

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH 'H': NEW DELHI**

**BEFORE SHRI PRAKASH CHAND YADAV, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER**

ITA No.2449/Del/2022
(ASSESSMENT YEAR 2018-19)

Stryker India Private Limited C-5, SDA Commercial Complex, New Delhi-110016. PAN-AAECS2513F (Appellant)	Vs.	Assistant Commissioner of Income Tax, Circle-22(2), New Delhi. (Respondent)
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Assessee by	Shri Ravi Sharma, Adv. and Shri Kashish Gupta, Adv.	
Department by	Shri S. K. Jadhav, CIT-DR	
Date of Hearing	30/07/2025	
Date of Pronouncement	22/08/2025	

ORDER

PER PRAKASH CHAND YADAV, JM:

The present appeal of the assessee is arising from the order of Ld. Assessing Officer dated 30th June, 2022 having DIN No. ITBA/AST/S/143(3)/2022-23/1043702169(1) and relates to Assessment Year 2018-19.

2. Brief facts of the case as coming out from the orders of authorities below are that the assessee is a wholly owned subsidiary of Striker Far East Inc. Hong Kong. It operates in the healthcare industry and is primarily engaged in importing medical/surgical products, manufactured by its group companies. The assessee is also engaged in marketing and distribution of these items in India. For the year under consideration, there were two segments in which the assessee was doing its business, one is trading segment and one is marketing support service segment. The dispute in the present appeal is only with respect to the marketing support services segment. The assessee has applied TNMM method for the computation of Arm's Length Price (ALP) for this segment. The

method applied by the assessee has been accepted by the TPO. Similarly, the Profit Level Indicator (PLI) i.e., OP/TC as has been applied by the assessee, has been accepted by the TPO. Thereafter, for benchmarking the transaction, the assessee has selected certain comparables after applying relevant filters in its TP report. The Ld. Transfer Pricing Officer discarded the comparables chosen by the assessee and conducted his own study and, thereafter make the adjustment in the management support services segment. The TPO also made adjustment in respect of interest own delayed receivables. The Ld. TPO while making the adjustment rejected seven comparables selected by the assessee. The TPO has inducted two new comparables in the final set off comparables and then made the adjustment of Rs.1,74,10,215/-. Similarly, this TPO has made an addition of Rs.68,62,509/- after applying libor +400 bases point viz-a-viz interest on outstanding receivables. After arrival of TPO order, the AO passed the draft assessment order.

3. Against this draft assessment order, the assessee filed objections before the Ld. DRP. The Ld. DRP directed the TPO to exclude one comparable out of the list of final set off comparables and the Ld. DRP sustained the other adjustments qua interest on outstanding receivables. Thereafter, the AO passed the final assessment order.

4. Aggrieved with the order of AO, the assessee has come up in appeal and has raised the following grounds of appeal:-

“1. On the facts and circumstances of the case and in law, the Ld. Assistant Commissioner of Income Tax, Circle 22(2), New Delhi ("Ld. AO") following the directions of the Hon'ble Dispute Resolution Panel ("DRP"), erred in enhancing the income of the Appellant by INR 2,35,91,515/-, on account of Transfer Pricing ("TP") adjustment u/s 92CA(3) of the Income-tax Act, 1961 ("the Act")

2. On the facts and circumstances of the case and in law, the Ld. AO/Ld. Transfer Pricing Officer (Ld. TPO), erred in enhancing the income of the Appellant by INR 1,67,29,006 with regard to international transactions pertaining to provision of Marketing Support Services by

2.1 not accepting the economic analysis undertaken by the Appellant in accordance with provisions of the Act read with the Income-tax Rules, 1962, ("the Rules") and modifying the same for determination of arm's length price;

2.2 rejecting the following comparables without appreciating that the same are comparable to the Appellant in terms of similar Functions, Assets and Risks ('FAR'):

- MCI Management India Pvt Ltd.
- Netlink Solutions (India) Ltd.
- Deepali Design and Exhibits P. Ltd.
- Cheers Interactive India P. Ltd.
- Touchwood Entertainment Ltd.
- DNA Entertainment Networks P. Ltd.

2.3 rejecting Priya International Ltd. (indenting commission segment) on the ground that the same fails the service income filter.

3. On the facts and circumstances of the case and in law, the Ld. AO/Ld. Transfer Pricing Officer (Ld. TPO), erred in inclusion of Just Dial Limited on the basis of similar FAR vis.a. vis the Appellant.

4. On the facts and circumstances of the case and in law, the Ld. AO/Ld. Transfer Pricing Officer (Ld. TPO), erred in enhancing the income of the Appellant by INR 68,62,509 on account of charging of interest on outstanding trade receivables of the Appellant and in doing so grossly erred in:

4.1 treating the outstanding receivables from Associated Enterprises (AEs) as a separate international transaction and re-characterising the outstanding receivables as loan advanced to AE by the Appellant; and

4.2 without prejudice to the above, disregarding that outstanding payable to AEs should also be taken into consideration while computing the interest income of receivables.

5. On the facts and circumstances of the case and in law, the Ld. AO/Ld. Transfer Pricing Officer (Ld. TPO), erred in initiating penalty proceedings u/s 270A of the Act.

That the above grounds of appeal are without prejudice to each other.

That the Appellant reserves its right to add, alter, amend or withdraw any ground of appeal either before or at the time of hearing of this appeal.”

5. So far as ground No.1 is concern, it is general in nature and, hence, does not require any specific adjudication.

6. In Ground No.2 to 2.3, the assessee is challenging the action of TPO viz-a-viz. inclusion/exclusion of certain comparables. It is the contention of the Ld. Counsel for the assessee that if comparable namely Deepali Design and Exhibits P. Ltd. would be included in the final set off comparables and comparable just dial limited would be excluded from the list of final set off comparables then the arithmetic mean of the assessee as well as the TPO would be at arm's length.

7. Ld. DR relied upon the orders of authorities below.

8. We have heard the rival submissions and perused the materials available on record. At the outset, we observe that the Ld. TPO has wrongly excluded the Deepali Design and Exhibits P. Ltd. from the final set off comparables. It is noted that in marketing support services segment, the assessee is also organizing exhibitions in order to advertise its products, similar is the function of the Deepali Design and Exhibits P. Ltd., therefore, we direct the TPO to include this comparable in the list of final set off comparables. We further observed that M/s Just Dial Private Ltd. is a company which is functionally not similar with the assessee as evident from the fact that M/s Just Dial is in the filed of providing BPO services. The function of the assessee are not akin to BPO company, therefore, we direct the TPO to exclude this comparable from the list of final comparables. With this direction, this issue is restored to the file of TPO for examining afresh.

9. Now, we come to the issue of interest on delayed which outstanding receivable. We note that in assessee's own case for Assessment Year 2017-18, the Co-ordinate Bench in ITA No.817/Del/2012 has restored this issue to the file of TPO to compute the interest on receivables. With direction that netting of interest on outstanding payables as well as interest on outstanding receivables would be given to the assessee. Respectfully following the observations of the Co-ordinate Bench, we restore this issue to the file of TPO for examining afresh.

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

Order pronounced in the open court on 22/08/2025.

Sd/-
(MANISH AGARWAL)
ACCOUNTANT MEMBER

Sd/-
(PRAKASH CHAND YADAV)
JUDICIALMEMBER

Dated: 22/08/2025

PK/Sr. Ps

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT

4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR
ITAT NEW DELHI