

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "K" MUMBAI**

**BEFORE SHRI OM PRAKASH KANT (ACCOUNTANT MEMBER)
AND
SHRI RAHUL CHAUDHARY (JUDICIAL MEMBER)**

**ITA No. 5546/MUM/2024
Assessment Year: 2021-22**

Friday Storytellers LLP,
701, Morya Landmark-2, Opp.
Infinity Mall, Mumbai-400053.

Vs. National Faceless Assessment
Centre, ITO-4(2)(1),
Aayakar Bhavan, Mumbai.

PAN NO. AAGFF 4946 E
Appellant

Respondent

Assessee by : Mr. Karan Thaker a/w
Mr. Sandeep Shridhar
Revenue by : Mr. Suresh Gaikwad, Sr. DR

Date of Hearing : 05/05/2025
Date of pronouncement : 30/05/2025

ORDER

PER OM PRAKASH KANT, AM

This appeal by the assessee is directed against final assessment order dated 28.08.2024 passed by the Assessment Unit, Income-tax Department (in short the Assessing Officer or AO) for assessment year 2021-22, pursuant to the direction of the Ld. Dispute Resolution Panel (DRP) dated 22.08.2024. The grounds raised by the assessee are reproduced as under:



1. In the facts and circumstances of the case and in law, Id. Dispute Resolution Panel ("DRP") has erred in confirming the action of the Id. AO, in making upward adjustment of Rs. 2,09,75,436, on account of Line Production Charges incurred by the assessee, during the year under consideration. The action of the Id. DRP and Id. AO is illegal, unjustified and arbitrary, being contrary to the facts of the case. It is respectfully submitted that the addition made by the Id. AO, in the final order, may please be deleted in its entirety.

2. In the facts and circumstances of the case and in law, Id. DRP has erred in confirming the action of the Id. AO/Id. TPO, in making adjustment to the income of the assessee, without duly considering the factual position that, during the year under consideration, all expenses incurred by the assessee firm were reflected as part of the Closing Stock/Work-In-Progress, accordingly, no profit or loss was recognized, in this regard, in the Profit and Loss Account, and, therefore, there was no impact on the taxable income of the assessee.

3. In the facts and circumstances of the case and in law, Id. DRP and Id. AO have erred in not considering the factual position that the Associated Enterprise (AE), with whom expenses were incurred did not earn any profit and that all the profits remained with the assessee.

4. In the facts and circumstances of the case and in law, Id. DRP and Id. AO have erred in failing to appreciate the factual position that, in the subsequent year, i.e., Previous Year 2021-22, when the revenue had actually been earned/recognised, profit, as reported by the assessee firm, fell within the Arm's Length Range in relation to the comparable entities selected by the assessee.

5. In the facts and circumstances of the case and in law, Id. DRP and Id. AO/Id. TPO have erred in rejecting the comparable companies considered by the assessee, without any cogent basis. It is respectfully submitted that the rejection of the comparable companies is unjustified and contrary to the facts of the case.

2. Briefly stated, facts of the case are that the assessee, a Limited Liability Partnership (LLP), was constituted on 11.04.2019 by way of conversion of an erstwhile company, namely M/s Friday Movies



and TV Pvt. Ltd. The assessee is engaged in the business of creation and production of digital content, with a specialization in web series intended for exploitation on Over-The-Top (OTT) platforms. Its principal source of revenue comprises proceeds from the sale of digital content, copyrights, and other ancillary rights. In the preceding years, the assessee had undertaken the production of various digital works, including the web series “Special Ops – Season 1”, “Ancient Warriors of India” (for Discovery Channel), and two short films titled “Wrong Number” and “Ouch 2”. During the financial year relevant to the assessment year under consideration, the assessee undertook the production of a sequel web series titled “Special Ops 1.5”. In connection therewith, the assessee entered into an agreement dated 27.07.2020 with M/s Novi Digital Entertainment Pvt. Ltd. (popularly known as 'Hotstar'), for a fixed consideration of ₹35,00,00,000/-, which was subsequently revised to ₹36,00,00,000/- pursuant to a supplemental agreement dated 27.11.2020. In order to avail benefits under the subsidy scheme offered by the Government of Mauritius, the assessee caused the incorporation of a separate entity in Mauritius, namely M/s Friday Storytellers Ltd. (hereinafter referred to as “Friday Ltd.”). This entity was engaged for the purpose of undertaking line production activities associated with the said web series, particularly for portions of the shoot conducted in Mauritius. Accordingly, Friday Ltd. provided line production services for the shooting of specific scenes of “Special Ops 1.5” undertaken in Mauritius.



