

**IN THE INCOME TAX APPELLATE TRIBUNAL**

**"K" BENCH, MUMBAI**

**BEFORE SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER**

**SHRI GIRISH AGRAWAL, ACCOUNTANT MEMBER**

**ITA No.4817/MUM/2024**  
**(Assessment Year 2020-21)**

**Aquity Solutions India Pvt. Ltd.,**

1<sup>st</sup> Floor, Unit No.103, Reliable Plaza,  
Plot No. K10, Kalwa Industrial Area,  
Village - Elthen, Taluka & District Thane,  
Airoli, Navi Mumbai – 400708  
PAN : AAACC9165F

..... Appellant

v/s

**DCIT - 15(1)(1),**

Aayakar Bhavan,  
Maharishi Karve Road,  
Mumbai - 400020

..... Respondent

Assessee by : Shri Harsh Shah

Revenue by : Shri Ajay Ojha, Sr.DR

Date of Hearing – 02/05/2025

Date of Order - 20/05/2025

**ORDER**

**PER SANDEEP SINGH KARHAIL, J.M.**

The assessee has filed the present appeal against the final assessment order dated 22/07/2024, passed under section 143(3) read with section 144C(13) of the Income Tax Act, 1961 (*"the Act"*), pursuant to the directions dated 07/06/2024 issued by the learned Dispute Resolution Panel-1, Mumbai (*"learned DRP"*) under section 144C(5) of the Act, for the assessment year 2020-21.

2. In this appeal, the assessee has raised the following grounds: -

*"1. On the facts and circumstances of the case and in law, the learned AO/ learned TPO, under the directions of the Hon'ble DRP, erred in making adjustment of Rs. 5,70,15,937/- to the total income of the Appellant on account of interest chargeable on trade receivables in relation to the international transactions entered into by the Assessee with its Associated Enterprise ('AE')."*

*2. On the facts and circumstances of the case and in law, the learned AO/ learned TPO, under the directions of the Hon'ble DRP, erred in treating trade receivables as a separate international transaction undertaken by the Assessee without any material in support thereof.*

*3. On the facts and circumstances of the case and in law, the learned AO/ learned TPO, under the directions of the Hon'ble DRP, erred in not appreciating the fact that working capital impact/adjustment subsumed any excess credit period, accordingly, no separate adjustment ought to be made for the same.*

*Without prejudice, on the facts and circumstances of the case and in law, the learned AO/ learned TPO, under the directions of the Hon'ble DRP, erred in adopting average six months USD Libor + 450 basis points to calculate the interest on outstanding receivables.*

*5. On facts and circumstances of the case and in law, the learned AO erred in levying interest under Section 234A and Section 234B of the Act."*

3. The issue arising in grounds no.1 to 4, raised in assessee's appeal, pertains to the transfer pricing adjustment on account of outstanding trade receivables from the associated enterprise ("AE").

4. We have considered the submissions of both sides and perused the material available on record. The brief facts of the case are that the assessee is a company of MModal Group, which is a provider of clinical documentation solutions, providing clinical narrative capture services, speech and language understanding technology and clinical documentation workflow solutions for the healthcare industry. The assessee is engaged in the provision of medical transcription services, IT-enabled services ("ITeS") and quality assurance/support services. For the year under consideration, the assessee filed its return of income on 13/02/2021, declaring a total income of Rs.

64,05,07,995. During the year under consideration, the assessee entered into the following international transactions with its AE: -

<i>S.No.</i>	<i>Transaction / Particulars</i>	<i>Amount in INR</i>	<i>MAM</i>
1.	<i>Provision of MT Services</i>	<i>1,67,63,01,490/-</i>	<i>CUP</i>
2.	<i>Provision of IT and IT enables services</i>	<i>57,89,56,338/-</i>	<i>TNMM</i>
3.	<i>Recovery of expenses</i>	<i>2,62,60,911/-</i>	<i>Other method</i>

5. Under the Medical Transcription Services segment, the assessee renders medical transcription services as per the specifications and instructions provided by the US AE. For benchmarking this transaction, the assessee adopted Comparable Uncontrolled Price (“CUP”) method as the most appropriate method by considering itself as the tested party. For the determination of arm’s length price (“ALP”), the assessee analysed the service level agreement of AE with the assessee and AE with Indian third-party service providers for medical transcription services. The assessee compared the price for the services as well as terms and conditions governing the services and concluded that the weighted average per line rate charged by the assessee to US AE is equal to or higher than the weighted average per line rate charged by independent third-parties (i.e. non-AEs) for the similar services rendered to US AE. Accordingly, the assessee claimed that the international transaction pertaining to the provision of Medical Transcription Services is at ALP. The assessee also undertook a corroborated benchmarking of this transaction by adopting the Transactional Net Margin Method (“TNMM”) as the most appropriate method with the Profit Level Indicator (“PLI”) of Operating Profit to Total Operating Expenses. By considering itself as the tested party, the assessee identified 11 comparable companies with an arithmetic mean of

weighted adjusted net cost plus markup of 22.60%, with 35<sup>th</sup> and 65<sup>th</sup> percentile range between 19.18% to 28.32% and a median of 22.64%. As the assessee has a net cost-plus margin of 31.15%, accordingly, it claimed the transaction pertaining to the provision of Medical Transcription Services is at ALP, even by adopting TNMM as the most appropriate method.

6. As regards the ITeS segment, the assessee adopted TNMM as the most appropriate method with the PLI of Operating Profit to Total Operating Expenses, for benchmarking the transaction. By considering itself as the tested party, assessee identified 11 comparable companies with an arithmetic mean of weighted adjusted net cost plus markup of 23.61%, with 35<sup>th</sup> and 65<sup>th</sup> percentile range between 20.17% to 23.37% and median of 23.66%. As the assessee has a net cost-plus margin of 39.84%, accordingly, it claimed the transaction pertaining to the provision of ITeS to be at ALP.

7. The Assessing Officer ("AO") made reference to the Transfer Pricing Officer ("TPO") for the determination of ALP of the aforesaid international transactions. We find that vide show cause notice dated 13/12/2022, forming part of the paper book from pages 148-152, on the basis that the transactions undertaken between the AE and the third parties are insignificant as compared to the transactions with the assessee in terms of the number of lines as well as the value of the transactions, the TPO, inter-alia, proposed to reject the CUP method for benchmarking the international transaction pertaining to the provision of Medical Transcription Services. Since the assessee has benchmarked the international transaction pertaining to the provision of Medical Transcription Services also by adopting the TNMM, the TPO proposed

to benchmark the same by adopting TNMM as the most appropriate method along with benchmarking the international transaction pertaining to the provision of ITeS by adopting the same method.

8. In response to the show cause notice, the assessee, inter-alia, submitted that under the corroborative benchmarking of the international transaction pertaining to the provision of Medical Transcription Services by adopting TNMM, the margin of the assessee, i.e. 31.15%, is higher as compared to the median, i.e. 25.62%, of 35<sup>th</sup> and 65<sup>th</sup> percentile range of the working capital adjusted margins earned by the comparable companies. Thus, it was submitted that even under the TNMM, the international transaction pertaining to the provision of Medical Transcription Services is at ALP. Further, the assessee submitted that in the ITeS segment also its margin, i.e. 39.84%, is higher than the working capital adjusted margins of the comparable companies, which are in the range from 22.02% to 31.43%, with a median of 26.78%.

9. It is evident from the record that the TPO vide order dated 28/02/2023 passed under section 92CA(3) of the Act accepted the benchmarking analysis conducted by the assessee in respect of international transactions pertaining to the provision of Medical Transcription Services and the provision of ITeS.

10. However, the TPO noticed that the assessee has outstanding receivables from its AE, which have been pending for more than 45 days (i.e. the credit period as per the agreement). Accordingly, the assessee was asked to show cause as to why interest should not be computed regarding trade receivables

due as on 31/03/2020 from AE, which are pending for more than 45 days. In its response, the assessee submitted that the outstanding receivables pertain to the international transactions of provision of Medical Transcription Services and the provision of ITeS with AE. The assessee further submitted that the early or late realisation of such proceeds is incidental to and a consequence of the main transaction and should be considered as intrinsically linked to the main transaction, and not a separate transaction in itself, *per se*. The assessee submitted that once the ALP is determined in respect of the main transaction, it would be deemed to be covering all the elements and consequences of such transaction. The TPO, vide order passed under section 92CA(3) of the Act, disagreed with the submissions of the assessee and computed adjustment by adopting average 6 months USD LIBOR plus 450 basis point (i.e. 5.67%) as the arm's length interest to be charged to the AE on the invoices that were outstanding for a period in excess of 90 days. As a result, in respect of outstanding receivables pertaining to the provision of Medical Transcription Services, the TPO computed total interest of Rs. 4,02,82,159 and in respect of the provision of ITeS, the TPO computed total interest of Rs. 1,67,33,778. Thus, the TPO proposed a total upward adjustment of Rs. 5,70,15,937 as ALP interest to be charged by the assessee to AE on outstanding trade receivables. The AO passed the draft assessment order dated 28/09/2023 under section 144C(1) of the Act after incorporating the adjustment proposed by the TPO.

11. The assessee filed detailed objections before the learned DRP against the adjustment proposed by the TPO. The learned DRP vide its directions dated 07/06/2024, issued under section 144C(5) of the Act, rejected the

objections filed by the assessee and upheld the approach of the TPO of separately benchmarking the alleged transaction of outstanding receivables from AE. In conformity with the directions issued by the learned DRP, the AO passed the final assessment order dated 22/07/2024 under section 143(3) read with section 144C(13) of the Act. Being aggrieved, the assessee is in appeal before us.

12. Having considered the submissions of both sides and perused the material available on record, in the present case, it is evident that international transactions undertaken by the assessee, viz., provision of Medical Transcription Services and provision of ITeS, were found to be at arm's length as per the benchmarking analysis conducted by the assessee. Further, it cannot be disputed that the benchmarking analysis conducted by the assessee in respect of both the international transactions by adopting TNMM as the most appropriate method was accepted by the TPO vide its order passed under section 92CA(3) of the Act. The only adjustment proposed by the TPO pertains to calculating the interest in respect of outstanding trade receivables pertaining to the international transactions of provision of Medical Transcription Services and the provision of ITeS with AE. In this regard, the TPO considered 90 days as the credit period beyond which interest was calculated by applying average 6 months USD LIBOR plus 450 basis points. As per the assessee, the outstanding receivables are pertaining to the provision of Medical Transcription Services and provision of ITeS to the AE, and the same are intrinsically linked to the main transaction, which have

already been found to be at arm's length. Further, as per the assessee, early or late realisation of such proceeds was incidental to the main transaction.

13. From the computation of the margins of the comparable companies in the Medical Transcription Services segment, as placed on pages 153-162 of the paper book, we find that the assessee applied the interest-rate benchmark PLR of 13.68% while computing the working capital adjusted margins of the comparable companies. Similarly, while computing the margins of the comparable companies in the ITeS segment, as placed on pages 163-172 of the paper book, we find that the assessee applied the interest-rate benchmark PLR of 13.68% while computing the working capital adjusted margins of the comparable companies. Thus, it is evident that even after the working capital adjustment, the margins of the comparable companies were found to be lower than the margin of the assessee. From the record, it is evident that the TPO accepted the benchmarking analysis conducted by the assessee in respect of international transactions pertaining to the provision of Medical Transcription Services and the provision of ITeS to the AE and found the margin of the assessee to be at arm's length vis-à-vis working capital adjusted margins of the comparable companies in both the segments. Thus, it is the plea of the assessee is that since the aforesaid benchmarking has already considered the impact of delayed receivables, no further adjustment on account of outstanding receivables is required. In this regard, we find that the Hon'ble Delhi High Court in PCIT vs. Kusum Healthcare (P) Ltd., reported in (2017) 398 ITR 66 (Delhi), observed as under: -

*"With the assessee having already factored in the impact of the receivables on the working capital and thereby on its pricing/profitability vis-a-vis that of its*

*comparables, any further adjustment only on the basis of the outstanding receivables would have distorted the picture and re-characterised the transaction. This was clearly impermissible in law as explained by this court in CIT v. EKL Appliances Ltd.[2012] 209 Taxman 200/345 ITR 241/345 ITR 241(Delhi)."*

14. We find that similar findings were rendered by the coordinate bench of the Tribunal in assessee's own case in Aquity Solutions India (P.) Ltd. vs. DCIT, reported in [2023] 147 taxmann.com 177 (Mumbai - Trib.), for the assessment year 2017-18.

15. Thus, respectfully following the aforesaid decision of Hon'ble Delhi High Court in Kusum Healthcare (P) Ltd. (supra), we find no merit in the adjustment made by the TPO/AO on account of outstanding receivables in respect of international transactions pertaining to the provision of Medical Transcription Services and provision of ITeS, when margin of the assessee was found to be at arm's length vis-à-vis working capital adjusted margin of comparable companies under the TNMM analysis. Accordingly, we direct the TPO/AO to delete the impugned adjustment. As a result, grounds no.1 to 4 raised in assessee's appeal are allowed.

16. The issue arising in ground no. 5, raised in assessee's appeal, pertains to the levy of interest under section 234 and section 234B of the Act, which is consequential in nature. Therefore, the same needs no separate adjudication.

17. Ground no.6 raised in assessee's appeal pertains to the initiation of penalty proceedings under section 271AA of the Act, which is premature in nature. Therefore, this ground is dismissed.

18. Ground no.7 was not pressed during the hearing. Accordingly, the same is kept open.

19. In the result, the appeal by the assessee is partly allowed.

Order pronounced in the open Court on 20/05/2025

**Sd/-**  
**GIRISH AGRAWAL**  
**ACCOUNTANT MEMBER**

**Sd/-**  
**SANDEEP SINGH KARHAIL**  
**JUDICIAL MEMBER**

**MUMBAI, DATED: 20/05/2025**

*Prabhat*

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

By Order

Assistant Registrar  
ITAT, Mumbai