

**IN THE INCOME TAX APPELLATE TRIBUNAL
"H" BENCH, MUMBAI**

**SHRI AMARJIT SINGH, ACCOUNTANT MEMBER
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No. 5078/MUM/2024
(Assessment Year: 2021-2022)**

SkillNet Solutions India Private Limited

817, Raheja Chambers, Free Press Journal Road,
Nariman Point, Mumbai-400021.Maharashtra.

[PAN:AAFCS3362P]

..... **Appellant**

Vs

**Deputy Commissioner of Income Tax,
Circle – 3(3)(1),**

Aaykar Bhavan, Mumbai - 400020,
Maharashtra.

..... **Respondent**

Appearance

For the Appellant/Assessee : Shri Sagar Sawhney
For the Respondent/Department : Shri Uodal Raj Singh

Date

Conclusion of hearing : 07.11.2024
Pronouncement of order : 07.11.2024

ORDER

Per Rahul Chaudhary, Judicial Member:

1. The present appeal preferred by the Assessee is directed against Assessment Order, dated 06/09/2024, passed by the Assessing Officer under Section 143(3) r.w.s 144C(13) read with section 144B of the Income-tax Act, 1961 [hereinafter referred to as 'the **Act**'], as per the direction issued by Commissioner of Income Tax (Dispute Resolution Panel (2), Mumbai-3 [for short '**DRP**'] on 21/08/2024 under Section 144C(5) of the Act for the Assessment Year 2021-2022.
2. The Assessee has raised following grounds of appeal :

Based on the facts and circumstances of the case, and in law, Skillnet Solutions India Private Limited (hereinafter referred to as the Appellant') respectfully craves leave to prefer an appeal against the order passed by Assessment Unit, Income Tax Department / learned Assessing Officer ("Id. AO") dated 06 September 2024/ learned Transfer Pricing Officer ("Id. TPO") in pursuance of the directions issued by Hon'ble Dispute Resolution Panel ("DRP") (dated 21 August 2024) under Section 144C(5) of the Income-tax Act, 1961 ('the Act') on the following grounds:

1. Transfer Pricing Adjustment: INR 114,172,508/-

On the facts and in the circumstances of the case and in law, the Id. TPO and the Id. AO under the directions issued by Hon'ble DRP dated 21 August 2024, erred in confirming the adjustment of INR 114,172,508/- by virtue of computation of arm's length price of international transaction of rendering of software consultancy and support services to AE vide its impugned order dated 06 September 2024.

2. Unjust/Erroneous rejection of the segmental Profit and Loss account prepared by the appellant in its Transfer Pricing Study Report

On the facts and in the circumstances of the case and in law, the Ld. TPO erred in and Hon'ble DRP further erred in rejecting the segmental profit and loss account prepared by the appellant in its Transfer Pricing Study Report bifurcated into the following: i) Services rendered to holding company viz. SkillNet Solutions Inc, USA, ii) Services rendered to independent third parties and iii) Non-operating expenses

3. Erred in not considering the impact of COVID-19 pandemic on the business of the appellant as well as the holding company

- a. *On the facts and in the circumstances of the case and in law, the Id. TPO erred and Hon'ble DRP further erred in not considering the impact of COVID-19 pandemic on the business of the appellant as well as the holding company as SkillNet Group provides services to companies in the retail space which severely and negatively impacted the capacity planning and*

implementation of the appellant for the year under consideration.

- b. On the facts and in the circumstances of the case and in law, the Id. TPO erred in and the Hon'ble DRP further erred in not considering all the supporting documents and evidences with regards to under-utilised capacity due to COVID-19 pandemic.*
- c. On the facts and in the circumstances of the case and in law, the Id. TPO erred in and the Hon'ble DRP further erred in upholding / confirming the action of the Id. TPO in not considering the opportunity cost of third-party business lost by the appellant due to COVID-19 pandemic.*
- d. On the facts and in the circumstances of the case and in law, the Hon'ble DRP erred in not comparing three years weighted average OP/OC mark-up of comparable companies (post revenue adjustment in FY 2020-21) with the appellant's three years weighted average OP/OC mark-up.*

The above grounds of appeal are mutually exclusive & without prejudice to each other.

3. Assessee vide its letter, dated 07/11/2024, has prayed for withdrawal of the present appeal [ITA No.5078/Mum/2024] for Assessment Year 2021-2022 wherein it has been stated as under:

The Appellant would like to inform your Honour that it had filed a physical appeal before Hon'ble ITAT (ITA 5016/Mum/2024) on 27th September 2024 and it had also filed duplicative appeal online on ITAT portal (ITA 5078/Mum/2024) on 28th September, 2024 for A.Y. 2021-22. Accordingly, two separate appeals have been considered by the Hon'ble ITAT. This resulted in a duplication of the appeal with the Hon'ble ITAT.

The appellant respectfully requests your Honour to permit us to withdraw appeal filed online on ITAT portal (ITA 5078/Mum/2024)"

4. The Appellant had filed the appeal in physical form and thereafter, filed a copy of the said appeal electronically. Inadvertently, both the appeals were numbered separately. Accordingly, ITA No.5078/Mum/2024 is dismissed as being duplicate appeal.

Order pronounced on 07.11.2024.

Sd/-
(Amarjit Singh)
Accountant Member

Sd/-
(Rahul Chaudhary)
Judicial Member

मुंबई Mumbai; दिनांक Dated : 07.11.2024
Milan,LDC

आदेश की प्रतिलिपि अग्रेषित/ Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण , मुंबई / DR,
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार /(Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai