

**IN THE INCOME TAX APPELLATE TRIBUNAL, DELHI 'I-1' BENCH,  
NEW DELHI (THROUGH VIDEO CONFERENCING)**

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
SHRI LALIET KUMAR, JUDICIAL MEMBER**

**ITA No. 6815/DEL/2015 [A.Y 2011-12]**

CPA Global Support Services [I] Pvt Ltd.  
1/3, 2<sup>nd</sup> Floor, Sir Gangaram Hospital  
Marg, Old Rajinder Nagar  
New Delhi

Vs.

The I.T.O  
Ward - 6(4)  
New Delhi

PAN : AABCJ 1509 C

[Appellant]

[Respondent]

**Date of Hearing : 29.09.2021**  
**Date of Pronouncement : 01.10.2021**

Assessee by : Shri G.C. Srivastava, Adv.  
Shri Mayank Patwari, Adv

Revenue by : Shri Surenderpal, CIT-DR

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER,**

This appeal by the assessee is preferred against order dated 29.06.2021 framed u/s 143(3) r.w.s 144C(13) r.w.s 144B of the Income-tax Act, 1961 [hereinafter referred to as 'The Act'] pertaining to A.Y. 2016-17.

2. The grievances of the assessee read as under:

"1. That on the facts and in the circumstances of the case and in law, the Hon'ble Dispute Resolution Panel ("DRP")/ Learned Assessing Officer ("AO")/ Learned Transfer Pricing Officer ("TPO") erred in making an addition to the returned income of the Appellant by INR 103,601,764/- by re-computing the arm's length price of the international transactions under Section 92 of the Income Tax Act ("the Act") and the orders are bad in law and void ab-initio.

2. That on facts and circumstances of the case and in law, the reference made by the Ld. AO suffers from jurisdictional error as the Ld. AO did not record any reasons in the draft assessment order based on which he reached the conclusion that it was "expedient and necessary" to refer the matter to the Ld. TPO for computation of the arm's length price, as is required under section 92CA(1) of the Act.

3. The Ld. DRP/Ld. AO/Ld. TPO erred in facts and circumstances of the case and in law by rejecting the Assessee's claim of being a low end IP support service provider (ITES) and re-characterizing it as a core software developer without providing sufficient opportunity to the Assessee and by selectively and narrowly interpreting the facts of the case.

4. The Ld. DRP/Ld. AO/Ld. TPO erred in facts and circumstances of the case and in law by making an addition of INR. 10,36,01,764/- to the returned income of the Appellant by re-computing the arm's length price of the international transactions under section 92 of the Act by:

4.1 Inappropriately applying the filters to arrive at a cherry-picked result;

4.2 Rejecting companies selected by the Appellant in its transfer pricing documentation even when such companies were functionally comparable to the Appellant;

4.3 Accepting companies which are functionally not comparable to me terms of Functions, Assets and Risk profile; and

4.4 The Ld. DRP/Ld. AO/Ld. TPO erred in facts and circumstances of the case and in law by disregarding the multiple year data selected by the Appellant in the TP Documentation and in selecting the current year (i.e. financial year 2010-11) data for comparability.

5. The Ld. DRP/Ld. AO/Ld. TPO erred in facts and in law by not providing the benefit of economic adjustments to the Appellant in arriving at the arm's length price.

6. That the Ld. DRP/Ld. AO/Ld. TPO erred on facts and in law in making a notional addition of INR 64,40,609/- on account of alleged interest on perceived delay in collection of receivables from the AEs without taking due cognizance of the business model and by wrongly treating the accounts receivable as medium term loan computed at 6 months USD Libor + 400 bps.

7. The Ld. AO/Ld. TPO erred in facts and in law by failing to give effects to directions passed by DRP in margin computation and interest computation on accounts receivable.

8. That the Ld. DRP/Ld. AO/Ld. TPO erred in facts and in law in initiating penalty proceedings under section 274 read with 271(1)(C) of the Act.

That the above grounds are independent and without prejudice to each other.

The Appellant craves leave to add, amend, alter, delete, rescind, forgo or withdraw any of the above grounds of objection either before or during the course of proceedings in the interest of the natural justice

3. In addition to the above grounds taken in the appeal memo, the assessee has raised the following additional grounds of appeal:

"1. That on the facts and circumstances of the case and in law, the Learned ('Ld.") Dispute - Resolution Panel ("DRP")/ Ld. Assessing Officer ("AO")/Ld. Transfer Pricing Officer ("TPO") erred in computing operating margin (operating profit/operating cost) of the Appellant by:

- Treating foreign exchange gain/loss as a non-operating; and
- Including reimbursement received from Associated Enterprises ("AEs") in both, operating income as well as in operating expenses.

2. That on the facts and circumstances of the case and in law, the Ld. DRP/Ld. AO/Ld. TPO erred in ignoring the fact that working capital adjustment already takes into account the impact of outstanding receivables on profitability and therefore, no further imputation of interest is warranted.

3. That on the facts and circumstances of the case and in law, the Ld. DRP/Ld. AO/Ld. TPO erred in ignoring the fact that even if the notional interest on delayed receivables is being charged, the same should be netted off against outstanding payables.

4. That on the facts and circumstances of the case and in law, the Ld. DRP/Ld. AO/Ld. TPO erred in not including the notional interest on delayed receivables as an operating item for computing operating margin of the Appellant.

It is further submitted that the aforesaid additional ground of appeal does not involve any fresh investigation into facts of the case. The Appellant by way of this application, craves leave of the Hon'ble Bench to raise the aforesaid additional ground.

In view of the decision of the Hon'ble Supreme Court in the case of National Thermal Power Co. Ltd. vs CIT: 229 ITR 383 as also the decision in the case of Jute Corporation of India vs. CIT:187 ITR 688 and the discretion vested with your Honours under Rule 11 of the Income-tax (Appellate Tribunal) Rules, 1963, it is prayed that the aforesaid additional grounds of appeal may kindly be admitted and adjudicated on merits."

3. At the very outset, the ld. counsel for the assessee stated that he is contesting Ground No 4 with all its sub -grounds and Ground No. 6. The ld. counsel for the assessee further stated that Ground Nos. 2, 3, and 4 of the additional grounds are related to Ground No. 6 and therefore, needs no separate adjudication.

4. On such concession, the representatives of both the sides were heard at length, the case records carefully perused and with the assistance of the Id. Counsel, we have considered the documentary evidences brought on record and judicial decisions relied upon the by the Id. counsel for the assessee.

5. Briefly stated, the facts of the case are that the assessee is a wholly owned subsidiary of CPA LLC. The assessee is registered with the Software Technology Park of India [STPI] and is an IT enabled support service provider rendering information technology enabled services related to IP Administration/renewal and data management services, proof reading support, customer support services etc. The assessee caters exclusively to the service needs of its group companies and does not provide service to any third party customers.

6. During the year under consideration, the assessee has undertaken the following international transactions:

Nature of transactions	Method	Value (Rs.)
Provision of ITES	TNMM using	<i>810259233</i>
Reimbursement of expenses	Operating profit	<i>5929073</i>
Payment of interest on ECB	CUP	<i>1467823</i>
Reimbursement of expenses from AEs	CUP	<i>20377465</i>

7. The assessee selected TNMM as the most appropriate method and net cost and margin i.e. operating profit/operating cost as profit level indicator and the same has been accepted by the Assessing Officer/TPO. The assessee selected the following 14 comparables out of which only 3 comparables were accepted by the TPO:

Sl No	Name of the Company	Remarks of this office
1	Accentia Technologies Ltd.	Accepted
2	Aditya Birla Minacs Worldwide Ltd.	Data not available, Rejected
3	CG-VAK Software & Exports Ltd. (Seq.)	Income from BPO Business is less than Rs. 5 crore. Rejected.
4	Caliber Point Business Solutions Ltd.	FY December ending. Rejected.
5	Cepha Imaging Pvt. Ltd.	Functionally not comparables. Rejected
6	Cosmic Global Ltd.	Fails export Sales filter. Rejected.
7	Coral Hub Ltd. (Vishal Info. Tech. Ltd.)	Functionally not comparables. Rejected
8	Fortune infotech Ltd.	RPT, Rejected
9	Informed Technologies India Ltd.	Sales less than Rs. 5 crore. Rejected.
10	Infosys BPO Ltd.	Accepted
11	jeevan Softech Ltd. (Seq.)	Sales less than Rs. 5 crore. Rejected.
12	Jindal intellicom Pvt. Ltd.	Accepted
13	Microgenetics Systems Ltd.	Income from BPO business is less than Rs, 5 crore. Rejected.
14	R systems International Ltd. (Seq.)	FY December ending. Rejected.

