

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: H : NEW DELHI
BEFORE SHRI ANUBHAV SHARMA, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

ITA No.5589/Del/2024
Assessment Year: 2021-22

Schneider Electric Private Limited, C-56, Mayapuri Industrial Area, Phase-2, West Delhi, Delhi – 110 064.	Vs DCIT, Circle 22(2), Delhi.
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PAN: ABACS1671F

(Appellant)

(Respondent)

Assessee by	: Shri Rohit Tiwari, Advocate & Ms Tanya, Advocate.
Revenue by	: Shri S.K. Jadhav, CIT-DR
Date of Hearing	: 20.08.2025
Date of Pronouncement	: 15.10.2025

ORDER

PER ANUBHAV SHARMA, JM:

This appeal is preferred by the Assessee against the final assessment order dated 28.10.2024 passed by the Assessment Unit, Income-tax Department (hereinafter referred to as the Ld. AO) u/s 143(3) r.w.s. 144C(13) r.w.s. 144B of the Income Tax Act, 1961 (hereinafter referred to as ‘the Act’) for AY 2021-22.

2. Heard and perused the records. On the basis of submission and material on record it comes up that assessee/ appellant (SEPL) was incorporated in 2018 as a subsidiary of Schneider Electric Industries SAS (a wholly owned subsidiary

of Schneider Electric SE) and Belgium. It is a private limited company domiciled in India and incorporated under the provisions of the Companies Act, 1956. The Company was formed as a result of demerger from Schneider Electric India Private Limited pursuant to a scheme of arrangement approved by the National Company Law Tribunal, New Delhi on October 31,2018. The summary of adjustments made by the Learned Transfer Pricing Officer (“Ld. TPO”) in the TP order giving effect to DRP directions has been presented in table below:

S. No.	Nature of international transactions/ disallowance	Method applied	Profit Level Indicator (“PLI”)	Tested party margin as per Ld. TPO	Arm’s length margin as per Ld. TPO	Adjustment in INR
1	Provision of Business support services	Transactional Net Margin Method (“TNMM”)	Operating Profit /Operating Cost (“OP/OC”)	7.44%	8.09% to 16.52%	
2	Provision of Contract and R&D services	TNMM	OP/OC	12.23%	22.10% to 28.14%	51,17,20,000
3	Intra Group Services (IGS)	Comparable Uncontrolled Price (“CUP”) Method	Not Applicable (“N.A”)			30,03,50,226
4	Outstanding Trade receivable	Other Method	N.A			84,45,297
Total adjustment						83,69,95,523

3. **Ground no. 2 arising adjustment in Provision of Business Support**

Services; In regard to adjustment of Rs. 1,64,80,000 made by ld. AO, before us the ld. Counsel has primarily argued on following three grounds;

2.3 including certain functionally dissimilar companies that are inter-alia full-fledged risk-taking entrepreneurs, have peculiar economic circumstances and are high profit-making companies;

2.4 committing factual/ computational errors while calculating the operating margins of the companies selected as comparable in the TP order;

2.5 disregarding various comparability adjustments in determining the arm's length profit margin including working capital adjustment;

4. In this segment, the Appellant renders business support services to its related parties. These services are agreed to be provided by SEPL to AEs at cost plus mark-up. The costs include relevant direct and indirect costs incurred by SEPL in provisioning of these services. The services are provided under three broad categories namely Global Supply Chain, Human Resource Supply service and Captive services. Ld. Counsel has pointed out that there are certain discrepancies in the margins as mentioned by Ld. TPO in appeal effect order and the computation done by the Appellant. The computation of the corrected margins provided before the Ld. TPO is made available at ***pg. no.725-733 of paperbook***. It was submitted that the corrected margins as tabulated below should be considered. The summary of the margins as considered by the Ld. TPO in the appeal effect order and the corresponding corrected margin, as per claim of assessee, is given below:

Table : Corrected margins of comparables

S. No.	Company name	Weighted average OP/TC by Ld.TPO in appeal effect order	Weighted average OP/TC (Corrected)
1	Kwality Hospitality Services Pvt Ltd	7.54%	7.38%
2	Forbes Facility Services Pvt Ltd	8.55%	2.13%
3	KHFM Hospitality & Facility Mgt. Services Ltd.	13.00%	7.35%

5. As with regard to these contentions of Id. Counsel we find that in case of Forbes Facility Services Pvt Ltd., vide direction in para 6.14 the DRP directed AO/TPO to verify the margins given by assessee but again in final order without any reasoning or findings substantiated on data AO took Weighted average OP/TC of 8.55%. We accordingly allow the grounds pressed for **statistical purposes** and direct the AO to accept the Weighted average OP/TC of 2.13% in case of Forbes Facility Services Pvt Ltd., and arrive at fresh computation of adjustments.

6. **Ground no, 3** with sub-grounds refer to enhancing the income by Rs. 30,03,50,226 in relation to intra group services fees paid by the Appellant to its AEs by rejecting the TP documentation maintained by the Appellant and determining arm's length price as 'Nil' by applying Comparable Uncontrolled Price Method ("CUP") Method. The relevant grounds pressed by the assessee are as follows;

3. That on facts and circumstances of the case and in law, the Ld. AO /Ld. TPO/ Hon'ble DRP have erred in enhancing the income by INR 30,03,50,226 in relation to availing of intra-group services (in the nature of business support services, IT support services and other support services) by the Appellant from its AEs by rejecting the TP documentation maintained by the Appellant and arbitrarily determining arm's length price as 'Nil' by applying Comparable Uncontrolled Price Method ("CUP") Method. In doing so, Ld. AO/Ld. TPO/ Hon'ble DRP have grossly erred in:

3.1 disregarding the documentary evidences submitted by the Appellant to demonstrate the actual receipt of above mentioned services and the benefits arising thereof;

3.2 erroneously rejecting the economic analysis undertaken by the Appellant in the TP documentation maintained by it in terms of section 92D of the Act read with Rule 10D of the Rules;

3.3 challenging the commercial/ business wisdom of the Appellant in relation to payment in respect of the above-mentioned services; and

3.4 arbitrarily determining arm's length price as 'Nil' by stating that no third independent party would pay for such services in an independent situation.

7. In regard to these grounds Id. Counsel has relied the decision in case of coordinate bench in case of Schneider Electric Infrastructure Ltd. ITA 361/AHD/2022, another entity of group, engaged in somewhat similar segments and receiving similar services and vide order dated 3.10.2023 the Ahmadabad Bench has allowed the benefits. However, here it is not coming up if the AO/TPO has considered the documentation of assessee. Issue is restored to TPO/AO for verification of evidences in view of this decision in Schneider Electric Infrastructure Ltd. (supra). Ground is allowed for statistical purposes.

8. In regard to **ground no. 4**, it comes up that the Appellant renders contract R&D services to its AEs in the field of development of electronic and electromechanical products, customizing /testing embedded intelligence or software to be used for automation of hardware products. SEPL primarily assists AEs in (i) developing subsets of newly conceived products and (ii) testing/simulation of embedded software module(s), which are used in making hardware products for automation purposes. The relevant grounds as raised are as follows;

4. That the Ld. AO/ Ld. TPO/Hon'ble DRP erred in enhancing the income of the Appellant by INR 51,17,20,000 pertaining to provision of contract R&D services to its AEs in doing so, have grossly erred in:

4.1 rejecting the economic analysis undertaken by the Appellant in the TP documentation maintained by it in terms of section 92D of the Act read with Rule 10D of the Rules;

4.2 conducting a fresh comparability analysis based on the application of erroneous additional/ revised filters in determining the arm's length price for the Appellant and rejecting the filters applied by the Appellant in its TP documentation;

4.3 including certain functionally dissimilar companies that are inter-alia full-fledged risk-taking entrepreneurs and high profit-making companies;

4.4 not providing the effect to the directions issued by the Hon'ble DRP with respect to exclusion of comparables that do not have segmental information as part of financial statements;

4.5 disregarded supplementary documentary analysis submitted before the Ld. TPO providing additional comparable companies that undertake services that are akin to Contract R&D services provided by the Appellant;

4.6 disregarding various comparability adjustments in determining the arm's length profit margin; and

4.7 disregarding judicial pronouncements in India while undertaking the TP adjustment.

9. The ld. Counsel of assessee has submitted that the economic analysis undertaken by the Ld. TPO is grossly incorrect as the companies which have been selected are primarily engaged in software development services which are not akin to the services rendered by the Appellant. The final list of comparable companies as selected by the Ld. TPO after giving effect to the directions of

Hon'ble DRP to benchmark the transaction of provision of Contract R&D services is tabulated below:

Table : Comparable selected for Contract R&D segment in the TPO appeal effect order

S. No.	Company Name	OP/OC (%)
1	Orangescape Technologies Private Limited	1.46%
2	Evoke Technologies Private Limited	5.31%
3	Issumation Tech Private Limited	6.57%
4	Sybrant Technologies Private Limited	10.32%
5	Great Software Laboratory Private Limited	18.30%
6	Sagarsoft (India) Limited	18.32%
7	Nihilent Limited	21.38%
8	Mindtree Ltd	22.30%
9	Wipro Limited	24.81%
10	XS cad India Private Limited	27.32%
11	Sasken Technologies Limited	28.14%
12	Tata Elxsi Private Limited	31.12%
13	Infosys Ltd.	32.68%
14	CG-VAK Software & Exports Ltd.	35.34%
15	Ksolves India Ltd.	45.43%
16	Cybage software Pvt Ltd	48.82%
	<i>Median</i>	23.56%
	<i>35th percentile</i>	18.32%
	<i>65th percentile</i>	28.14%

9.1 DRP had given very specific observations and directions in para 8.11 with regard to nine of these comparables, **which are highlighted in bold in above table.** The observations were that only segmental data is to be used. However, AO has not brought on record any further material and failed to comply the directions. Ld. Counsel has submitted that if (1) Cybage software Pvt Ltd. (2) Mindtree Ltd. (3) Tata Elxsi Private Limited. (4) Great Software Laboratory Private Limited and (5) Infosys Ltd. are removed the margin will be

neutralized in favour of assessee. Thus in the absence of segmental data, we sustain the contention and **allow this ground** with direction to remove these Five companies as comparables and determine the margins afresh.

10. **Ground no. 5** with sub grounds arises out of enhancing the income of the Appellant by Rs 84,45,297 as notional interest on delay in collection of trade receivables from the AEs. Ld. Counsel has submitted that the outstanding receivables are a result / consequence of the Appellant's international transactions with its AEs and is not a separate international transaction per se as per provisions of section 92B of the Act; and therefore, the same does not warrant determination of any separate arm's length price under section 92C of the Act. It was submitted that once working capital adjustment is granted to the Appellant and the margin of the tested party is within the arm's length range, no separate adjustment is warranted on account of interest on outstanding receivables from AEs in the hands of the Appellant. Reliance in this regard is placed in the case of **Kusum Healthcare Pvt. Ltd. Vs. ACIT in ITA No.6814/Del/2014 where in the Delhi Tribunal** vide order dt.31.3.2015 held –

“With the Assessee having already factored in the impact of the receivables on the working capital and thereby on its pricing/profitability vis-à-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.”

11. We find that TPO while giving findings in para 23(iv) has relied the Decision of Hon'ble Delhi High Court in **Cotton Naturals 2015 SCC**

OnLine Del 8414. DRP sustained same in para 9.9. But, no real comparables were used to make adjustments. At same time we find that it is not ascertainable if the Assessee had undertaken working capital adjustment for the comparable companies selected in its transfer pricing report. Further that if the differential impact of working capital of the Assessee vis-à-vis its comparables had already been factored in the pricing/profitability and if same was more than the working capital adjusted margin of the comparables and, therefore, any further adjustment to the margins of the Assessee on the pretext of outstanding receivables is unwarranted and wholly unjustified. Thus relying **Kusum Healthcare Pvt. Ltd.(supra)** we direct **AO** for factoring the impact of the receivables on the working capital and thereby on its pricing/profitability vis-à-vis that of its comparables. The assessee is directed to provide the relevant details for fresh benchmarking of the ALP with regard to interest on receivables. Ground is sustained for statistical purposes.

12. The remaining grounds are general or consequential according rendered to follow the events as determined in grounds above. The appeal is allowed partly.

Order pronounced in the open court on 15.10.2025.

Sd/-

(MANISH AGARWAL)
ACCOUNTANT MEMBER

Dated: 15th October, 2025.

dk

Sd/-

(ANUBHAV SHARMA)
JUDICIAL MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi