

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'I', NEW DELHI**

**Before Sh. C. N. Prasad, Judicial Member
Dr. B. R. R. Kumar, Accountant Member**

ITA No. 424/Del/2022 : Asstt. Year : 2017-18

Belden India Pvt. Ltd., Unit No. 233-236, 2 nd Floor, Spaze Edge, Tower-B, Sohna Road, Sector- 47, Gurgaon, Haryana-122002	Vs	DCIT, Circle-1(1), Gurgaon
(APPELLANT)		(RESPONDENT)
PAN No. AACCB9624Q		

**Assessee by : Sh. Vishal Kalra, Adv.
Revenue by : Sh. Rajesh Kumar, CIT DR**

Date of Hearing: 30.01.2023

Date of Pronouncement: 03.02.2023

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal has been filed by the assessee against the order dated 31.01.2022 passed by the AO u/s 143(3) r.w.s. 144C(13) of the Income Tax Act, 1961.

2. Following grounds have been raised by the assessee:

"1. That on the facts and circumstances of the case and in law, the Ld. AO / DRP has erred in making additions to the total income of the Appellant by INR 1,96,22,928 on account of corporate tax disallowances made u/s 143(1) of the Act and transfer pricing adjustments made by the Ld. TPO u/s 92CA(3) of the Act.

2. That on the facts and circumstances of the case and in law, the Ld. AO has grossly erred in computing higher assessed income on account of double disallowance u/s 143(1) of the Act for certain expenses, thereby resorting to double taxation in respect of below mentioned expenses.

The expenses which have been subject to double disallowance include:

- Expenses towards 'provision for gratuity' (INR 90,31,226); and*
- Expenses towards 'Middle management incentive' (INR 16,08,656)*

3. That the Ld. AO erred in not taking cognizance of the submissions made by the Appellant that the expenses towards 'provision for gratuity', disallowed in the intimation u/s 143(1) have already been disallowed by the Appellant in its computation of income.

4. That on the facts and circumstances of the case and in law, the orders passed by the Ld. AO / TPO/ DRP in respect of transfer pricing adjustment are not in accordance with law and contrary to the facts and circumstances of the present case, are bad in law and liable to be annulled.

5. That on the facts and circumstances of the case and in law, the Learned AO/ TPO / DRP have erred by not satisfying any of the conditions prescribed under section 92C(3) of the Act and making an impugned transfer pricing adjustment without appreciating and understanding the intricacies and criticalities of the case and the business model of the Appellant.

6. The Learned AO/TPO/DRP have erred in making an adjustment of INR 62,79,702 in relation to provision of marketing support services by the Appellant to its Associated enterprises ("AEs"). While making the adjustment, on the facts and circumstances of the case and in law, the Learned AO/TPO/DRP have erred in:

6.1 Not appreciating the business model, functional, asset & risk analysis undertaken by the Appellant for marketing support services.

6.2 Rejecting the economic analysis undertaken by the Appellant for business support services segment

using Transactional Net Margin Method ("TNMM") without providing any cogent material on record.

6.3 Rejecting/modifying the selection criteria/filters applied by the Appellant for selection of comparable companies without providing any valid rationale.

6.4 Rejecting certain comparable companies selected by the Appellant in the TP study on account of alleged functionally dissimilarity by completely ignoring the detailed contentions provided by the Appellant against their rejection.

6.5 Resorting to cherry-picking of companies with a pre-conceived notion of making adjustment and not providing details of the economic analysis conducted by the Learned TPO for identification of the said new companies as 'comparable'.

6.6 Ad-hoc selection of certain additional companies as comparables in the final set without taking due-cognizance of the submissions made by the Appellant with respect to non-comparability of companies additionally identified by the Learned TPO.

6.7 Not providing for suitable economic adjustments to account for differences in working capital employed and the corresponding risk profile of the Appellant vis-à-vis comparable companies while computing the adjustment.

7. That on the facts and circumstances of the case and in law, the Ld. AO / TPO/ DRP have erred in excluding the following companies from the final set of comparables while determining the arm's length price:

- Kingston Property Services Private Limited*
- A 2 Z Infra services Limited*
- Lancor Maintenance and Services Limited*

That on the facts and circumstances of the case and in law, the Ld. AO / TPO/ DRP have erred in including the following companies in the final set of comparable while determining the arm's length price:

- S G Analytics Pvt. Ltd.*
- Axis My India Ltd.*

- *Majestic Research Services & Solutions Ltd.*
- *Bombay Publicity Service Private Limited*
- *Concept Public Relations India Limited*
- *Oremus Corporate Services Private Limited*
- *Crystal Hues Limited*

9. *Without prejudice to above, and on the facts and circumstances of the case and in law, the Ld. AO has grossly erred by computing an incorrect tax demand in the final assessment order amounting to INR 1,04,28,560 by considering inaccurate particulars of assessed income (at INR 3,23,91,048) as compared to the assessed income computed by the Ld. AO himself in the final assessment order (at INR 2,96,87,700). The said erroneous computation is a mistake apparent from record.*

10. *That on the facts and circumstances of the case and in law, the Ld. AO has erred in not granting credit of tax deducted at source amounting to INR 91,874.*

11. *That on the facts and circumstances of the case and in law, the Ld. AO has erred in not granting available credit of excess minimum alternate tax amounting to INR 1,63,858.*

12. *That on the facts and circumstances of the case and in law, the Ld. AO has erred in levying consequential interest under Sections 234B and 234C of the Act."*

3. The facts of the case are as under:-

The Appellant is primarily engaged in the business of trading of data cables, connectors, industrial connectivity products, network equipment's and related services comprises of consultancy, design, training and technical support. During the AY 2017-18, the Appellant was engaged in provision of market support services to its AE, namely Belden Singapore for the sale of finished goods directly by Belden Singapore. Belden India

acted as a sales representative for Belden Singapore, providing the following services:

- Provision of marketing leads / information
- Promote, market and solicit orders for sale of products to the customers as directed by Belden Singapore

4. For the provision of above support services, Belden India receives a commission of 3 percent of net sales of the products procured by Belden India for Belden Singapore with actual operating expenses incurred by Belden India in connection with such services. The Appellant rendered market support services to its overseas AE namely Belden Singapore. For the subject year, the AO has made an addition of INR 62,79,702 to the returned income of the Appellant on account of transaction pertaining to Market Support Services (MSS). Considering the functional and risk profile of these transactions and examining the available comparable data, and in accordance with the Indian Transfer Pricing regulations, the TNMM using Net Operating Profit Margin based on cost ("NCP") as the PLI, was selected to be the most appropriate Transfer Pricing methodology.

5. Details of disputed international transaction are as below:

Transfer Pricing Approach adopted by Assessee in TP Study

<i>International Transaction</i>	<i>Transfer Pricing Method</i>	<i>Belden India</i>			<i>Result of Comparability Analysis Arithmetic mean</i>
		<i>PLI</i>	<i>Total Value of Transaction (Amount in INR)</i>	<i>Margin</i>	
<i>Provision of market support services</i>	<i>Transactional Net Margin Method ("TNMM")</i>	<i>Operating Profit/ Operating Cost ("OP/OC")</i>	14,05,69,587	8.64 percent	8.47 percent (4 comparables)

The TPO/DRP rejected three out of four comparables selected by the Assessee in the TP documentation on account of functional dissimilarity. Further, introduced 7 additional comparables to arrive at a final set of 8 comparable companies and determined the ALP of 12.66 percent and 19.78 percent with a median of 12.91 percent.

6. At the outset it was submitted before the bench the assessee would like to contest for execution of 3 comparables namely,

- SG Analytics Pvt, Ltd.
- Axis My India Ltd.
- Majestic Research Services and Solutions Ltd.

