

**IN THE INCOME TAX APPELLATE TRIBUNAL  
“C” BENCH: BANGALORE**

**BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER  
AND  
SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER**

ITA No.2586/Bang/2024
Assessment Year: 2021-22

MMSH Clinical Research Pvt. Ltd. 2/1, Dr. Rajkumar Road Rajaji Nagar Bengaluru 560 010 Karnataka  <b>PAN NO : AAFCM3316D</b>	<b>Vs.</b>	DCIT Circle 2(2)(1) Bengaluru
<b>APPELLANT</b>		<b>RESPONDENT</b>

<b>Appellant by</b>	:	Sri Vibhor Ghai V.G., A.R.
<b>Respondent by</b>	:	Dr. K.J. Divya, D.R.

<b>Date of Hearing</b>	:	12.06.2025
<b>Date of Pronouncement</b>	:	30.06.2025

**O R D E R**

**PER PRAKASH CHAND YADAV, JUDICIAL MEMBER:**

Present appeal of the assessee is arising from the order of Id. AO dated 29.10.2024 and relates to assessment year 2021-22.

**2.** Brief facts of the case as coming out from the order of the authorities below are that the assessee Company, primarily engaged in rendering back end support services with writing task (Medical writing) and quality checks along with programming effort to the customers residing in U.S. and Europe. For the impugned assessment year, it has filed its return of income on 3.6.2022 declaring total income of Rs.65,87,390/-. The case of the assessee was selected for scrutiny as there were international transactions reported in Form 3CEB, a reference was made to the Id. TPO after obtaining approval of the appropriate authority. The TPO passed

order u/s 92CA(3) of the Act on 28.10.2023, whereby the ld. TPO has proposed an adjustment of Rs.5,04,48,986/-. Thereafter, the AO passed draft assessment order on 5.12.2023 making the adjustment proposed by the ld. TPO.

**3.** Aggrieved with the order of TPO, assessee filed its objection before ld. DRP and the ld. DRP after considering the objections of the assessee passed an order on **23.9.2024**. Thereafter, the AO passed the final order on 29.10.2024. Here it is pertinent to mention that the ld. DRP, without granting any relief to the assessee, has affirmed the adjustments made by the TPO.

**4.** Aggrieved with the order of the ld. DRP, the assessee has come up in appeal before us. The assessee vide application dated 11.6.2025 has also filed an application for the admission of additional evidences, which basically contains the annual reports of certain comparable companies that were selected by the TPO for the purpose of computing the Arm's Length Price. It is the submission of the ld. Counsel for the assessee that these evidences goes to the root of the matter and hence may be admitted in the interest of justice.

**5.** Ld. D.R. could not object to the prayer of the assessee. However, requested that the matter may be restored to the file of TPO for computing the ALP afresh.

**-: Finding of the Bench:-**

**6.** After considering the rival submissions, we are of the view that all these evidences goes to the root of the mater therefore, required to be admitted for adjudicating the matter. Further the issue whether the same are to be restored to the file of TPO or not would be dealt in subsequent paragraphs.

**7.** The assessee has raised following grounds of appeal:

1. *“That the reference made by the Ld. Assessing Officer ('AO') to the Transfer Pricing Officer ('TPO') under section 92CA of the Income-tax Act, 1961 ('the Act') is void ab initio and bad in law, as the AO has not recorded any reasons in the order passed under section 143(3) of the Act read with section 144C of the Act, based on which the AO concluded that it was 'expedient and necessary' to refer the matter to the TPO for computation of Arm's Length Price ('ALP'), as is required under section 92CA (1) of the Act.*
2. *The Ld. AO / Ld. TPO erred in fact and in law by disregarding the working capital adjustment proposed by the Assessee, which is critical for ensuring a fair and accurate determination of the arm's length price thus making an addition of Rs. 5,04,48,986.*
3. *The Ld. AO / Ld. TPO erred in rejecting the filters applied by the Assessee in the transfer pricing documentation and arbitrarily applying additional filters, leading to the exclusion of — appropriate comparable companies and thus making an addition of Rs. 5,04,48,986.*
4. *The Ld. AO / Ld. TPO erred in law and on facts by rejecting the comparable companies identified in the Assessee's Transfer Pricing Documentation for determining the Arm's Length Price. The following comparable companies were unjustly excluded despite their functional similarity and the fact that they pass all the filters applied by the Ld. TPO:*
  - i) *SysInformation Healthcare India Private Limited;*
  - ii) *Nuance Transcription Services Private Limited;*
  - iii) *Parexel International Services Private Limited;*
  - iv) *Aquity Solutions Private Limited;*
  - v) *Omega Healthcare Management Services Private Limited; and*
  - vi) *nThrive Global Solutions Private Limited.*
5. *The Ld. AO / Ld. TPO erred in facts and law by introducing the following new comparable companies into the final set, which are not appropriate comparable companies for various quantitative and qualitative facts:*
  - a) *Suprawin Technologies Ltd.*
  - b) *Tech Mahindra Business Services Ltd.*
  - c) *E Care India Pvt. Ltd.*
  - d) *Ultramarine (Segmental)*
  - e) *Vitae International Accounting Services Pvt. Ltd.*
  - e) *Inteq BPO Services Pvt. Ltd.*
  - f) *Savitriya Technologies Pvt. Ltd.*
  - g) *Datamatics Business Solutions Ltd.*
  - i) *ITEC India Customer Solutions Pvt. Ltd.*
6. *The Ld. AO / Ld. TPO erred in computing the margins of the comparable companies by incorrectly classifying operating and non-operating items, resulting in an inaccurate determination of the arm's length price.*
7. *That on the facts and circumstances of the case and in law, the Ld. AO/ Ld. TPO erred in initiating penalty proceedings under section 270A of the Act mechanically and without recording any adequate satisfaction for such initiation.*

