

**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES : BENCH "A" HYDERABAD**

(Through Video Conference)

**BEFORE SHRI S.S. GODARA, JUDICIAL MEMBER
AND
SHRI L.P. SAHU, ACCOUNTANT MEMBER**

**I.T.A. No. 2204/Hyd./2017
Assessment Year : 2013-14**

Sutherland Healthcare Solutions Ltd.
(formerly known as Apollo Health Street Ltd.) **vs.** Dy.CIT, Circle 3(2)
Hyderabad Hyderabad

[PAN: AADCA4278N]

(Appellant)

(Respondent)

For Assessee: Sri Ashik Shah, AR
For Revenue: Smt. Nivedita Biswas, D.R.

Date of Hearing : 22/02/2021

Date of Pronouncement : 04/05/2021

ORDER

PER S.S. GODARA, J.M.

This assessee's appeal for AY 2013-14 is directed against the Dy.CIT, Circle-3(2), order dated 25.10.2017 framed in furtherance to the DRP-1, Bangalore's directions dated 09.09.2017 in case no. 325/2016-17, involving proceedings u/s 143(3) r.w.s.144C(13) of the Income Tax Act, 1961 (in short 'the Act').

Heard both parties. Case file perused.

2. The assessee's first and foremost grievance raised in the instant lis challenges the correctness of lower authorities' action making arm's length price adjustment of Rs.2,73,14,942/- regarding its international transactions with overseas A.Es relating to provision of BPO services. Learned counsel's only case during the course of hearing is that the assessee would not be pressing for 2nd to 11th grounds challenging impugned adjustment of various comparables in case one of the said entity(ies) one of the comparable adopted by the TPO namely M/s Hartron Communications Ltd. has directed to be excluded. We notice in this factual backdrop that this tribunal's coordinate bench's decision in S&P Capital IQ (India) Pvt.Ltd. vs. Dy.CIT (2019) 106 taxman.com 116 (Hyderabad) holds in the very A.Y. 2013-14 that M/s Hartron Communications financial results could not be considered for the reason that it had witnessed increase/decrease in revenue generation and exceptional performance during the relevant previous year. This clinching fact has gone unrebutted from departmental side. We thus direct the TPO to exclude M/s Hartron Communications Ltd from the array of comparables in assessee's case. It has further been highlighted before us that succeeding A.Y. 2014-15 has already seen similar exclusion of the very entity at the TPO's end itself, he shall therefore examine the foregoing exclusion in the very lines. The assessee's 2nd to 11th substantive grounds are partly accepted for statistical purposes in above terms.

All other pleadings on merits qua this former issue are rendered infructuous.

3. Next comes the latter issue of ALP of Rs.61,33,416/- on the shareholders' corporate guarantee provided to the bank calculated @ 13% in learned lower authorities' respective orders. We notice herein as well that the instant latter issue is no more res integra as the tribunal's decision in ITA 213/Hyd/2017 and 505/Hyd/2016 for 2012-13 and 2011-12 respectively; both decided on 11.3.2020 have directed the TPO to adopt 0.92% only as the corporate guarantee commission. We thus adopt judicial consistency in these

facts and circumstances to adopt the very same course of action herein as well. Necessary computation shall follow as per law.

This assessee's appeal is partly allowed in above terms.

Pronounced in Open Court on 04th May, 2021.

Sd/-
(L.P. SAHU)
ACCOUNTANT MEMBER

Sd/-
(S.S. GODARA)
JUDICIAL MEMBER

Dated: the 04th May, 2021.

* gmV

Copy of the Order forwarded to:

1. M/s Sutherland Healthcare Solutions Private Limited (formerly known as Apollo Health Street Ltd.) Unit II, Survey no. 185(P) 2nd & 3rd floors, Kalajyothi Process, Kondapur, Serilingampalli, Hyderabad 500 084, Telangana.
2. Dy.CIT, Circle 3(2), Hyderabad.
3. DRP-1, Bengaluru.
4. DIT (IT & TP), Hyderabad.
5. ACIT (TP), Hyderabad.
6. DR, ITAT, Hyderabad.
7. Guard File.