1. SG Analytics Pvt, Ltd:-

7. The Id AR argued that SG Analytics is engaged in the provision of research and analytics services which includes Environmental, Social Governance ("ESG") consulting, investment research, market research, data management and analytics and Robotic Process Automation ("RPA"). It covers the following:

- a) Investment Research - The company claims to be one of the top investment research firms. It produces high-quality, in- depth, and tailored investment and financial research services to help clients successfully navigate financial markets, enhance their portfolios, and make strategic decisions.
- b) Data management & Analytics - It offers marketing analytics, customer analytics, research analytics, sales

analytics, and other data analytics services under one umbrella.

c) RPA Services - Robotic process automation (or RPA) is a form of business process automation technology based on metaphorical software robots (bots) or on artificial intelligence (AI)/digital workers. It provides end-to-end RPA solutions to its global clients.

d) ESG Consulting - It provides one-stop solution for ESG management goals. It has expertise in improving disclosure quality, assessing sustainability performance, bridging gaps, monitoring progress, and driving resilience to ensure business continuity.

e) Market Research - It helps businesses identify growth opportunities and build a competitive strategy based on deep understanding of customers and overall marketplace.

8. It was argued that, as given above, the company is offering wide range of services and engaged primarily in investment research, data analytics & RSA services whereas, the assessee is engaged in rendering of market support services which includes identification of customers, communicating product information, maintaining customer relations etc.

9. The Id AR further argued that the company has not reported any segments in its financial statements, therefore if any service was found to comparable it is not possible to discern the financial result of the particular segment and hence this company ought to be excluded from the final set of comparables. It was further argued that the assessee acts as a sales representative for Belden Singapore for the sale of finished goods directly by Belden Singapore whereas the comparable

selected by TPO is providing Research and Analytics services serving clients like Asset Managers & Hedge Funds, Commercial and Private Banks, Private Equity Participants, Wealth Managers, Stock exchanges, etc. Arguing thus, the Id AR submitted that the clientele and the services rendered by the company is in complete contrast to the assessee company.

10. The Id DR vehemently opposed to the arguments of the Id Counsel for the assessee. It was argued that that the assessee company is engaged in providing "Marketing Support Services" to AEs for sale of finished goods directly by the AEs. The details of the services provided by the assessee company to its AE as mentioned in TPSR are

- (i) assistance in identification of customers
- (ii) communicating product information to customer
- (iii) customer relation
- (iv) market research
- (v) provision of liaison activities
- (vi) reporting

11. It was argued that from the perusal of the above broad categories, it is clear that the assessee company is providing all the services related to sales and marketing of the products. The assessee company is responsible for identification of customers, interaction with customers, maintaining long term relationship with customers, forwarding the feedback of the customers, ensuring supply of material to the customer, then collection of payments from the customer etc., which in other words means that all the activities related to sale of products of AEs along with the entire customer interface/interaction is taken care of by

the assessee company. It was argued that as mentioned in the TPSR, the assessee company is doing complete marketing which included entire market research for the AEs. The marketing and the market research functions as mentioned by the assessee in TPSR are detailed below:-

- (a) Assessee company provides market information to AE
- (b) The assessee company is responsible for studying and analyzing Indian market for demand and supply situation and also for the products specification.
- (c) The assessee company does competitor profiling for the AEs,
- (d) The assessee company informs the AE about government outlook/policies etc,
- (e) The assessee company provides reports on business development in India, all the interactions with the customers is taken care by the assessee company.

12. It was reiterated that the assessee company does complete marketing and market research on behalf of its AE and in fact AEs are just issuing the invoices in the name of the customers whereas all the work related to sales, marketing and market research etc is completely done by the assessee company. Further it is clearly mentioned under the "Reporting" column at page 148 that the assessee company employs marketing and research professional who carry out the above noted market research functions on behalf of the AEs.

13. It was argued by the Id DR that total business generated by the AEs in India through assessee company and the assessee company received a commission of 3% of net sales made by the

AE to the customers in India as well as the actual operating expenses incurred by the assessee company which are attributable to the market support services. From the notes to the financial statements it is seen that the assessee company has received commission income of Rs. 14,05,69,587/-. Thus from reverse calculation, if this 14 crores commission income is 3% of sales revenue, it makes the total sales done by the assessee company of more than 400 crores of finished products of the AEs to the customers in India. This fact of facilitating sales of more than 400 crores is clearly evident from the assessee financials as well as TP report.

14. The Id DR argued that from the perusal of the documents submitted by the assessee, it is seen that M/s SG Analytics Pvt. Ltd. is involved in financial services, data analytics, investment research and market research, Thus it is seen that like the assessee company M/s SG Analytics also primarily deals in market research function. Rebutting the arguments of the Id AR, it was submitted that the assessee has tried to highlight data analytics, mentioned by M/s SG Analytics Pvt. Ltd as a major high end function but anybody who is aware about the research activities can certify that the first function for any financial/market research is data handling and its analysis only. So all the companies including the assessee company is involved in data analytics and the predominant function of both the assessee company and M/s SG Analytics is same i.e. market research. Thus it can be safely concluded that there is broad similarity of functions in assessee company and M/s SG Analytics which is market research and in TNMM only broad similarity of functions is required. Like assessee company, M/s SG Analytics also gets its revenue primarily from the services income, as

mentioned in its financial and it passes all the filters applied by assessee/TPO.

15. With regard to the extraordinary events such as the comparable was involved in a finance fraud in F.Y 2015-16 which has been evidenced by the Company's investigating team and the statutory auditors, it was submitted that the so called fraud was committed in F.Y. 2015-16 and it is related to wrong cash withdrawal by employee. It is not known how this fraud is affecting the financials of F.Y. 2016-17. In fact if a fraud has taken place then it should reduce the profit margins and the assessee should not have any grievance because of that fraud.

16. Against the submissions of the Id DR the counsel for the assessee has submitted his rebuttal in writing. It further elaborated that the investment research, data management analytics, RPA services, ESG consulting, market research conducted by the comparable company are different from the assessee company. It was also submitted that the company has not reported any segmentals, hence, same cannot be considered.

17. Heard the arguments of both the parties and perused the material available on record.

18. We have considered the judgment of the Hon'ble Delhi High Court in the case of Ramgreen Solutions Pvt. Ltd. vs CIT: 377 ITR 533 (Del) wherein it was held as under:-

"42. Before concluding, there is yet another aspect of the matter that needs consideration. The Tribunal proceeded on the basis that while applying TNMM method; broad functionality is sufficient and it is not necessary that further effort be taken to find a comparable entity rendering services of similar characteristics as the tested entity. The DRP held that TNMM allows flexibility and tolerance in selection of comparables, as functional dissimilarities are subsumed at net margin levels, as compared to Resale Price Method or Comparable

Uncontrolled Price Method and, therefore, the functional dissimilarities pointed out by the Assessee did not warrant rejection of eClerx and Vishal as comparables.

43. In our view, the aforesaid approach would not be apposite. Insofar as identifying comparable transactions/entities is concerned, the same would not differ irrespective of the transfer pricing method adopted. In other words, the comparable transactions/entities must be selected on the basis of similarity with the controlled transaction/entity. Comparability of controlled and uncontrolled transactions has to be judged, inter alia, with reference to comparability factors as indicated under rule 10B(2) of the Income Tax Rules, 1962. Comparability analysis by TNMM method may be less sensitive to certain dissimilarities between the tested party and the comparables. However, that cannot be the consideration for diluting the standards of selecting comparable transactions/entities. A higher product and functional similarity would strengthen the efficacy of the method in ascertaining a reliable ALP. Therefore, as far as possible, the comparables must be selected keeping in view the comparability factors as specified. Wide deviations in PLI must trigger further investigations/analysis.