*Each of the above grounds are independent and without prejudice to the other grounds of appeal preferred by the Appellant.*

*The Appellant prays for leave to add, alter, vary, omit, substitute or amend the above grounds of appeal, at any time before, or at, the time of hearing of the appeal.”*

**8.** Ground No.1 is general in nature and hence does not requires any specific adjudication.

**9.** In ground No.2, the assessee has questioned the action of AO/TPO/DRP with respect to the contention of the assessee that working capital adjustment should be taken into consideration while selecting the comparables.

**10.** Ld. Counsel for the assessee has drawn the attention of the bench towards the order of ld. TPO and ld. DRP and argued that both the authorities have denied the working capital adjustment to the assessee on the ground that segmental details of the comparables has not been provided by the assessee.

**11.** Ld. D.R. relied upon the orders of authorities below.

**:-Finding of the Bench:-**

**12.** After considering rival submissions, we observe that the TPO and DRP have denied the working capital adjustment to the assessee on the ground that there is a big challenge in measuring the working capital difference of the comparables without the availability of segmental data. The ld. DRP has confirmed the view of the TPO by observing that the balance sheets reflect only accounts payable and receivable at the end of the financial year and as such, it would not be possible to measure the impact of working capital on the cost price of profits. It further observed that working capital adjustment depends upon various factors such as cycle, the nature of business

activity with its relation on the general economic trend, the fund and capital position of the company. We observe that the counsel for the assessee has filed the annual reports of these companies, which would sufficiently reflect all the ingredients as were pointed out by the Id. DRP and the TPO. Further, coordinate bench in the case of Quest Global Engineering reported in (2023) 150 taxmann.com 388 has held that adjustment of working capital is mandatory wherever an assessee is able to furnish the reliable data of the comparable companies. Relevant observations of the Coordinate Bench are as under:-

“we noted that the working capital adjustment is to be given and it is a mandatory requirement to allow adjustment if the assessee is able to provide the reasonable/accurate data of the comparable companies and in support of our decisions, we rely on the judgments cited by the Id. A.R. in the case of *Huawei Technologies India (P.) Ltd.* cited 101 taxman.com 313(Bang), in which it has been held as under.....

*Regarding applying the daily balances of inventory, receivables and payables for computing working capital adjustment, the Delhi Bench of ITAT in the case of ITO v. E Value Serve.com [2016] 75 taxmann.com 195 (Delhi - Trib.), has held that insisting on daily balances of working capital requirements to compute working capital adjustment is not proper as it will be impossible to carry out such exercise and that working capital adjustment has to be based on the opening and closing working capital deployed. The Bench has also observed that that in Transfer Pricing Analysis there is always an element of estimation because it is not an exact science. One has to see that reasonable adjustment is being made so as to bring both comparable and test party on same footing. Therefore there is little merit in CIT (A)'s objection on working adjustment based on unavailable daily working capital requirements data*

**12.1** Coordinate Bench of the ITAT following the decision of Huawei has that it is mandatory to provide working capital adjustment by the TPO. Respectfully following the view of the Coordinate Bench we restore this issue to the file of TPO and direct him to provide the working capital adjustment. Therefore, this ground of the appeal of assessee is allowed for statistical purposes with directions.

**13.** In ground No.3, the assessee has challenged the action of the TPO vis-à-vis rejecting the filters chosen by assessee and injecting new filters, while conducting the TP study. With respect to this ground, the main contention of the assessee is that the ld. TPO has wrongly rejected the turnover filters as chosen by the assessee for excluding certain companies. It is the contention of the assessee that the assessee is 100% captive unit and its turnover is merely Rs.26.34 crores and therefore, it is appropriate to pick companies of similar size for the purpose of computing Arm's Length Price.

**14.** Ld. Counsel for the assessee placed reliance on certain judgements to contend that the turnover filter is a valid filter and to be applied while computing the ALP.

**15.** Ld. D.R. relied upon the orders of authorities below.

**:-Finding of the Bench:-**

**16.** After considering the rival submissions, we are of the view that both the authorities have erred in not applying the turnover filter. We are of the view that there should be an upper limit of the comparable companies in terms of their size in order to ensure a fair comparability for the assessee. We find support from the order of coordinate bench in the case of Radisys India Ltd. Vs. DCIT (2023) 154 taxmann.com 459 (Bang-Trib.) Therefore, we are of the view that TPO has erred in not applying this filter while selecting the comparables for the purpose of computing the ALP. We direct the TPO to apply this filter and then exclude those companies which fails this filter. This ground of appeal of the assessee is allowed.

**17.** Ground No.4 raised by the assessee is in respect of the action of TPO in rejecting certain comparables from the TP study, which comparables have been selected by the assessee for benchmarking the ALP of the assessee. The assessee is not pressing this ground

separately and requested that it may be decided while deciding ground no.5.

**18.** In ground No.5, the assessee has objected to the action of TPO in injecting certain comparables for benchmarking the transactions. The contention of the assessee is that the comparables taken by the TPO, when examined on the touchstone of TP Law then they failed to pass through certain filters as mentioned in the synopsis filed by the assessee. For instance, the counsel for the assessee pointed out that company M/s. Ultra Marine Pigment Ltd., chosen by the TPO fails **employee cost filter** and hence cannot be included for the purpose of benchmarking the transaction of the assessee. Similarly, the counsel for the assessee pointed out that this company also fails of service income filter.

**19.** Ld. D.R. relied upon the orders of authorities below.

**-:Finding of the Bench:-**

**20.** We have heard the rival submissions and perused the materials available on record. We find force in the arguments of the assessee and direct the TPO to exclude the companies as mentioned under:

- a) **Ultra Marine Pigments** as the same failed on employee cost filter as well as service income filter.
- b) **Datamatics Business Solutions Ltd.** as the same is not functionally comparable to the assessee.
- c) **Inteq BPO** as the same is not comparable with the function of assessee.
- d) **Vitae International Accounting Services Pvt. Ltd.** as the same is not functionally similar to the assessee.
- e) **Tek Mahindra Business Services Pvt. Ltd.** as it failed to turnover filter and also functionally not comparable with the assessee.

- f) **Suprawin Technology Ltd.** as there was an extraordinary fund in financial year 2020-21 happened in this company.
- g) **Anderson Business Solutions Pvt. Ltd** as the same is not functionally similar to the assessee.
- h) **Savitriya Technology Pvt. Ltd.** as the same functionally similar to the assessee.

**20.1** So far as the contention of the assessee with respect to the TTEC India Customer Solutions Pvt. Ltd., we do not find any force in the arguments of assessee. This company is not to be excluded while conducting the TP study.

**20.2** With these above exclusions, we direct the TPO to conduct the TP study afresh in accordance with law and after excluding the above comparables. The same findings are applied to ground No.4 for the purpose of inclusion of the comparables.

**21.** In ground No.6, the counsel for the assessee has contended that TPO has erred in computing the margins of comparable companies by incorrectly classifying the operating and non-operating items, due to which the results of the TP study are inaccurate.

**22.** Drawing attention of the bench of its synopsis, counsel for the assessee argued that TPO has erred in considering the following components as non-operating in nature for the computation of margins of the comparables.

- a) Bad debts
- b) Provision for doubtful debts
- c) Rates and taxes
- d) Goods and Articles
- e) Subscriptions and Write off

**23.** It is the contention of the Id. Counsel for the assessee that only those items, which are specifically mentioned in Rule 10A are to be excluded for computing operating expenses.

**24.** Ld. D.R. relied upon the orders of authorities below.

**25.** After considering rival submissions, we direct the Id. TPO to consider this ground of assessee afresh and decide the issue in accordance with law and considering the relevant judicial precedents on this issue.

**26.** In the result, appeal of the assessee is allowed as indicated above.

Order pronounced in the open court on 30<sup>th</sup> June, 2025

**Sd/-**  
**(Waseem Ahmed)**  
**Accountant Member**

**Sd/-**  
**(Prakash Chand Yadav)**  
**Judicial Member**

Bangalore,  
Dated 30<sup>th</sup> June, 2025.  
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,**  
**ITAT, Bangalore.**