

**IN THE INCOME TAX APPELLATE TRIBUNAL
Hyderabad 'A' Bench, Hyderabad**

Before Shri Rama Kanta Panda, Accountant Member

AND

Shri K.Narasimha Chary, Judicial Member

ITA-TP No.280/Hyd/2022		
Assessment Year: 2016-17		
Vedams Software Solutions India Private Limited Plot No.82/D, 83/D Survey No.78, Patrika Nagar, Madhapur Hyderabad-500 081 PAN : AABCV8458K	Vs.	ACIT,Circle-17(2) Signature Towers Sy.No.6(P) of Kondapur Sy.No.37(P) of Kothaguda Opp. Botanical Gardens Serilingampally(M) R.R.Dist Hyderabad
(Appellant)		(Respondent)
Assessee by:		Sri A.Srinivas, CA
Revenue by:		Shri Rajendra Kumar, CIT-DR
Date of hearing:		02.03.2023
Date of pronouncement:		02.03.2023

ORDER

Per Shri Rama Kanta Panda, A.M.

The appeal filed by the assessee is directed against the order dated 28.06.2022 of the Learned Commissioner of Income Tax (Appeals)-10, Hyderabad relating to AY 2016-17.

2. Facts of the case, in brief, are that the assessee is a company, engaged in the business of Software Development. It filed its return of income on 28.11.2016 declaring total income of Rs. 2,88,53,860/-. The AO completed the assessment u/s. 143(3) r.w.s. 144C(3) of the I.T.Act, 1961, determining the total income of the assessee at Rs. 3,74,69,566/- wherein he made addition of Rs. 81,56,465/- on account of TP adjustment and disallowed on account of Rs. 4,59,241/- on account of delayed payment of employees' contribution to PF and ESI.

2.1 Since the assessee did not appear before the Id.CIT(A), the Id.CIT(A) in the ex-parte order passed by him dismissed the appeal filed by the assessee by sustaining the additions made by the AO.

3. Aggrieved with such order of the Ld.CIT(A), the assessee is in appeal before the Tribunal by raising the following grounds.

1.The order of the Appellate Commissioner is contrary to law, facts and circumstances of the case.

2. The Appellate Commissioner erred in following the order of the TPO in determining TPO adjustment to arrive at Arm's Length Price of Rs.81,56,465/- for the international Transaction.

3. The Appellate Commissioner in rejecting the 4 comparable taken by the Assessee to determining the Arm's Length Price adjustment.

4. The Appellate Commissioner in including 15 companies as comparable, to arrive at the adjustments, based on Arm's Length Price.

5. The Appellate Commissioner erred in adding an amount of Rs.4,59,241/- being the amount paid by the Assessee of employee's contributions of PF/ESI, rejecting the contention of the Assessee that the same have been paid within the due date allowed u/s. 139(1).

6. Any other grounds which the appellant may urge either at or before the date of hearing.

4. The Id. Counsel for the assessee at the outset submitted that the assessee had filed an adjournment application on 27.06.2022 requesting for an adjournment up to 12.07.2022 but the Id.CIT(A) without considering such adjournment application passed the order on 28.06.2022 dismissing the appeal filed by the assessee and thereby sustaining the various additions made by the AO. The Id.counsel for the assessee to support his contention that assessee had filed the adjournment application filed a copy of the same from the portal of the department which is as under:-

Dashboard > Pending Actions > e-Proceedings > View Notices > Adjournment Details

Adjournment Details

Notice Details

PAN	Name of Assessee	Notice Section	Description
AABCV8458K		250	[ITBA]Hearing Notice u/s 250 of Income Tax Act 1961.

Issued on: 23-Jun-2022
Response Due Date: 27-Jun-2022

Adjournment request details

Adjournment Request Date	Reason for seeking adjournment	Adjournment sought up to	Status/Action	Adjourned date for submission of response	ITD Remark
27-Jun-2022	<u>Out of station</u>	12-Jul-2022	Open		

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4.1 He accordingly submitted that in the interest of justice, the assessee should be given an opportunity to substantiate his case.

5. The Id. DR on the other hand strongly supported the order of the Id.CIT(A).

6. We have heard the rival arguments made by both the sides and perused the record. A perusal of the adjournment application filed by the assessee on 27.06.2022 shows that he was seeking adjournment of the case up to 12.07.2022 on the ground that the assessee is out of station. However, the Id.CIT(A) without considering the request of the assessee for such adjournment

decided the appeal on 28.06.2022. It is the submission of the ld.counsel for the assessee that given an opportunity, the assessee is in a position to substantiate his case by filing the requisite details before the ld.CIT(A). Considering the totality of the facts of the case and in the interest of justice, we deem it proper to restore the issue to the file of the ld.CIT(A) with a direction to grant one more opportunity to the assessee to substantiate his case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the ld.CIT(A) without seeking any adjournment under any pretext, failing which the ld.CIT(A) is at liberty to pass appropriate order as per law. We hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

7. In the result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the Open Court at the time of hearing itself i.e on 02nd March, 2023.

Sd/- (K.NARASIMHA CHARY) JUDICIAL MEMBER	Sd/- (RAMA KANTA PANDA) ACCOUNTANT MEMBER
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Hyderabad, dated 02.03.2023

Thirumalesh/sps

Copy to:

S.No	Addresses
1	Vedams Software Solutions India Private Limited Plot No.82/D, 83/D Survey No.78, Patrika Nagar, Madhapur Hyderabad-500 081
2	ACIT,Circle-17(2) Signature Towers Sy.No.6(P) of Kondapur Sy.No.37(P) of Kothaguda Opp. Botanical Gardens

	Serilingampally(M) R.R.Dist Hyderabad
3	CIT(IT&TP), Hyderabad
4	DR, ITAT Hyderabad Benches
5	Guard File

By Order