44. Consideration for a transaction would reflect the functions performed, the significant activities undertaken, the assets or resources used/consumed, the risks assumed. Thus, comparison of activities undertaken/functions performed is important for determining the comparability between controlled and uncontrolled transactions/entity. It would not be apposite to ignore functional dissimilarity only the reason that its impact may be reduced on account of using arithmetical mean the PLI. The DRP had noted that eClerx was functionally dissimilar, but ignored same relying on an assumption that the functional dissimilarity would be subsumed in the profit margin. As noted, the content of services provided by the Assessee and the entities in question were not similar. In addition, there were also functional dissimilarities between the Assessee and the two entities in question. In our view, these comparability factors could not be ignored by the Tribunal. While using TNMM, the search for comparables may be broadened by including comparables offering services/products which are not entirely similar to the controlled transaction/entity. However, this can be done only if (a) the functions performed by the tested party and the selected comparable entity are similar including the assets used and the risks assumed; and (b) the difference in services/products offered has no material bearing on the profitability.”

19. In this background we find that the assessee company is into identification of customers, communication of the customers, market research, liaison, and reporting activities. The comparable is also doing research in financial market for their clients, financial research services to help clients and make the clients to make strategic decisions. The data management and analytics are of the basic parameters to be considered in the market research which will help the client to take prudent commercial decisions in augmenting the profits. The comparable is also offering marketing analytics, customer analytics, research analytics, sale analytics and other analytics which is akin to the functions of the assessee. The RPA involves planning, implementing management and operating which is also similar to the function of the assessee which involves planning in identification of the customer and operating and management of the orders and provision of support services to get orders further principle. Both companies involves in providing primary and secondary research and also providing end to end support for their clients. Hence, we hold that the comparable has been rightly selected.

2. Majestic Research Service & Solutions Ltd:-

20. At the outset the Id AR argued that the subject company was excluded from final set of comparables on functional dissimilarity by the TPO in the AY 2018-19. It is not in dispute that for the AY 2018-19 the TPO rejected the comparable. The Id AR argued that the comparable in question is a market research agency, relying extensively on use of the technology for data

acquisition and delivery of the solutions thereof. Based on the data acquired, Majestic provides a wide range of qualitative and quantitative research services to its customers. The comparable offers a broad suite of customized solutions that cater to businesses at various stages of product development or launch across the product life cycle. Further, it not only focuses on market research, advertising research, brand research and consumer research, but also offers an array of other research services to assist companies in developing more successful products and stronger brands. It was argued that the comparable is also engaged in partnering with other companies for research work, due to which there are mergers, acquisitions and divestments reported in the annual report. Due to such merger and acquisition strategies, the company has shown an extraordinary and inorganic growth of 94.31% in FY 2016- 17.

21. Rebutting the arguments of the Id AR, the departmental representative Shri Rajesh Kumar vehemently argued that from the perusal of the documents it is seen that the comparable is mainly involved in market research, advertising research, brand research, consumer research and other research services to assist companies in developing successful products/brands. Thus predominantly it is doing the market research and the consumer research and both these functions are also done by the assessee company in relation to its parent company. As mentioned in the functional profile of the assessee company, it is absolutely clear that the assessee company does complete customer interface right from the identification of the customer and his requirements to delivery of products/ payments to the AE. Also, the assessee company is involved in doing complete market research for its AE, the same functions performed by the

Majestic Research Service & Solutions Ltd. It was argued that Majestic Research Service & Solutions Ltd. is claimed to be doing whole lot of other high and functions but from the financials reveal that the company has revenue of around 23 crores and some of the functions alleged to be conducted by the Majestic Research Service & Solutions Ltd. mentioned in its website appears to be more of future plans which has nothing to do with the current year. Thus, it was argued that the assessee functional profile is similar to the function profile of Majestic Research Service & Solutions Ltd. and the same should be retained as the comparable.

22. With regard to extraordinary and inorganic due to mergers and growths as canvassed by the Id AR, it is not in dispute that there was no merger/ acquisitions in the instant year as contended. In fact there was only disinvestment of share holding which has no impact on the P&L Account.

23. With regard to the revenue recognition policy the Id AR argued that since the comparable policy different revenue recognition method the same cannot be compared. It was argued that the company recognizes revenue of completion of services and not on accrual basis i.e. revenue is recognized only once the contract is completed. Whereas, the Assessee recognizes its revenue on accrual basis to account for the cost incurred. It was argued that on this count alone, Majestic cannot be compared to the Assessee due to difference in revenue recognition policies giving rise to variations in profitability over the years.

24. Rebutting the argument of the counsel of the assessee, the Id DR argued that the assessee has only mentioned part of the

revenue recognition policy of Majestic Research Service & Solutions Ltd. For ready reference, the revenue recognition policy as mentioned in the Director's report is brought our notice which is as under:-

G. Revenue Recognition: (page no. 312)

Revenue is primarily derived from market research and related services. Revenue is recognized on completion of service to be rendered to the customer. Revenue from partly complete contracts is recognized on percentage of completion method except when there is uncertainty as to measurement ultimate collectability then revenue recognition is postponed until such uncertainty is resolved.

25. The Id DR argued that from the perusal of the above, it is seen that revenue recognition policy of Majestic Research Service & Solutions Ltd. is similar to the assessee company and the assessee allegations are unfounded. On the issue of the said company has been rejected by the Ld. TPO herself in Assessee's own case for A.Y 2018-19, the Id DR argued that this concern of the assessee has been duly rejected by the DRP by speaking order however the following facts are mentioned for consideration of the bench. The Id AR Shri Vishal Kalra submitted his rebuttal in writing which has been duly examined.

26. Heard the arguments of both the parties and perused the material available on record.

27. On the issue of functions performed by both the entities, we find that the assessee does conduct market research and provide market support to the AE. This functions include identification of the customer, market research, liaison and reporting. The assessee provides market information to the AE, responsible for studying and analyzing the market does the

competitor profiling and provides for business development and interaction with the customers. Similarly, the comparable also does not market research which is financial research, provides marketing analytics, customer analytics, research analytics, sales analytics. Doing so the comparable also uses artificial intelligence and robotic process automation to some of the clients. The comparable is also into market research which helps business to identify growth opportunities and build a competitive strategy based on the deep understanding of the customers and overall market place. Hence, we find no difference in the functions of the assessee and the comparable. Further, as held by the Hon'ble Jurisdictional High Court in the case of Ram Green Solutions Pvt. Ltd (supra), the company can be rightly included for comparability analysis by TNMM as the functions performed by the tested party and the comparable entity are similar.

28. On the issue of revenue recognition we find that the comparables revenue is primarily derived from market research and related services. Revenue is recognized on completion of service to be rendered to the customer. Revenue from partly complete contracts is recognized on percentage of completion method except when there is uncertainty as to measurement ultimate collectability then revenue recognition is postponed until such uncertainty is resolved. This clearly shows that the percentage completion method is not follow only when there is uncertainty, otherwise the revenue is recognized as the accounting standards mandated by Company Act as recommended by ICAI. A continuous, systematic and regular accounting method reflects the right profits. It cannot be said that the comparable is following a faulty method of accounting to

reflect that true profits. As long as the right profits are disclosed as per the statutory Acts a comparable cannot be excluded. In this case there is no reason to allege the profits of the Majestic are not true and not reflective of the correct profits. Hence, we hold that the comparable has been rightly included.

29. On the issue of mergers and acquisition we find that the assessee contentions are without any basis as there was no merger and acquisitions in the current year by Majestic Research Service & Solutions Ltd. For ready reference, the comments in the annual report at page no. 284 regarding mergers and acquisitions is mentioned below-

22. MERGERS, ACQUISITIONS AND DIVESTMENT

Your company had divest its shareholding in Scent analysis Majestic Pvt. Ltd. To its IV partner Analysis the Scent International GmbH. The decision to divest from this business was due strategic differences in the business model to be followed. MRSS believes that the services it offers its clients should not be restrictive and not from one single partner only. MRSS prefers to be an aggregator of 'Market Research Technologies' and so would be the case in the area of 'Sensory Research'.

The Company has transferred 50% Stake and control in Scent Analysis Majestic Pvt. Ltd. To Analysis the Scent International GmbH and its nominee on 28th December, 2016.

30. From the above, it is seen that there was no mergers/acquisitions in the instant year as contended by the assessee. In fact there was only divestment of shareholdings which has no impact in the instant year's P&L account. And, the assessee company's contentions appear to be irrelevant and baseless as far as selection of the company as comparable is concerned.

31. On the issue of rejection by the TPO in the subsequent year we hold that the facts have been examined on year to year

basis. During the instant year we find that the comparable is not beyond any filters applied and matches the FAR analysis. We need to look into and examine whether the comparable in question can be considered as right comparable which can be included TP Study for the year before us based on the functions, assets and risks. It is unnecessary to comment without examining the FAR of the subsequent year as to whether this comparable can be included in the current year or not. As the facts pertaining to the instant year are concern we find that Majestic can be considered as a right comparable.

32. Reliance in this regard is placed on the decision in the case of McKinsey Knowledge Centre (P.) Ltd. vs DCIT: [2017] 183 TTJ 553 (Delhi - Trib.) wherein it was held that

“35. It is the prerogative of the AO/TPO to accept or reject a company as comparable after considering all the relevant aspects. Once the TPO/AO accept a company offered by the assessee as comparable, then that becomes final qua the Revenue.”

3. Axis My India Limited:-

33. The assessee has mainly objected on the following grounds:-

The Id AR argued the Company offers solutions related to mass media advertising, marketing solutions, printing technology, market research and survey and on-ground rural activations. The Company provides a platter of specialized research solutions The Company has the most innovative and RBI approved printing house. It authorities Axis to print sensitive documents like

Cheques (MICR), Railway Tickets, Public Utility Bills as well as Government schemes related printing. For F.Y 2016-17, the Company derived revenue as follows:

Printing of Magazines & Periodicals -17%

Advertisement- 72%

Market research and public polling-11%

34. The Id DR argued that this company also deals in market research activities as clearly mentioned at page 112 of functional profile of the company. Further, this company functions are similar to the functional profile of M/s Pressman advertising ltd, which is selected by the assessee/its specialized agency as comparable to the assessee company and emphasized time and again before the AO/TPO. Further, M/s Pressman advertising ltd was also found as comparable by TPO/DRP and as functions of this company is similar to Axis My India, accordingly the assessee cannot take a different stand before the ITAT. It was also argued that the revenue from different streams is clearly mentioned and maximum revenue has come from services functions only.

35. Heard the arguments of both the parties and perused the material available on record.

36. It is a fact on record that the comparable has revenues from Printing of Magazines & Periodicals of 17%, from Advertisement of 72% and from Market research and public polling of 11%. Thus, we find the maximum revenue are from advertisement and periodicals. The complete segmental financial of the comparable company are not available. Further, we find that this company is functionally dissimilar as it is engaged in

the business of printing custom-made government transactional documents, Railway Reservation Tickets, Electricity Bills, LPG gas bills, envelopes etc. the comparable also undertakes contracts of printing of electricity bill together with customer specific data as provided by the issuer of the bills. Hence, we hereby hold that owing to the dissimilarity in the functions this company be excluded from the comparables.

37. In the result, the appeal of the assessee is allowed.

Order Pronounced in the Open Court on 03/02/2023.

Sd/-

(C. N. Prasad)
Judicial Member

Dated: 03/02/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR