out exact replica of the assessee for determining the ALP based on such replicas, even when the law and the international jurisprudence itself recognise that there cannot be an exact comparable to a given situation, especially with TNMM as the most appropriate method"?*
7. *"Whether the CIT(A) is right in law in demanding comparability standards that may itself defeat the purpose of law relating to determination of ALP under the IT Act"?*
8. *"Whether the order of the CIT(A) in imposing conditions is beyond the scope of law and business reality by rejecting all close comparables on the other ground, without appreciating that not two companies can ever be the same"?*
9. *For these and other grounds that may be urged at the time of hearing, it is prayed that the order of the CIT(A) in so far as it relates to the above grounds may be reversed and that of the Assessing Officer may be restored.*
10. *The appellant craves leave to add, alter, amend and/or delete any of the grounds mentioned above.*

14. The Ground No.1 is general in nature, Ground Nos.2 & 3 are in respect of claim of deduction under Section 10A of the Act where the learned CIT(Appeals) has granted relief considering the jurisdictional High Court decision of CIT Vs. Tata Elxsi Ltd. 349 ITR 98 (Kar) and Ground Nos.4 to 10 are that the learned CIT(Appeals) erred in excluding three comparables on functional dissimilarity.

15. The Id. DR argued the ground and supported the order of the TPO. Whereas the Id. AR supported the orders of the learned CIT(Appeals) on these grounds of appeal.

16. We heard the rival contentions and perused the material on record. The disputed issue as envisaged by the Id. DR on claim of expenditure is foreign currency from export turnover and not from total turnover. We find the Hon'ble Karnataka High Court in the case of Tata Elxsi Ltd. (supra) has observed and held –

" The Bombay High Court had an occasion to consider the earning of the word 'total turnover' in the context of section 10A, in the case of CIT Vs. Gem Plus Jewellery India Ltd. (2011) [330 ITR P. 175 (Bom)] (2010-TIOL-456-HC-MUM-IT). Interpreting sub-section (4) of section 10A, it is held as under :

"Under sub-section (4) the proportion between the export turnover in respect of the articles or things, or as the case may be, computer software exported, to the total turnover of the business carried over by the undertaking is applied to the profits of the business of the undertaking in computing the profits of the business of the undertaking in computing the profits derived from export. In other words the profits of the business of the undertaking are multiplied by the export turnover in respect of the articles, things or, as the case may be, computer software and divided by the total turnover of the business carried on by the undertaking. The formula which

is prescribed by sub-section (4) of section 10A is as follows :

<i>Profits derived from export of articles or things or computer software.</i>	<i>Profits of the business of the undertaking.</i>	<i>Export turnover in respect of the articles or things or computer software.</i>
	<i>Total turnover of the business carried on by the undertaking</i>	

The total turnover of the business carried on by the undertaking would consist of the turnover from export and the turnover from local sales. The export turnover constitutes the numerator in the formula prescribed by sub-section (4). Export turnover also forms a constituent element of the denominator in as much as the export turnover is a part of the total turnover. The export turnover, in the numerator must have the same meaning as the export turnover which is constituent element of the total turnover in the denominator. The legislature has provided a definition of the expression "export turnover" in Explan.2 to s.10A which the expression is defined to mean the consideration in respect of export by the assessee in convertible foreign exchange but so as not to include inter alia freight, telecommunication charges or insurance attributable to the delivery of the articles, things or software outside India. Therefore in computing the export turnover the legislature has made a specific exclusion of freight and insurance charges. The submission which has been urged on

behalf of the revenue is that while freight and insurance charges are liable to be excluded in computing export turnover, a similar exclusion has not been provided in regard to total turnover. The submission of the revenue, however, misses the point that the expression "total turnover" has not been defined at all by Parliament for the purposes of s.10A. However, the expression "export turnover" has been defined. The definition of "export turnover" excludes freight and insurance. Since export turnover has been defined by Parliament and there is a specific exclusion of freight and insurance, the expression "export turnover" cannot have a different meaning when it forms a constituent part of the total turnover for the purposes of the application of the formula. Undoubtedly, it was open to Parliament to make a provision which has been enunciated earlier must prevail as a matter of correct statutory interpretation. Any other interpretation would lead to an absurdity. If the contention of the Revenue were to be accepted, the same expression viz. 'export turnover' would have a different connotation in the application of the same formula. The submission of the Revenue would lead to a situation where freight and insurance, though these have been specifically excluded from 'export turnover' for the purposes of the numerator would be brought in as part of the 'export turnover' when it forms an element of the total turnover as a denominator in the formula. A construction of a statutory provision which would lead to an absurdity must be avoided."

The Special Bench of the Tribunal, in the case of ITO Vs. Sak Soft Ltd. (2009) 313 ITR (AT) 353 (Chennai) (SB) (2009-TIOL-187-ITAT-MAD-SB) also had an occasion to consider the meaning of

the word 'total turnover'. After referring to the various judgments of the High Court as well as the Supreme Court held as under :

"53. For the above reasons, we hold that for the purpose of applying the formula under sub-section (4) of section 10-B, the freight, telecom charges or insurance attributable to the delivery of articles or things or computer software outside India or the expenses, if any, incurred in foreign exchange in providing the technical services outside India are to be excluded, both from the export turnover and from the total turnover, which are the numerator and the denominator respectively in the formula....."

The formula for computation of the deduction under section 10A would be as under :

$$\frac{\text{Profits of the business} \times \text{export turnover}}{\text{Total turnover}}$$

From the aforesaid judgments, what emerges is that, there should be uniformity in the ingredients of both the numerator and the denominator of the formula, since otherwise it would produce anomalies or absurd results. Section 10A is a beneficial section. It is intended to provide incentives to promote exports. The incentive is to exempt profits relating to exports. In the case of combined business of an assessee, having export business and domestic business, the legislature intended to have a formula to ascertain the profits from export business and domestic business, the legislature intended to have a formula to ascertain the profits from export business by apportioning the total profits of the business on the basis of turnovers. Apportionment of profits on the basis of turnover was accepted as a method of arriving at export profits. In the case of section 80HHC,

the export profit is to be derived from the total business income of the assessee, whereas in section 10A, the export profit is to be derived from the total business of the undertaking. Even in the case of business of an undertaking, it may include export business and domestic business, in other words, export turnover and domestic turnover. The export turnover would be a component or part of a denominator, the other component being the domestic turnover. In other words, to the extent of export turnover, there would be a commonality between the numerator and the denominator of the formula. In view of the commonality, the understanding should also be the same. In other words, if the export turnover in the numerator is to be arrived at after excluding certain expenses, the same should also be excluded in computing the export turnover as a component of total turnover in the denominator. The reason being the total turnover includes export turnover cannot be different. Therefore, though there is no definition of the term 'total turnover' in section 10A, there is nothing in the said section to mandate that, what is excluded from the numerator that is export turnover would nevertheless form part of the denominator. Though when a particular word is not defined by the legislature and an ordinary meaning is to be attributed to the same, the said ordinary meaning to be attributed to such word is to be in conformity with the context in which it is used. When the statute prescribes a formula and in the said formula, 'export turnover' is defined, and when the 'total turnover' includes export turnover, the very same meaning given to the export turnover by the legislature is to be adopted while understanding the meaning of the total turnover, when the total turnover includes

export turnover. If what is excluded in computing the export turnover is included while arriving at the total turnover, when the export turnover is a component of total turnover, such an interpretation would run counter to the legislative intent and impermissible. If that were the intention of the legislature, they would have expressly stated so. If they have not chosen to expressly define what the total turnover means, then, when the total turnover includes export turnover, the meaning assigned by the legislature to the export turnover is to be respected and given effect to, while interpreting the total turnover which is inclusive of the export turnover. Therefore the formula for computation of the deduction under section 10A, would be as under :

$$\frac{\text{Profits of the business of the undertaking} \times \text{Export turn over}}{(\text{Export turnover} + \text{domestic turn over}) \text{ Total Turnover}}$$

11. In that view of the matter, we do not see any error committed by the Tribunal in following the judgments rendered in the context of section 80HHC in interpreting section 10A when the principle underlying both these provisions is one and the same. Therefore, we do not see any merit in these appeals. The substantial question of law framed is answered in favour of the assessee and against the revenue."

Respectfully following the aforementioned decision of the Hon'ble High Court of Karnataka in the case of Tata Elxsi Ltd. (supra), we find the Id. CIT (Appeals) has relied on judicial

decisions and we uphold the order of the learned CIT (Appeals) in directing the Assessing Officer to reduce the expenditure from both export turnover and total turnover for the purpose of computing the deduction under section 10A of the Act and dismissed the grounds of appeal of the Revenue.

17. The learned Departmental Representative made submissions that the learned CIT(Appeals) has excluded three companies on the functional dissimilarity. The three companies namely (i) Icara Technology Analytical Limited, (ii) Kals Information Systems Ltd. and (iii) Tata Elxsi Limited. The learned CIT(Appeals) has excluded these companies with observations in respect of Kals Information Systems at Para 8.3 page 15 as under :

8.3 Kals Informations Systems Ltd is challenged by the appellant on ground of functional dissimilarity. The appellant submitted that this comparable has also been directed to be excluded from the list of comparables by the ITAT Bangalore in its order for AY 2006-07 in the own case of the appellant. Respectfully following the decision of the ITAT in own case of the assessee, the AO/TPO is directed to exclude Kals Informations Systems Ltd from the list of comparables.

18. The learned CIT(Appeals) has excluded the comparable with observations on Tata Elxsi Limited at Para 8.5 page 17 as under :

8.5 Tata Elxsi Ltd: The appellant has made detailed submissions in relation to this company, which has been considered as a comparable by the TPO. The submissions of the appellant have duly been considered. The TPO rejected the objections of the appellant by holding that for comparability purposes data relating to software development segment has only been taken. However in the case of the appellant for AY 2006-07 the ITAT Bangalore has directed to exclude Tata Elxsi from the list of comparables holding it functionally different following the decision of the coordinate bench in the case of Thought Works India Pvt Ltd. The appellant has also relied on a number of decisions of Jurisdictional ITAT to press for the exclusion of this comparable. The jurisdictional bench of ITAT found that there were multiple activities in the software development segment of this company and the same could not be considered as purely software development. Considering above, this company cannot be considered as a proper comparable in the case under consideration and the decision of jurisdictional bench of ITAT in case of the appellant is squarely applicable in relation to this company. So this ground of appeal of appellant to exclude Tata Elxsi Ltd as a comparable is allowed.

19. The learned CIT(Appeals) has excluded these companies with observations in respect of Iera Technologies Ltd. at Para 8.1 page 13 as under :

8.1 The appellant has challenged the inclusion of **Iera Techno Analytics Ltd** on the ground of functional dissimilarity and has relied on decision of the ITAT Bangalore in the case of *Electronics for Imaging India Pvt Ltd AY 2010-11*. It is seen that the ITAT Bangalore vide its order dated 10-11-2015 in the case of *Ikanos communications India Pvt Ltd. for AY 2010-11* has held that the revenue stream of Iera Techno Analytics Ltd consists of software development consultancy, engineering services, web development and hosting. As there was more than one

segment, the company Iera Techno Analytics Ltd as an entity cannot be taken as a comparable. Similar view has also been taken by the ITAT in the case of *Applied Materials India Pvt Ltd AY 2010-11*. Following the decision of the jurisdictional ITAT, this company has to be removed from the list of the comparables.

20. Before us, the learned Departmental Representative has only supported the order of TPO but could not produce any evidence to controvert the findings of learned CIT(Appeals).

Whereas the learned Authorised Representative supported the orders of the learned CIT(Appeals) and by the decision of coordinate Bench in the case of CGI Information Systems Ltd. (supra) for A.Y. 2010-11 in respect of Icara Analytical Ltd. at pages 19 & 20 para 19 as under :

“ ICRA Techno Analytics Ltd., (seg) The learned CIT (A) argued that the Hon’ble DRP ought not to have deleted these companies from the list of the comparables on the ground of functional dissimilarity. On other hand the Id. Counsel for the assessee submitted that these comparables were excluded by the coordinate bench in the case of DCIT V. Electronics for Imaging India P. Ltd., [(2016) 70 taxmann.com 299.

We heard the rival submissions and perused the material on record. We find from the order of the Hon’ble DRP that in the case of ICRA Techno Analytics Ltd., the Hon’ble DRP after perusing the Annual Report had come to conclusion that the service segment comprised of software development, software consultancy, engineering services, web development, web hosting etc., for which no segment details were available. The revenue had not led any evidence on record controverting the above findings. Even the Hon’ble coordinate bench in the case of DCIT V. Electronics for Imaging India P. Ltd., [(2016) 70 taxmann.com 299 had held that this company is not comparable with the software development company in view of the fact that it is engaged in the diversified activities. The relevant paragraph is reproduced below:

“We find that the facts recorded by the DRP in respect of business activity of this company are not in dispute. Therefore, when this company is engaged in diversified activities of software development and consultancy, engineering services, web development & hosting and substantially diversified itself into domain of business analysis and business process outsourcing, then the same cannot be regarded as functionally comparable with that of the assessee who is rendering software development services to its AE.”

Respectfully following the decision of the coordinate bench, we do not find any reason to interfere with the findings of the DRP that this company is not comparable with that of a software development service provider.”

21. Similarly Kals Information Systems Ltd. was excluded as observed at pages 24 & 25 para 25 as under :

“ 25. The next cross-objection seeks the exclusion of M/s. Kals Information Systems Ltd., and M/s. Tata Elxsi Ltd., from the list of comparables. The assessee company submits that M/s. Kals information Systems is engaged in the development of software products such as Shine ERP Software, Docuflo, Dac4Cast, CMSS, La Vision, Virtual Insure and Aldon and also provides implementation and maintenance services of software products and segment details are available for the above valid activities. Therefore, it is submitted that this company cannot be considered as comparable with that of assessee company on the grounds of functional dissimilarity and reliance in this regard was placed on the coordinate bench’s decision in DCIT v. Electronics for Imaging India P. Ltd., [(2016) 70 taxmann.com 299 (Bang – Trib.)].

We heard the rival submissions and perused the material on record. Now it is settled law that a company which is engaged in pure services provider cannot be compared with the company which is engaged in the development of software products. There is no dispute that this company was engaged in the development of software products as well as software services and no segment details were available. Therefore the decision of the coordinate bench in this case of DCIT v. Electronics for Imaging India P. Ltd., [(2016) 70 taxmann.com 299 (Bang – Trib)] is squarely applicable and the relevant paragraph is reproduced below:

“We have heard the Id. DR as well as Id. AR and considered the relevant material on record. The Id. DR has not disputed the fact that comparability of this company has been examined by this Tribunal in a series of decisions including in the case of Trilogy ebusiness Software India (P.) Ltd., (supra). We further note that in the balance sheet of this company as on 31.3.2010, there are inventories of Rs.60,47,977/-. Therefore, when this company is in the business of software products, the same cannot be compared with a pure software development services provider. Accordingly, we do not find any error or illegality in the impugned findings of the DRP.”

22. The decision of co-ordinate Bench in the case of CGI Information Systems Ltd. (supra) for A.Y. 2010-11 on exclusion of Tata Elxsi Ltd. at pages 26 to 28 paras 27 to 29 as under :

“ 27. As regards Tata Elxsi, the learned counsel for the assessee company submitted that the segment selected by the TPO for the purpose of comparability, comprising of services such as product design, engineering and visual computing labs which are in the nature of IT enabled services and thus this company cannot be compared with a company which is engaged in the software development like the assessee company and reliance in this regard was placed in the decision of DCIT v. Electronics for Imaging India P. Ltd., [(2016) 70 taxmann.com 299 (Bang – Trib)].

Therefore, it was prayed that this company should be excluded from the list of the comparables.

28. We heard the rival submissions and perused the material on record. There is no dispute about the business profile of this comparable that it is engaged in the software segment business of the company consisting of product design services (PDS), industrial design engineering (IDE) and visual computing labs division (VLC). The PDS division provides offerings in multiple domains such as broadcast, wireless, transportation, convergence, DSP, graphics and imaging and semicon. The IDE segment supports global corporations in the area of new brand/product introduction from concept to market. Its expertise lies in the areas of consumer insights, product/service innovation, industrial design, functional prototyping and engineering. It also engages in brand development and retail design. The VLC division delivers 3D computer graphics, animation and special effects in the preproduction, production and post-production of content for the film, television, gaming and advertising industry. The system integration & support segment is involved in value added reselling involving systems integration and support for a wide range of technical computing hardware and software solutions involving high-end computing platforms, mechanical design automation tools, enterprise storage solutions, digital media and life sciences solutions through its tie-ups with global leaders in these respective areas. It is now fairly settled that a product design company cannot be compared with the pure software services provider like that of the assessee company and therefore this company deserves to be rejected from the list of comparables following the law laid down by the coordinate bench in the case of DCIT v. Electronics for Imaging India P. Ltd., [(2016) 70 taxmann.com 299 (Bang – Trib.)”

23. Accordingly, we find the learned CIT(Appeals) has considered the assessee's submissions, ground of appeal and the findings of the Assessing Officer and granted the relief by excluding the three comparables from the list of comparables for determining the ALP and we are not inclined to interfere on these grounds of appeal and dismiss the ground of appeal of the Revenue.

24. In the result, the revenue's appeal is dismissed.

25. In the result, the assessee's appeal in ITA No.2532/Bang/2017 is partly allowed for statistical purpose and Revenue's appeal in IT(TP)A No.2511/Bang/2017 is dismissed.

Order pronounced in the open court on 15th Nov., 2019.

Sd/-

(A.K. GARODIA)
ACCOUNTANT MEMBER

Sd/-

(PAVAN KUMAR GADALE)
JUDICIAL MEMBER

Dated: 15th Nov., 2019.

*Reddy GP

Copy to

1. The appellant
2. The Respondent
3. CIT (A)
4. Pr. CIT
5. DR, ITAT, Bangalore.
6. Guard File

By order

Assistant Registrar
Income-tax Appellate Tribunal
Bangalore