2.1 For the assessment year under consideration, the assessee filed its return of income on 30.01.2020, declaring a total income of ₹19,60,570/-. The said return was selected for scrutiny under the provisions of the Income-tax Act, 1961 (“the Act”), and accordingly, statutory notices were issued. The assessee furnished partial responses thereto. In view of an international transaction involving 'Line Production Services' availed from its Associated Enterprise (AE), namely M/s Friday Storytellers Ltd. (“Friday Ltd.”), the Assessing Officer made a reference under section 92CA(1) of the Act to the learned Transfer Pricing Officer (TPO) for determination of the arm’s length price of the said transaction. The learned TPO, after examining the transfer pricing documentation furnished by the assessee and considering the submissions made during the course of proceedings, proposed a downward adjustment of ₹2,09,75,436/- to the value of the international transaction. The Assessing Officer, accordingly, incorporated the said adjustment in the draft assessment order dated 17.11.2023. Aggrieved by the proposed adjustment, the assessee filed objections before the learned Dispute Resolution Panel (DRP). The learned DRP, after considering the matter, issued directions under section 144C(5) of the Act, upholding the transfer pricing adjustment proposed by the TPO. Pursuant thereto, the Assessing Officer passed the impugned final assessment order. Aggrieved by the said final assessment order, the assessee is in appeal before this Tribunal, raising the grounds as reproduced hereinabove.



3. Before us, the Ld. counsel for the assessee filed a Paper book containing pages 1 to 240 and 241 to 392.

4. All the grounds raised by the assessee pertain to a singular issue, namely, the transfer pricing adjustment of ₹2,09,75,436/-. Ground No. 5 of the appeal relates to the rejection of two comparables by the learned TPO. Grounds No. 2 and 4 concern the assessee's objection to the adjustment on the ground that the expenditure incurred under the international transaction was not claimed as a deduction, having been capitalized as work-in-progress under the project titled "Special Ops 1.5". In Ground No. 3, the assessee challenges the adjustment on the premise that there was no shifting of profits outside India. In view of the commonality of the issue involved, all grounds are taken up together for adjudication.

4.1 Upon consideration of the submissions made by both parties, the controversy in the present appeal primarily revolves around three issues: **firstly**, the rejection of two comparables by the learned TPO; **secondly**, the contention that the Associated Enterprise (AE) had charged the assessee on a cost-to-cost basis without any mark-up, thereby rendering any transfer pricing adjustment unwarranted and **thirdly**, the propriety of making a transfer pricing adjustment despite the fact that the expenditure incurred for line production was capitalized as work-in-progress. These issues are addressed and adjudicated in seriatim as under.



5. The **first issue** arising for consideration pertains to the rejection of two comparables by the learned Transfer Pricing Officer (TPO) in the benchmarking analysis of the international transaction involving line production services.

5.1 The brief facts relevant to this issue, as submitted by the assessee are that the Associated Enterprise (AE), M/s Friday Storytellers Ltd., Mauritius (“Friday Ltd.”), was incorporated as a Special Purpose Vehicle (SPV) with limited objective of incurring production-related costs and availing subsidy benefits under the applicable laws of Mauritius. It is the claim of the assessee that the subsidy so received by the SPV was eventually remitted to India by way of cost reduction, thereby benefiting the assessee in the overall production cost of the web series “*Special Ops 1.5*”. The assessee is engaged in procuring content production services from its AE and monetising the completed content through licensing agreements with digital platforms.

5.2 It is further submitted that ‘Friday Ltd’. was entrusted with the responsibility of controlling, supervising, facilitating, and completing the production activities carried out in Mauritius. In its transfer pricing study, the assessee conducted a functional analysis based on the functions performed, assets employed, and risks assumed (FAR analysis), and determined that the most appropriate method for benchmarking the international transaction was the Cost Plus Method (CPM). Under the CPM, the assessee adopted the



Profit Level Indicator (PLI) as gross profit to sales (GP/Sales) and identified comparable Indian companies engaged in broadly similar line production activities.

5.3 On this basis, the assessee undertook a three-year weighted average analysis of gross profit margins earned by such comparables, which yielded a range between 13.40% and 55.47%, with the 35th percentile at 1.05%, the 65th percentile at 26.37%, and a median of 20.86%. The assessee's margin for the year under consideration was computed at 15.78%, which, according to the assessee, fell within the safe harbor range of $\pm 5\%$, thereby demonstrating that the transaction with the AE was at arm's length. The computation of gross profit margin of the assessee submitted by the assessee and reproduced by the Ld. TPO is reproduced as under:

| Particulars | Amount in INR | Amount in INR |
|---|---------------|--------------------|
| Sales (A) | | 36,00,00,000 |
| Less : Cost of Goods Sold (B) | | |
| (-) Actual Cost incurred during F.Y. 2020-21 | 10,75,80,436 | |
| (-) Estimated Cost (to be incurred in F.Y. 2021-22 till the completion of series - Special Ops 1.5) | 19,55,99,000 | 30,31,79,436 |
| Gross Profit (C=A-B) | | 5,68,20,564 |
| Gross Profit Ratio (D=C/A) | | 15.78% |

5.4 The learned TPO, however, observed that two of the comparables relied upon by the assessee, namely *Line Production Pvt. Ltd.* and *GV Films Ltd.*, were not suitable in terms of the provisions of Chapter X of the Act. With respect to *Line Production*



Pvt. Ltd., it was noted that the company had incurred consistent losses for two preceding years, and financial data for the relevant year was not available. In the case of *GV Films Ltd.*, the TPO observed that the company had no sales revenue during the relevant year, and its reported income comprised only of treasury income and prior period receipts. Consequently, a show cause notice was issued to the assessee calling upon it to justify the continued inclusion of these comparables. However, no response was received from the assessee despite issuance of reminders. In the absence of any justification from the assessee, the learned TPO proceeded to exclude the two entities and recomputed the median margin of the remaining nine comparables relied upon by the assessee, arriving at a revised median of 21.61%. The relevant computation of the median margin of 21.61% of the comparables and computation of the transfer pricing adjustment is reproduced as under:

“On rejection of the said two comparable companies, the following 9 companies, selected by you in your TPSR, has been considered as comparable for benchmarking analysis:-

| Sr. No. | Name of comparable company | OP/OC determined by you |
|---------|------------------------------------|-------------------------|
| 1. | Baba Arts Ltd. | 0.61% |
| 2. | Film Farm India Pvt. Ltd. | 1.05% |
| 3. | Shemaroo Entertainment Ltd. | 20.41% |
| 4. | 2D Entertainment Pvt. Ltd. | 20.86% |
| 5. | Balaji Telefilms Ltd. | 21.61% |
| 6. | Prasad Media Corpn. Pvt. Ltd. | 26.37% |
| 7. | V R Films & Studio Ltd. | 33.67% |
| 8. | Zee Entertainment Enterprises Ltd. | 38.89% |
| 9. | Junglee Pictures Ltd. | 55.47% |



The 9 comparables of the assessee have the said inter quartile range 20.86% to 26.37% with median as 21.61%.

The OP/OC of the assessee company is 15.78% as given in the Appendix 5 of its submission dated 6.03.2023 said calculation :

| Particulars | Amount in Rs. |
|-----------------|---------------|
| Sales | 36,00,00,000 |
| Less : COGS | 30,31,79,436 |
| Gross Profit | 5,68,20,564 |
| GP/Sales | 15.78% |

Thus, the ALP of the said transaction is determined as follows:

| | | |
|----------|--|--------------------|
| A | Sales | 36,00,00,000 |
| B | Gross Profit | 5,68,20,564 |
| C=B/A | GP/Sales | 15.78% |
| D | ALP GP/Sales | 21.61% |
| F=B*A | ALP GP | 7,77,96,000 |
| G=A-F | ALP COGS | 28,22,04,000 |
| H | Assessee's COGS | 30,31,79,436 |
| I | Adjustment on line Production charges | 2,90,75,436 |

”

5.5 In proceedings before the learned Dispute Resolution Panel (DRP), the assessee contended that in the case of *Line Production Pvt. Ltd.*, although current year data was unavailable, financial data for the two preceding years was accessible and could be relied upon. The learned DRP, however, rejected the contention of the assessee and sustained the exclusion of both comparables by a detailed order recorded at Paragraphs 7.3 to 7.3.10 of its directions.

5.6 Before us, learned counsel for the assessee reiterated the submissions made before the DRP. The learned Departmental



Representative (DR), on the other hand, supported the findings recorded by the lower authorities..

5.7 We have considered the rival submissions and perused the material available on record. We find that the learned TPO has, in principle, accepted the assessee's choice of the most appropriate method as well as the set of comparables, save and except the two entities under challenge. The assessee, admittedly, failed to provide current year data in respect of *Line Production Pvt. Ltd.* in its transfer pricing documentation. In our considered view, where the results of the tested party pertain to the relevant financial year, it is necessary, for a meaningful comparison, that data for the same year be available in respect of the comparables. Gross profitability margin may vary significantly over time, and hence, reliance on data of earlier years would not constitute a reliable benchmark. Similarly, we find that *GV Films Ltd.* did not report any revenue from operations during the relevant year, and its income was confined to non-operating sources, rendering it functionally incomparable to the assessee. The lower authorities are therefore, justified in excluding both comparables from the final set.

5.8 In view of the foregoing, we find no infirmity in the directions issued by the learned DRP in this regard. The findings of the 1d DRP on this issue are affirmed.



6. The **second issue** raised by the assessee pertains to the contention that no profit accrued to the Associated Enterprise (AE) and that the entire profit remained with the assessee, thereby negating any allegation of profit shifting. The learned Dispute Resolution Panel (DRP), after considering the submissions of the assessee, recorded its observations at paragraph 8.3 of its directions as under:

“8.3 Discussion and Directions of the DRP:

8.3.1 The assessee contends that there is no shifting of profit from India to Mauritius and there is no tax avoidance. The assessee further submits that Friday Ltd is only a special purpose vehicle whose endeavour is purely to incur local costs at NIL margin and apply for subsidy as per Film Rebate Scheme in Mauritius which shall reduce the cost of production. Even the subsidy received by the SPV from Mauritius Government is transferred to FST LLP, which results in reduction in cost of series production. If FST LLP would have produced the series in India, then also the cost of production would have been higher than that incurred by Friday Ltd. for the same which would have ultimately resulted in lower profits.

8.3.2 The panel has considered the submissions of the assessee and the facts of the case. The assessee and the Mauritian entity Friday Ltd. are associated enterprises which have undertaken international transactions. As per Section 92 of the Income Tax Act

Any income arising from international transaction shall be computed having regard to the arm's length price "

8.3.3 For determination of the arm's length price, various methods have been prescribed as per section 92C of the Act. Also various rules have been prescribed for computation of the arm's length price.

8.3.4 The contention of the assessee that there was no intention to shift any profit has to be proved through rigorous methods prescribed that the transaction was at arm's length.

8.3.5 In view of the above, we do not find any infirmity in the action of the TPO in benchmarking the international transaction



using Cost Plus Method. Hence, this ground of objection of the assessee is rejected.”

6.1 Before us, the learned counsel for the assessee reiterated that the AE, namely M/s Friday Ltd., Mauritius, acted solely as a cost-pass-through entity. It was submitted that the AE did not retain any profits and operated strictly under a cost-to-cost arrangement as per the terms of the Line Production Agreement. In support of this submission, reliance was placed on the remittance of subsidy amounting to ₹2.72 crores, received by the AE under the “Mauritius Film Rebate Scheme”, which was transferred to the assessee in subsequent year. According to the assessee, this remittance demonstrated the absence of any profit retention by the AE and substantiated the claim that the AE functioned only as a reimbursement conduit.

6.2 Per contra, the learned Departmental Representative submitted that the assessee’s contention of non-retention of profits by the AE is not relevant for determining the arm’s length price (ALP) under section 92C of the Act. The principal focus of transfer pricing analysis, it was argued, is not the eventual retention or distribution of profits but rather whether the price paid by the assessee to the AE for services availed reflects what would have been paid under similar circumstances to an unrelated party. The Department further submitted that the claim that the AE operated on a cost-to-cost basis, or earned negligible margin, does not absolve the assessee from the statutory requirement of



benchmarking the transaction and demonstrating that the consideration paid did not exceed the arm's length price. The objective of Chapter X of the Act is to test the reasonableness of the transaction itself, rather than the final outcome of profit distribution between related parties.

6.3 We have considered the rival submissions and perused the material available on record. The arguments advanced by the learned counsel for the assessee, in our considered view, are untenable in law. The computation of transfer pricing adjustments is governed by the specific provisions of the Act and the Rules framed there under. Once statutory rules are prescribed, the TPO is bound to apply those rules in determining the arm's length price, without being influenced by the manner in which the parties have chosen to allocate or reimburse costs inter se. The transfer pricing exercise under Chapter X does not turn on whether the AE charged a mark-up or remitted a subsidy back to the assessee. What is relevant is whether the price paid by the assessee for the services availed under the international transaction is consistent with the price that would have been paid to an unrelated party performing comparable functions in similar circumstances. The fact that the AE did not earn any profit, or acted as a mere pass-through entity, is of no consequence unless the pricing of the transaction itself can be demonstrated to be at arm's length based on objective comparability analysis. In the present case, the assessee has not



shown, by cogent material, that the consideration paid for line production services satisfies the test of arm's length when measured against comparable uncontrolled transactions. Accordingly, we find no merit in the contention of the assessee, and uphold the findings of the learned DRP and TPO on this issue.

7. The **third issue** raised for our consideration pertains to the assessee's challenge to the transfer pricing adjustment on the ground that the relevant expenditure was capitalised as work-in-progress and no deduction was claimed in the year under consideration.

7.1 It was submitted that the adjustment pertained to a transaction which, in effect, had not culminated in the relevant assessment year. According to the assessee, the production of the series "*Special Ops 1.5*" remained incomplete during the financial year corresponding to the assessment year in question. Consequently, no revenue was recognised, and the expenditure incurred was carried as inventory in the balance sheet. It was further submitted that for the purposes of benchmarking, a tentative margin was computed based on estimated costs, as the actual sale consideration for the series had yet to be received. The assessee contended that, upon completion of the project in the subsequent year, the gross profit margin stood at 21.46%, which was within the arm's length range as per the Transfer Pricing Officer's own benchmarking. Therefore, it was argued that no



adjustment was warranted in the year under consideration and that any comparison should be made based on actual outcomes post-completion of the project. The relevant submission of the assessee before the Ld. DRP is reproduced as under:

“10.2. Arguments of the Applicant Assessee:

The relevant portion of assessee's submission is reproduced as under:

The assessee would like to bring it to the notice of the Ld. TPO that the calculation of margin earned by assessee in the transaction of production of series during FY 2020-21 was calculated on an estimation basis. The production was not completed at the time of filing Form 3CEB and preparation of TP Study Report but it has been completed now. The actual profitability of transaction under consideration can be calculated as follows: (Refer Annexure 1 below for financials of FST LLP of FY 2021-22)

| Particulars | Amount in INR | Amount in INR |
|--|----------------------|----------------------|
| Sales (A) (Refer Note 16 of Financial Statements) | | 36,00,00,000 |
| Less : Cost of Goods Sold (B) (Refer Note 18 of Financial Statements) | | |
| (-) Actual Cost incurred for the project | 28,27,31,060 | 28,27,31,060 |
| Gross Profit (C=A-B) | | 7,72,68,940 |
| Gross Profit Ratio (D=C/A) | | 21.46% |

In the Order u/s 92CA(3) of Income Tax Act 1961 dated 28/10/2023 having DIN & Order No: ITBA/TPO/F/92CA3/2023-24/1057475177(1), the Ld. TPO has rejected the following two companies from the dataset of comparable companies:

- o Lyca Productions Pvt. Ltd
- o GV Films

After removing the above two companies, the Ld. TPO determined the ALP as follows:

- o 35th percentile: 20.86%
- o 65th percentile: 26.37%
- o Median (50th percentile): 21.61%



Without prejudice to anything stated in the above grounds, even if the assessee considers the dataset of comparable companies and the margin calculation of comparables suggested by the Ld. TPO, the gross margin on sales of 21.46% earned by FST LLP lies between the arm's length range of 35th percentile i.e. 20.86% and the 65th percentile i.e. 26.37% which is well within the arm's length range as suggested by the Ld. TPO.

Hence, it can be said that the TP Adjustment of Rs. 2,09,75,436/- is not warranted in the case of the assessee.”

7.2 The Ld. DRP after considering the objection of the assessee rejected such observation as under:

“10.3.1 The panel has considered the submissions of the assessee and the facts of the case. The panel does not find any merit in the argument that the benchmarking and consequent adjustment cannot be done for unless the entire production process of the web series is complete. The assessee contends that since the production of the web series was completed in the following year, benchmarking should be done by taking all the transactions of the two years.

10.3.2 This argument of the assessee is flawed. Suppose in a case, a series takes 5 years to complete, then will the benchmarking of the international transaction be done after 5 years and by combining the transactions of all the 5 years ?! There is no such provision in the transfer pricing law.

10.3.4 Moreover, the assessee itself has undertaken transfer pricing study and benchmarked the transaction. Only when the TPO has scrutinized and made some corrections in the TP analysis, the assessee is taking such an argument.”

7.3 Before us, learned counsel for the assessee submitted that the entire expenditure of ₹9.43 crores incurred towards line production was capitalised in accordance with standard accounting principles, and no deduction was claimed in the profit and loss account for the relevant year. It was submitted that the obvious facts like AE



operated at Nil margin, the expenses capitalized by the assessee and no deduction was claimed for such expenses, were ignored by the department, resulted in taxing hypothetical income, in violation of well-settled legal principles. Further, the Ld. counsel for the assessee submitted that Department overlooked the assessee's profitability analysis for financial year 2021-22. It was further submitted that upon completion of the project, the gross profit margin was of 21.46%, which is within the TPO's benchmark range, therefore, the Department's adjustment based solely on financial year 2020-21 and incomplete data stands legally and factually incorrect as profitability analysis must reflect completed transaction.

7.4 On the other hand, the learned Departmental Representative contended that the arguments advanced by the assessee were misplaced in the context of transfer pricing law. The primary enquiry under Chapter X of the Act, it was submitted, is whether the international transaction with the associated enterprise was conducted at arm's length, independent of the assessee's method of accounting or revenue recognition. The DR emphasized that transfer pricing is transactional in nature and cannot be rendered inapplicable merely because the assessee followed the project completion method or deferred revenue recognition. Moreover, it was argued that benchmarking must be carried out with reference to the year in which the transaction occurred and cannot await the



financial outcome of subsequent years. The arm's length of international transaction must be examined in the year, in which transaction occurred i.e. AY 2021-22 in the case.

7.5 The DR further submitted that a detailed verification of the expenses incurred by the AE revealed serious deficiencies, including lack of proper supporting documentation such as invoice dates and bill numbers, especially in relation to hotel, food, and junior artist expenses. These, according to the Department, cast doubt on the verifiability and genuineness of the underlying transactions.

7.6 In rejoinder, learned counsel for the assessee submitted that all relevant supporting documentation—including invoices, ledgers, and other evidence—was furnished both during the assessment and transfer pricing proceedings. It was contended that the Department's objections were based on generalizations and failed to identify any specific unverifiable expenditure. It was further emphasized that the nature of the expenses—being for hotel accommodation, food, and artist fees—was typical of line production operations and formed a necessary component of the services rendered by the AE.

7.7 We have considered the rival submissions and carefully perused the record. Insofar as the objection raised by the learned DR regarding the alleged lack of verification of expenses is concerned, we find that this aspect has not been examined or



commented upon by the Assessing Officer during the assessment proceedings. Under the statutory scheme, the role of the Transfer Pricing Officer is confined to the determination of the arm's length price of international transactions. The question of the genuineness or allowability of expenses falls outside the domain of the TPO and is to be considered by the Assessing Officer during assessment. In the present case, no such adverse finding has been recorded by the Assessing Officer. Consequently, we find no merit in the objection of the learned DR in this regard, and the same is rejected.

7.8 As regards the primary contention of the assessee that the expenditure was capitalized and therefore not claimed as a deduction, we are of the considered view that the applicability of transfer pricing provisions does not hinge upon the assessee's method of accounting—whether it adopts the project completion method or the percentage completion method. What is relevant is that international transactions occurred in the year under consideration, and once so established, such transactions are subject to benchmarking as per the mandate of Chapter X.

7.9 In cases where the assessee follows the project completion method, any transfer pricing adjustment would typically result in a corresponding increase or decrease in the value of work-in-progress, which would ultimately impact the computation of profits in the year in which the project is completed. Conversely, under the percentage completion method, profits are recognised in proportion



to the stage of completion, and adjustments are applied accordingly in each year based on the extent of revenue and expenses recognised. In the present case, the assessee appears to have recognised neither revenue nor profit for the year under consideration. However, having entered into a contractual arrangement for sale of the project and transferred the attendant risks and rewards, the assessee was under an obligation to compute profits based on the percentage of completion. This is consistent with the accounting standards prescribed by the Institute of Chartered Accountants of India and harmonises with the principles laid down under section 5 of the Act regarding accrual of income. The transfer pricing adjustment has to be made after comparison of true profit margin of the assessee with median margin of comparables.

7.10 We are further of the view that the assessee's benchmarking of the international transaction requires reconsideration. The assessee has applied cost plus method for benchmarking. The Cost Plus Method calculates an arm's length price by adding an appropriate gross profit mark-up to the costs incurred by the supplier in a controlled transaction. This mark-up should reflect the functions performed, risks assumed, and assets used by the supplier. The gross profit margin of party who supply or exports the products or services are compared with gross profit margin of other comparables, but in the case, gross profit margin of the assessee



who is importer of services has been compared with parties engaged in providing similar services. Thus, whether this method has appropriately reflected the comparability of the transaction entered into by the assessee with its AE vis-à-vis other methods, need reconsideration.

7.11 In light of the foregoing discussion and having regard to the incomplete evaluation by the lower authorities, we deem it appropriate to set aside the transfer pricing adjustment made by the Assessing Officer/TPO. The matter is remanded to the file of the TPO for de novo consideration in accordance with law and in the light of the observations contained herein.

7.12 The ground no. 3 of the appeal is accordingly allowed for statistical purposes. Since, we allowed the ground no. 3 for statistical purposes, our findings on other grounds is rendered merely academic.

8. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced under Rule 34(4) of the ITAT Rules, 1963 by way of placing result on notice board on 30.05.2025.

**Sd/-
(RAHUL CHAUDHARY)
JUDICIAL MEMBER**

**Sd/-
(OM PRAKASH KANT)
ACCOUNTANT MEMBER**

Mumbai;



Dated: 30/05/2025
Rahul Sharma, Sr. P.S.

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. CIT
4. DR, ITAT, Mumbai
5. Guard file.

//True Copy//

BY ORDER,
(Assistant Registrar)
ITAT, Mumbai