

**IN THE INCOME TAX APPELLATE TRIBUNAL  
"DB" BENCH, COCHIN**

**SHRI INTURI RAMA RAO, ACCOUNTANT MEMBER  
SHRI RAHUL CHAUDHARY, JUDICIAL MEMBER**

**ITA No.955/COCH/2024  
(Assessment Year:2021-2022)**

**Applexus Technologies Private Limited**

10<sup>th</sup> Floor, Yamuna Building, Phase III,  
Technopark Campus, Kerala- 695583  
[PAN: AAHCA2451P]

..... **Appellant**

Vs

**Deputy Commissioner of Income Tax**

Public library building, Shastri Road,  
Kottayam, Kerala- 686001

..... **Respondent**

**Appearance**

For the Appellant/Assessee : Shri Reuben Joseph  
For the Respondent/Department : Shri Sanjit Kumar Das

**Date**

Conclusion of hearing : 19.08.2025  
Pronouncement of order : 13.11.2025

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**ORDER**

**Per Rahul Chaudhary, Judicial Member:**

1. The present appeal has been preferred by the Assessee challenging Final Assessment Order, dated 13/09/2024, passed by the Assessing Officer under Section 143(3) read with Section 144C read with Section 144B of the Income Tax Act, 1961 [hereinafter referred to as 'the **Act**'], as per the directions issued by Dispute Resolution Panel - 2, Bengaluru [for short '**DRP**'], on 12/08/2024 under Section 144C(5) of the Act for the Assessment Year 2021-2022.
2. The Assessee has raised multiple grounds of appeal which can be grouped as under:
  - Ground No.1: Incorrect rejection of transfer pricing documentation prepared by the Assessee

- Ground No.2: PLI to be calculated only on the export segment related to associate enterprise instead of computing it at entity level
- Ground No.3: The comparable companies introduced by the Transfer Pricing Officer should be rejected.
- Ground No.4: The comparable companies selected by the Assessee in the TP Report should be accepted
- Ground No.5: Interest should not be charged on delayed realization of receivables.
- Ground No.6: Claim for market risk adjustment for determination of arm's length price to be provided.
- Ground No.7: Service income threshold of 75 percent to sales should be revised to 50 percent.
- Ground No.8: Export service income threshold of 75 percent to sales should be revised to 50 percent.
- Ground No.9: Turnover filter should have an upper unit.

3. The relevant facts in brief are that the Assessee is an Indian private limited company engaged in the business of providing consulting services in SAP solutions and products. For the Assessment Year 2021-2022 the Assessee filed return of income on 08/03/2022 which was selected for regular scrutiny. During the assessment proceedings reference was made by the Assessing Officer to the Transfer Pricing Officer (TPO) for determination of Arm's Length Price of the International Transactions undertaken by the Assessee with its Associated Enterprises (AEs) during the relevant previous year. Vide Order, dated 05/10/2023, the TPO proposed upward transfer pricing adjustment of INR.3,50,58,014/- in respect of transactions with AEs in ITeS Segment and a further transfer pricing adjustment of INR.44,95,811/- as interest income on outstanding receivables. The Assessing Officer passed Draft Assessment Order, dated under Section 144C(1) of the Act proposing aforesaid transfer pricing adjustment aggregating to INR.3,95,53,825/-. Being aggrieved, the

Assessee filed objections before the DRP which were disposed off vide Order, dated 12/08/2024. It is the case of the Assessee that the DRP failed to consider the submissions of the Assessee and issued directions rejecting the contentions raised by the Assessee. Based on the directions issued by the DRP, the Assessing officer passed the Final Assessment Order, dated 13/09/2024, making transfer pricing addition of INR.3,95,53,825/-. Being aggrieved, the Assessee has preferred the present appeal raising grounds summarized in paragraph 2 above.