8. The TPO, in addition to the three comparables accepted from the assessee's chart selected further 5 comparables as under:

S. No.	Company Name
1	Acropetal technologies Limited(Seg)
2	ICRA Techno Analytics Limited
3	e4e Healthcare Business Services Pvt Ltd
4	Eclerx Services Ltd.
5	TCS E-Serve Ltd

9. Adopting average of 29.53%, the TPO recomputed the operating margin as under:

S. No.	Company Name	OP / TC (%)
1	ICRA Techno Analytics Limited	25.24%
2	Jindai Intellicom Ltd.	13.70%
3	Acropetal technologies Limited(Seg)	14.36%
4	e4e Healthcare Business Services Pvt	9.77%
5	Accentia Technologies Ltd.	29.18%
6	Eclerx Services L td.	56.82%
7	Infosys B P O Ltd.	17.86%
8	T C S E-Serve Ltd. IX	69.31%
	AVG	29.53%

10. Before us, the ld. counsel for the assessee has argued only for exclusion of two comparables, namely E-clerx Services Ltd and TCS E-Serve Ltd. It is the say of the ld. counsel for the assessee that in the immediately preceding Assessment Year, in assessee's own case, the Tribunal has excluded these two comparables from the final set of comparables and drew our attention to the relevant findings of the Tribunal.

11. We have carefully perused the FAR analysis of the assessee for the year under consideration with that of the immediately succeeding Assessment Year. We find that the facts are mutatis mutandis same. This Tribunal in ITA No. 1524/DEL/2017 order dated 03.02.2021 has considered the quarrel relating to the inclusion of E-clerx Services Ltd and TCS E-Serve Ltd. The relevant findings of the co-ordinate bench read as under:

"ECLERX SERVICES LIMITED (ECLERX)

12. The taxpayer sought exclusion of Eclerx on the grounds inter alia that it is functionally dissimilar; that it is also outsourcing substantial amounts of work to outsider and that Eclerx has unreliable data. 13. However, on the other hand, ld. DR for the Revenue drew our attention towards findings given by the ld. DRP

at page 22 of its order and thereby relied upon the DRP findings.  
14. When we examine financials of the Eclerx at page 766 of the paper book, its profile is as under :-

"Who we Are Incorporated in 2000, eClerx services Limited (eClerx) is a Knowledge Process Outsourcing Company providing Data Analytics and Customized Process Solutions to global enterprise clients. eClerx supports core and complex activities for its clients using proprietary processes and a scalable offshore delivery model.

In May 2012, we acquired Agilyst Inc, a niche operational and analytics company focused on the U.S. media and telecom industry. In July 2007 we had acquired Igentica Group which introduced the Company to a client base of global corporation in travel and hospitality industry and strengthened the Company's presence in Western Europe. eClerx equity shares are listed on the Bombay Stock Exchange and the National Stock Exchange of India. As on March 31, 2012 the market capitalization of the Company was Rs. 21,338 million. What We Do The Company supports critical processes for more than 50 clients that include global leaders in Financial Services, Manufacturing, Retail, Media, Travel and Hospitality. About 97% of our revenues come from Fortune 500 or Financial Times 500 clients."

15. Functional profile of Eclerx shows that it is a Knowledge Process Outsourcing (KPO) company and is providing domain specific reengineering expertise in partnership with financial

services firms to increase control and execute ongoing functions. It is also providing consulting, business analysis and solution testing services which provides a broad suite of services that allows its clients to operate on day-to-day basis including trade processing, reference data, accounting & finance and expense management activities. Similarly, under sales and marketing services segment, as has been described at page 767 of the annual report paper book, Eclerx provides web content management & merchandising execution, web analytics, social media moderation and analytics, search engine analytics & support, CRM platform support, lead generation, supply chain and channel analytics, price & catalogue competitive intelligence etc. 16. Coordinate Bench of the Tribunal in case of Ameriprise India Pvt. Ltd. in ITA No.2010/Del/2014 held that Eclerx is having significant intangibles to provide KPO services whereas the taxpayer on the other hand is a captive ITES service provider on cost plus mark-up model with minimal risk. Operative part of the order of the coordinate Bench of the Tribunal is as under :-

*"14.2. After considering the rival submissions and perusing the relevant material on record, we find that it is a Knowledge Process Outsourcing (KPO) company providing data analytics and data process solutions to global clients. This company provides end to end support through trade life cycle including trade confirmations and settlements etc. It also provides sales and marketing support services to leading global manufacturing, retail, travel and leisure companies through its pricing and profitability services. From the above narration of the nature of business carried on by e-Clerx*

*Services Ltd., it is manifest that the same being a KPO company, is quite different from the assessee, providing only IT enabled services to its AE. Apart from that, it is further observed that this company has significant intangibles which it uses in rendering KPO services, against which the assessee does not have any intangibles. As such, e- Clerx Services Ltd. cannot be considered as comparable. The same is directed to be eliminated.”*

17. In other words, the taxpayer is a BPO/ITES service provider which cannot be compared with KPO. 18. Furthermore, when we peruse financials of Eclerx at page 835 of the paper book, it shows that Eclerx is outsourcing its substantial amount of work to outsiders under the head 'contract for services' to the tune of Rs.66,08,10,000/- in addition to payment of salary to the tune of Rs.158,38,70,000/- which is 41% of the total activity carried out by the company. So, for availing ITES services from the outsiders, it is outsourcing its work and as such, cannot be compared with the taxpayer which is working as a captive ITES service provider on cost plus mark-up model with minimal risk.

19. Ld. AR for the taxpayer also contended that financial data of Eclerx in the public domain is not reliable one because turnover appearing in consolidated financial statements is not merely a sum of turnover of Eclerx (as per standalone financials) and its subsidiaries. Rather it includes the turnover of subsidiary companies and drew our attention to pages 821, 849 and 872 of the paper book which is tabulated as under :-

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20. So, the financials of Eclerx available in the public domain, referred to above, are not reliable rather include turnover of its subsidiary companies.

21. Eclerx has been found to be not suitable comparable vis-à-vis captive service provider by the coordinate Bench of the Tribunal in Ariba India Pvt. Ltd. vs. DCIT ITA No.5201/Del/2012.

22. So, in view of what has been discussed above, we are of the considered view that Eclerx is not a suitable comparable vis-à-vis the taxpayer, hence ordered to be excluded.

23. The taxpayer sought exclusion of TCS E-Serve on grounds of functional dissimilarity; providing services predominantly to Citi Group; having high turnover and presence and payment for band; segmental information not available; having abnormal profitability trend and relied upon the decision of Hon'ble Delhi High Court in Avaya India Pvt. Ltd. vs. ACIT in ITA 532/2019, decisions of coordinate Bench of the Tribunal in case of Ariba India Pvt. Ltd. vs. DCIT ITA No.876/Del/2015, and Baxter India Pvt. Ltd. in ITA No.6185/Del/2016.

24. However, on the other hand, Id. DR for the Revenue drew our attention towards findings given by the Id. DRP at pages 22 & 23 of its order and thereby relied upon the DRP findings.

25. When we examine functional profile of TCS E-Serve at page 903 of the paper book which shows that TCS E-Serve is into providing services from various processing facilities which includes processing, collections, customer care payments in relation to services offered to Citi Group, software testing, verification and validation of software. Furthermore, it is predominantly providing services to Citi Group, as is evident from Notes to Accounts to annual report for Financial Year 2010-11 and described at pages 1090 to 1092 of the paper book. From pages 1093 to 1102 of the paper book, it is proved that TCS E-Serve also acquired BPO arm of Citi Group with a \$ 2.5 billion contract for a period of 9.5 years and as such, Citi Group became a related party during FY 2009-10.

26. Furthermore, when we examine the turnover of TCS E-Serve, it is 180 times of the taxpayer and is duly supported by Tata Consultancy Services (TCS)/Tata group having large scale and large client base. TCS E-Serve also contributed brand equity to the tune of Rs.3.67 crores to Tata Sons Ltd. by using its brand name 'Tata' which makes it incomparable vis-à-vis the taxpayer.

27. Hon'ble Delhi High Court in case of Avaya India Pvt. Ltd. in ITA 532/2019 order dated 24.07.2019 excluded TCS E-Serve as a comparable for the purpose of determining the ALP of international transactions involving the assessee and its AE on account of huge turnover and non-availability of segmental revenues by returning following findings :-

"27. There is merit in the contention of the Assessee that the scale of operations of the comparables with the tested entity is a factor that requires to be kept in view. TCS E-Serve has a turnover of Rs.1359 crores and has no segmental revenue whereas the Assessee's entire segmental revenue is a mere 24 crores. As observed by this Court in its decision dated 5th August 2016 in ITA 417/2016(PCIT v. Actis Global Services Private Limited) "Size and Scale of TCS's operation makes it an inapposite comparable vis-a- vis the Petitioner." As already pointed out earlier there is a closer comparison of TCS E-Serve Limited with Infosys BPO Limited with each of them employing 13,342 and 17,934 employees respectively and making Rs.37 crores and Rs.19 crores as contribution towards brand equity. When Rule 10(B) (2) is applied i.e. the FAR analysis, namely, functions performed, assets owned and risks assumed is deployed then brand and high economic upscale would fall within the domain of "assets" and this also would make both these companies as unsuitable comparables. 28. The Director's report of TCS E-Serve Limited bears out the contention of the Assessee that both entities have been leveraging TCSs scale and large client base to increase their business in a significant way. The submission that the two comparables offer an illustration of "an identical transaction being conducted in an uncontrolled manner" overlooks the effect of the Tata brand on the performance of the impugned comparables. The question was not merely whether the margins earned by the Tata group in providing captive service to the Citi entities were at arm's length. The question was whether they offered a reliable basis to re-calibrate the PLI of the Assessee whose scale of operations was of a much

*lower order than the two impugned comparables. The mere fact that the transactions were identical was not, in terms of the law explained in the above decisions, either a sole or a reliable yardstick to determine the opposite choice of comparables.*

*29. For all of the aforementioned reasons, the Court finds merit in the contention of the Assessee that both the impugned comparables viz., TCS E-Serve Limited and TCS E-Serve International Limited ought to be excluded from the list of comparables for the purposes of determining the ALP of the international transactions involving the Assessee and its AEs."*

28. Furthermore, Id. AR for the taxpayer drew our attention towards the abnormal profitability trend of TCS E-Serve since 2004-05 to 2012-13 in tabulated form which is extracted for ready reference as under :-

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29. So, the post acquisition period shows huge profitability trend in the TCS E-Serve which was average OP/OC margin of 19.96% in FY 2004-05 to 2007-08 and shoot up to 60.45% in post acquisition period of FY 2008-09 to 2012-13 which is also a factor to be reckoned with for TP analysis. 30. So, keeping in view the functional dissimilarity, related party transactions, high turnover and payment for brand fee to Tata and abnormal profitability trend discussed in the preceding paras, we are of the considered view that TCS E-Serve is not a suitable comparable vis-à-vis the

taxpayer who is a BPO/ITES service provider, hence ordered to be excluded."

12. Before us, the ld. DR vehemently stated that the assessee is not a low end ITES provider. It is the say of the ld. DR that the assessee is serving thousands of clients of CPA group based in 12 countries serving thousands of law firms/clients. Therefore, the TPO has rightly included E-clerx Services Ltd and TCS E-Serve Ltd. The ld. DR went on to say that in fact, only these two companies are fit to be taken as comparables.

13. We have given thoughtful consideration to the submissions of the ld. DR. As mentioned elsewhere, there is no difference in FAR analysis of the assessee during the year under consideration and in the subsequent Assessment Year i.e. 2012-13.

14. As mentioned hereinabove, this Tribunal has excluded E-clerx Services Ltd and TCS E-Serve Ltd. from the final set of comparables. Respectfully following the decision of this Tribunal, we direct the Assessing Officer/TPO to exclude E-clerx Services Ltd and TCS E-Serve

Ltd. from the final set of comparables. Ground No. 4 with its sub grounds is, accordingly, allowed.

15. Ground No. 6 alongwith Ground Nos. 2, 3 and 4 from additional grounds relate to addition on account of alleged interest on delay in collection of receivables from the AEs.

16. The TPO found that there was a delay in recovering debts from AEs. The TPO was of the opinion that since it was agreed that the debts should be repaid within 45 days and hence there is a delay in recovering debts. The TPO was of the opinion that interest rate of 11.69% would be arm's length of level of interest that needs to be charged for deemed loans advanced for the period of receivables outstanding beyond the period stipulated in the service agreement/invoice and proposed an adjustment of Rs. 1,53,65,454/-.

17. Objections were raised before the DRP and it was strongly contended that working capital adjustment take into account the impact of outstanding receivables and in the alternative, it was pleaded that internal CUP LIBOR + 200 basis points should be applied for such computation.

18. The DRP agreed and granted working capital adjustment and application of internal CUP i.e. Libor + 200 basis points.

19. Before us, the ld. counsel for the assessee vehemently stated that the interest on outstanding receivables is not a financial debt but an operating debt which can be bench marked only on working capital adjustment which already takes into account all debts arising out of operations of a company. Strong reliance was placed on the decision of the Hon'ble High Court of Delhi in the case of Kusum Health Care in ITA No. 765 of 2016 order dated 25.04.2017.

20. Per contra, the ld. DR strongly supported the findings of the TPO. It is the say of the ld. DR that in the garb of receivables outstanding, the assessee has, in fact, tendered loan to its AEs.

21. We have carefully perused the orders of the authorities below. The AE-wise details of the receivables can be understood from the following chart:

Entity	Date of Invoice CA)	Amount (INR) (B)	Date of Receipt (C)	Intervening period (days) till date of receipt/ 31.03.2011 which ever is earlier	Period in excess of 45 days	Interest <§> 11.69% p.a.
CPA Global Limited	30-Apr-10	21,184,741	21-May-10	21	0	-
CPA Global Limited	30-May-10	132,434	21-May-10	21	0	-
CPA Global Limited	31-May-10	22,109,128	24-Aug-10	85	40	283,239
CPA Global Limited	30-Jun-10	22,663,414	24-Aug-10	55	10	72,585
CPA Global Limited	31-Jul-10	22,996,113	24-Aug-10	24	01	-
CPA Global Limited	31-Jul-10	3,317,378	31-Jul-10	31	0	-
CPA Global Limited	31-Aug-10	26,891,071	29-Apr-11	241	196	1,688,052
CPA Global Limited	30-Sep-10	27,828,462	28-Feb-11	151	106	944,750
CPA Global Limited	31-Oct-10	27,815,736	28-Feb-11	120	75	-
CPA Global Limited	31-Oct-10	2,932,043	28-Feb-11	120	75	70,429
CPA Global Limited	30-Nov-10	30,034,321	29-Apr-11	121	76	731,060
CPA Global Limited	31-Dec-10	29,244,887	22-Jul-11	90	45	421,487
CPA Global Limited	31-Jan-11	30,396,519				
CPA Global Limited	31-Jan-11	3,479,132	22-Jul-11	59		
CPA Global Limited	31-Jan-11	1,872,251	22-Jul-11	59	14	8.37
CPA Global Limited	31-Jan-11	351,531	29-Aug-11	59	14	1,576
CPA Global Limited	28-Feb-11	30,970,399	29-Aug-11	31	0	-
CPA Global Limited	31-Mar-11	18,819,829	29-Aug-11	0	0	-
CPA Global Limited	31-Mar-11	2,914,820	22-Jul-11	0	0	-
Total						5,041,61
CPA Global Software Services	30-Apr-10	1,172,417	8-Jul-10	69	24	9,012
CPA Global Software Services	31-May-10	1,174,119	8-Jul-10	38	0	-
CPA Global Software Services	30-Jun-10	1,169,264	27-Sep-10	89	44	16,477
CPA Global Software Services	31-Jul-10	1,171,197	27-Sep-10	58	13	4,876
CPA Global Software Services	31-Jul-10	286,779	27-Sep-10	58	13	1,194
CPA Global Software Services	31-Aug-10	1,341,280	19-Jan-11	141	96	41,239
CPA Global Software Services	30-Sep-10	1,358,962	19-Jan-11	111	66	28,726
CPA Global Software Services	31-Oct-10	1,358,330	19-Jan-11	80	35	15,226
CPA Global Software Services	30-Nov-10	1,376,799	19-Jan-11	80	5	2,205
CPA Global Software Services	31-Dec-10	1,361,347	3-Oct-11	90	45	19,620
CPA Global Software Services	31-Jan-11	1,377,807	3-Oct-11	59	14	6,178
CPA Global Software Services	28-Feb-11	1,368,388	3-Oct-11	31	0	-
CPA Global Software Services	31-Mar-11	582,234	3-Oct-11	0	0	-
CPA Global Software Services	31-Mar-11	124,481	3-Oct-11	0	0	-
Total						144,754
CPA Global Software Services	30-Apr-10	2,124,259	21-Jun-10	52	7	4,762
CPA Global Software Services	31-May-10	2,139,565	14-Aug-10	75	30	20,557
CPA Global Software Services	30-Jun-10	2,058,356	14-Aug-10	45	0	-
CPA Global Software Services	31-Jul-10	2,046,567	31-Aug-10	31	0	-
CPA Global Software Services	31-Aug-10	2,285,110	23-Feb-11	176	131	95,874
CPA Global Software Services	30-Sep-10	2,696,143	23-Feb-11	146	101	87,214
CPA Global Software Services	31-Oct-10	2,840,145	23-Feb-11	115	70	63,674
CPA Global Software Services	30-Nov-10	2,822,353	23-May-11	121	76	68,698
CPA Global Software Services	31-Dec-10	2,768,595	23-May-11	90	45	39,902
CPA Global Software Services	31-Jan-11	2,704,082	23-May-11	59	14	12,125
CPA Global Software Services	31-Jan-11	161,676	23-May-11	59	14	725
CPA Global Software Services	28-Feb-11	2,689,751	26-Sep-11	31	0	-
CPA Global Software Services	31-Mar-11	1,969,380	26-Sep-11	0	0	-
CPA Global Software Services	31-Mar-11	257,067	26-Sep-11	0	0	-
Total						393,531
Foundation IP	30-Apr-10	2,852,601	31-May-10	31	0	-
Foundation IP	31-May-10	3,014,494	24-Jun-10	24	0	-
Foundation IP	30-Jun-10	2,933,841	14-Jul-10	14	0	-
Foundation IP	31-Jul-10	2,881,851	18-Aug-10	18	0	-
Foundation IP	31-Jul-10	248,084	18-Aug-10	18	0	-
Foundation IP	31-Aug-10	3,280,873	13-Sep-10	13	0	-
Foundation IP	30-Sep-10	3,265,715	11-Oct-10	11	0	-
Foundation IP	31-Oct-10	3,262,492	15-Nov-10	15	0	-

Foundation IP	30-Nov-10	3,403,812	20-Dec-10	20	0	
Foundation IP	31-Dec-10	3,571,485	12-Jan-11	12	0	
Foundation IP	31-Jan-11	3,671,194	22-Feb-11	22	0	
Foundation IP	31-Jan-11	267,636	22-Feb-11	22	0	
Foundation IP	28-Feb-11	3,833,559	15-Mar-11	15	0	
Foundation IP	31 Mar 11	2,283,295	28-Apr-11	28	0	
Foundation IP Total	31-Mar-11	291,196	28-Apr-11	28	0	
CPA Global Support Services	30-Apr-10	34,764,761	19-Nov-10	203	158	1,759,211
CPA Global Support Services	31-May-10	40,473,752	28-Jul-10	58	13	168,515
CPA Global Support Services	30-Jun-10	40,847,561	23-Dec-10	176	131	1,713,796
CPA Global Support Services	31-Jul-10	947,471	23-Dec-10	145	100	30,345
CPA Global Support Services	31-Jul-10	40,177,535	31-Jan-11	184	139	1,788,627
CPA Global Support Services	31-Jul-10	187,768	31-Jan-11	184	139	8,359
CPA Global Support Services	31-Aug-10	23,934,899	28-Apr-11	212	167	1,280,176
CPA Global Support Services	30-Sep-10	24,351,435	2-Jun-11	182	137	1,068,481
CPA Global Support Services	31-Oct-10	24,312,278	29-Jun-11	151	106	825,379
CPA Global Support Services	31-Oct-10	778,732	29-Jun-11	151	106	26,437
CPA Global Support Services	30-Nov-10	24,884,845	18-Jul-11	121	76	605,718
A Global Support Services LLC	31 Dec-10					
A Global Support Services LLC	31-Jan-11	25,159,272	18-Jul-11	nv		
Global Support Services LLC	31-Jan-11	1,153,290	18-Jul-11	59	14	5,1/1
PA Global Support Services	28-Feb-11	25,092,043	25-Aug-11	31	0	
PA Global Support Services	31-Mar-11	14,710,396	25-Aug-11	0	0	
PA Global Support Services	31-Mar-11	255,139	25-Aug-11	0	0	*
Total						9,747,021
CPA Global Patent Research LLC	30-Apr-10	6,602,830	23-Jun-10	54	9	19,032
CPA Global Patent Research	31-May-10	6,957,579	7 Jul-10	37	0	
CPA Global Patent Research	30-Jun-10	7,128,525	18-Aug-10	49	4	9,132
CPA Global Patent Research	31-Jul-10	7,368,524	25-Aug-10	25	0	
CPA Global Patent Research	31-Jul-10	132,556	1-Sep-10	32	0	
CPA Global Patent Research	31-Aug-10	5,708,429	20-Oct-10	50	5	9,141
CPA Global Patent Research	30-Sep-10	5,734,778	20-Oct-10	20	0	-
CPA Global Patent Research	31-Oct-10	5,789,857	15-Dec-10	45	0	
CPA Global Patent Research	31-Oct-10	547,274	22-Dec-10	52	7	1,227
CPA Global Patent Research	30-Nov-10	5,956,786	5-Jan-11	36	0	.
CPA Global Patent Research	31-Dec-10	5,773,097	31-Jan-11	31	0	
CPA Global Patent Research	31-Jan-11	5,934,747	14-Mar-11	42	0	-
CPA Global Patent Research	31-Jan-11	327,043	14-Mar-11	42	0	
CPA Global Patent Research	28-Feb-11	5,918,547	29-Mar-11	29	0	>
CPA Global Patent Research	31-Mar-11	4,001,321	4-May-11	0	0	
CPA Global Patent Research	31-Mar-11	359,154	4-May-11	0	0	
Total						38,533
Grand Total						15,365,454