4. When the appeal was taken up for hearing the Learned Authorized Representative for the Assessee pressed into services Ground No.1 & 2 raised in the present appeal.
  - 4.1. It was contended on behalf of the Assessee that the authorities below did not consider the contentions raised by the Assessee and without appreciating the transfer pricing documentations and the response submitted by the Assessee during the course of assessment proceedings, rejected in the transfer pricing documentation of the Assessee.
  - 4.2. It was submitted that the Indian Transfer Pricing Regulations required the Assessee to maintain contemporaneous documentation. A detailed Transfer Pricing Documentation as required under Rule 10D of the Income Tax Rules, 1962 (for short '**IT Rules**') was maintained by the Assessee and was filed before the TPO during the assessment proceedings. The Assessee has performed a detailed functional & economic analysis, and had undertaken a comprehensive & methodical search process, while carrying out the benchmarking analysis using the publicly available database. The analysis of comparability of international transactions with uncontrolled transactions involves certain amount of subjectivity. However, differences in the benchmarking approach adopted by the Assessee and by the TPO could not lead to conclusion that the Transfer Pricing

Documentation maintained by the Assessee was unreliable or incorrect. Most of the quantitative and qualitative filters applied by the Assessee in TPSR were accepted by the TPO. Therefore, the differences in the comparable company set, use of financial data and certain filters was only due to differences in the opinion on functional comparability, threshold of certain filters for rejection/selection of companies as comparable. These were merely differences of opinion between the Assessee and TPO and could not be regarded as deficiencies or inefficiencies in the TP Documentation. Accordingly, it was submitted that the TP documentation of the Assessee was incorrectly rejected without appreciating the TPSR and details/submission furnished by the Assessee.

- 4.3. It was further submitted that the Assessee had complied with the requirements of the Transfer Pricing Regulations as contained in the Act and the relevant Rules and had provided all the relevant documentation sought by TPO during the course of assessment proceedings.
- 4.4. In view of the above, it was submitted that the Assessee had undertaken detailed functional as well as economic analysis to demonstrate that the transactions with its AEs are at arm's length. However, the TPO and DRP failed to appreciate the same. It was submitted that mere inclusion or exclusion of some of the filters in the quantitative analysis does not render the data used by the Assessee as unreliable or incorrect. It was further submitted that the finding returned by the DRP/TPO that the Assessee had failed to furnish segmental details was factually incorrect. In this regard, the Learned Authorised Representative for the Assessee drew our attention to the reply/documents filed before the TPO forming part of the paper-book furnished by the Assessee.
5. Per contra Learned Departmental Representative relied upon the order passed by the TPO and the orders passed by the DRP.

5.1. Referring to the order passed by the TPO under Section 92CA(3) of the Act, the Learned Departmental Representative submitted that the TPO had provided cogent reasons for rejecting the transfer pricing documentation of the Assessee. In this regard reliance was placed by the Learned Departmental Representative on Paragraph 5 to 5.4 of the order passed by the TPO. It was submitted that the TPO had pointed out the defects in the following manner:

"5. *Analysis of TP document*

5.1 *xx xx*

5.2. *From the examination of the TP document, the following defects have been found in the TP analysis carried on by the Taxpayer.*

*i. The Taxpayer has used certain inappropriate filters: Ambiguous Filters such as Rejecting companies Functionally not comparable/Product or service difference Companies, Rejecting the companies having net sales < 1 crore and >50 crores are not appropriate filters for a service industry according to the TPO. Further, use of filters such as non-availability of financial data pertaining to any financial year under review ie., FY 2018-19, FY 2019-20 and FY 2020-21 is inappropriate. Use of such filter may have led to rejection of some good potential comparables. The taxpayer has also not used Appropriate filters correctly which the TPO has used.*

5.3 *Due to the rejection of certain filters (as detailed in the table above) used by the Taxpayer and the need to include the below mentioned appropriate filters, there is a change in the set of uncontrolled comparables identified by the Taxpayer. The ALP as per the amended Transfer Pricing regulations in India is arithmetic average or median of the prices of the uncontrolled comparables. In view of the same, due to rejection of filters, if some or all uncontrolled comparables are rejected, the consequent Arm's Length Price would also stand rejected.*

5.4 *Therefore, in view of section 92C(3)(c), it is relevant to hold that the data used in computation of the Arm's Length Price is not reliable or correct. Based on the above grounds, the TP document is proposed to be rejected and the TPO proceeds to*

*determine Arm's Length Price by conducting an independent search for comparables considering the functions of the Taxpayer the assets employed and the risks taken by adopting TNMM method and the results of the search is given in the following paras.* (Emphasis Supplied)