22. From the above chart, it can be seen that the invoices pertain to the year under consideration only and in most of the cases, the delay is NIL or less than 45 days. It is true that in some of the cases, the delay is more than the stipulated period of 45 days. At this juncture, it

would be pertinent to refer to the most relevant observations of the Hon'ble High Court of Delhi in the case of Kusum Health Care [supra]

"10. The above analysis empirically demonstrates that the differential impact of working capital of the vis-a-vis its comparables has already been factored in the pricing/profitability of the assessee which is more than that working capital adjusted margin of the comparables. Hence, any further adjustment to the margins of the assessee on the pretext of outstanding receivables is unwarranted and wholly unjustified.

11. In this regard, we would also like to place reliance on the judgement of *Micro ink Ltd* [TS-216-ITAT-2013(Ahd)-TP] wherein the ITAT upheld the above principle and deleted the adjustment on account of alleged excess credit period allowed to AE. The Hon'ble ITAT observed the following in the judgment:

"Para 20 - The only other ALP adjustment in appeal before us is with respect to what the authorities below have treated as, excess credit period allowed to *Micro USA*. This adjustment must be deleted for the short reason that it was part of the arrangement that specified credit period was allowed and thus the cost of funds blocked in the credit period was inbuilt in the sale price. ""

23. We have been told that in the subsequent year, no addition has been made on this account and in earlier Assessment Year small additions were made which were not contested on the smallness of the

amount. In light of the aforementioned observations of the Hon'ble High Court of Delhi, we are of the considered view that the figure of receivables mentioned elsewhere do not reflect a pattern and, as held by the Hon'ble High Court [supra], the assessee has already fettered the impact of receivable on the working capital which has been accepted by the DRP.

24. Considering the facts in totality in light of the decision of the Hon'ble High Court of Delhi in the case of Kusum Health Care [supra] we direct the Assessing Officer/TPO to delete the addition of Rs. 64,40,609/-. Ground No. 6 alongwith related grounds in the additional grounds is allowed.

25. In the result, the appeal of the assessee in ITA No. 6815/DEL/2015 is allowed.

The order is pronounced in the open court on 01.10.2021.

Sd/-

**[LALIET KUMAR]  
JUDICIAL MEMBER**

Sd/-

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 1<sup>st</sup> October, 2021

VL/

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before	
Date on which the typed draft is placed before	
Date on which the approved draft comes to the	
Date on which the fair order is placed before the	
Date on which the fair order comes back to the	
Date on which the final order is uploaded on the	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant	
Date of dispatch of the Order	