- 5.2. Further, taking us to Paragraph 9 and 10 of the order passed by the TPO, Learned Departmental Representative submitted that the Assessee had failed to provide segmental data. The Assessing Officer had noted that PLI calculated by the Assessee was skewed with export segment having OP/OC of 12% where is the domestic segment had OP/OC of -38.26%.
6. In rejoinder the Learned Authorized Representative for the Assessee submitted that the observations made by the Assessee by the TPO in Paragraph 5, 9 and 10 of the order passed under Section 92C(3) of the Act supported the contention of the Assessee that the TP documentation of the Assessee was rejected without appreciating the documents/submissions filed by the Assessee.
- 6.1. It was submitted that segmental information was submitted before the TPO alongwith Response, dated 20/09/2023, whereby it was explained/clarified by the Assessee as under:
- (a) The basis of segmenting each head of expense is given against the sector. The single largest expenditure is employee cost which is allocated based on the hours spent by each employee on each project. This has been prepared based on their time sheets. Other expenses have been allocated on reasonably logical basis such as rent and utilities to the premises to which it relates, administrative costs in the ratio of turnover, etc. Thus, the actual segment wise segregation of income and expense related to export sector was mentioned.
  - (b) The year 2020-21 was marked by uncertainties due to the

Covid-19 pandemic. Despite predicting a normal average growth rate for both domestic and export operations, the actual situation turned out to be vastly different. Unfortunately, the Assessee lost a significant client base in domestic market as a majority of them withdrew their proposals with the company. The Assessee had prepared both manpower and infrastructure facilities to handle the anticipated growth, however, they could not meet the predicted growth. Despite the drastic turnaround in the domestic turnover, the Assessee still expect better growth in the future once the pandemic subsided. Therefore, the company decided to hold their infrastructure and manpower to meet the growth they anticipated. However, due to this decision, the Assessee incurred significant expenses in their domestic operations as compared to their domestic turnover, leading to a huge operational loss for the year 2020-2021.

- 6.2. The Learned Authorised Representative for Assessee submitted that the Profit Level Indicator (PLI) for the export segment, constituting the international transactions was 12.02%. However, the TPO did not consider the segment-wise bifurcation of revenue and expenses. Instead, the TPO calculated the PLI at the entity level, resulting in a value of 3.9%.
- 6.3. In view of the above, the Learned Authorised Representative for the Assessee submitted that the fresh analysis done by the TPO be set aside.
7. We have given thoughtful considerations to the rival submissions advanced by both the sides and have perused the material on record including Transfer Pricing Study Report (TPSR), order passed by the TPO, Assessing Officer and the DRP.

7.1. We note that in the TPSR the Assessee had made following disclosed that Applexus Inc was a global business consulting and SAP service provider. The Assessee-Company was incorporated in May, 2008. 97.08% shareholding of the Assessee-company was held by Applexus Inc. The Assessee provided software/IT enabled support services to support the offshore functions of its AE whose services includes business consulting services, SAP solutions and products to customers across multiple verticals.

7.2. As per the TPSR, during the relevant previous year, the Assessee undertook International Transaction which were benchmarked as under:

International transactions	Method selected	Applexus (Tested party)		Comparable's		Whether within Arm's Length range or not
Provision of IT Services	TNMM using OP/OC as PLI	17,30,49,762	12.02%	Indian Companies engaged in providing similar services	35 <sup>th</sup> percentile (-7.23) percent Median (-7.07) percent 65 <sup>th</sup> percentile 1.97 percent	Yes

8. Since during the relevant previous year 2020-2021 the businesses were impacted by the spread of COVID 19 Pandemic, the TPSR prepared by the Assessee dealt with its impact on the IT industry in Paragraph 3.8 & 3.9 which read as under:

*"3.8. Impact of Coronavirus disease ("COVID")*

*The impact of coronavirus ("COVID-19") has been profound. The rapid spread of the virus has strained local medical infrastructures, led to restrictions on travel and social contact, and created unprecedented disruptions to the global economy.*

*During the pandemic period, many enterprises have faced or continue to face significant cash flow constraints, requiring them to develop and implement strategies to conserve and generate*

*cash. Enterprises have seen wide swings in profitability, both upward and downward. Enterprises across a variety of industries have faced disruption to their supply chains, including the curtailment of their operations and corresponding reductions in output, and have been forced to change how their business is conducted (e.g. working from home). In many jurisdictions, factories, mines, shops and restaurants have been forced to close, at least temporarily. In some industries, demand has completely collapsed, while in others it has merely shifted channels or even increased (e.g. the market for online videoconferencing services). In the presence of significant financial hardship, some enterprises have reviewed their contractual arrangements with third parties to ascertain whether they remain bound by them or have attempted to renegotiate key terms, including requesting discounts or deferred payment. Given the significance and speed of the economic impact of the virus, governments have adopted comprehensive policy responses to support the economy and protect people's jobs and incomes.*

*The Indian IT sector is expected to see near-term disruption in FY 2020-21 but the financial year FY 2021-22 "should be a normal year" given the need for technology across segments. COVID-19 has provided IT service companies with an opportunity to test work from home ("WFH") concepts, and innovate on services as well as delivery. IT service companies are seeing higher percentage of employees working from home versus earlier without much impact on productivity levels, though trends on this need to be watched out for as things open up.*

*Clients have also adopted technology at a faster pace than earlier, to ensure business continuity and some of these shifts will likely stay in the post-COVID-19 world, given cost and efficiency benefits.*

*Businesses on the cloud responded better and that will lead to acceleration in cloud adoption. A distributed workforce means higher usage of collaboration/communication tools and need for cyber security, all areas of big growth in coming years.*

*Overall, COVID-19 is likely to drive behavioural changes that can push more people toward using digital medium for transactions, resulting in a shift away from cash. Trends that are likely to emerge include digital becoming a paying habit; entry of new non-tech savvy consumers into the digital space, and further progress on financial inclusion.*

i. Short term impact

*In the short term, global clients widely indicate demand reduction, and even as 80% expect some form of recovery in the medium term, full recovery is expected to be long drawn as the nature of impact remains uncertain. 18 India's software and services exports is expected to grow 8.1% year-on-year to USD 147 billion in FY 2020. US and Europe together account for over two-thirds of total Indian IT exports. However, due to these regions being significantly impacted by the COVID-19 pandemic, Indian IT services is expected to be negatively impacted, as companies in these regions look to reduce their technology spending, renegotiate existing contracts and put on hold growth initiatives and discretionary IT initiatives.*

*According to HDFC Securities, Indian IT sector revenue is expected to witness a decline of 2%-7% in the next 6 months, driven by delays in decision making by businesses, as they evaluate the impact of COVID-19 on operations*

*In March 2020, Accenture, a tech-consulting firm, lowered its FY 2020 revenue growth forecast from 6-8% to 3-6% because of the impact of COVID-19. Indian IT firms are expected to follow similar trends.*

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*According to the Grant Thornton report, the pandemic could disproportionately, impact existing business for small IT and ITeS firms compared to mid-sized and large IT and ITeS companies in percentage terms although new business impact seems to be similar across different segments. Companies providing niche, specialised services are indicating neutral to positive outlook*

ii. Medium and Long term impact

*Buoyed by need for Cloud, collaborative workplace technologies, mobility, and cyber security, more than two thirds of tech companies in India expect FY 2021-22 to be largely centered on recovery and restart, as the outlook on tech spend is positive in the medium term. Digital deals likely to increase and the outlook on tech offshoring is promising. Over 80% expect offshoring to become strategic to global firms sourcing plans*

*As COVID-19 spread, the industry demonstrated agility in transitioning to WFH, 80% now believe that WFH will be a more integral and formal part of their business upon recovery.*

*In getting ready for the new normal, the Indian Tech industry will require stronger focus on newer sources of revenue, flexible contractual terms and innovative sales models built through differentiated partnerships and dedicated commitment to becoming a trusted client partner.*

### 3.9 The way forward

*India is the topmost offshoring destination for IT companies across the world. Having proven its capabilities in delivering both on-shore and offshore services to global clients, emerging technologies now offer an entire new gamut of opportunities for top IT firms in India. The industry is expected to grow to USD 350 billion by 2025 and BPM is expected to account for USD 50-55 billion out of the total revenue.*

*The spread of pandemic by COVID has made a huge disruption in economic activities, resulting in a decline in the industry over a small period of time and loss of contracts.*

*The global IT and ITeS sector is starring at negative growth of 5 to 10 percent, probably for the first time, due to the impact of the COVID-19 outbreak. This will in turn hurt Indian IT and ITeS industry as well, according to analysts. According to a NASSCOM estimate, Indian IT and ITeS industry revenue would be USD 191 billion for FY20, growing at 7.7%. In addition, major economies such as the US and UK are looking at negative growth. For Indian IT firms, these markets account majority of the income.” (Emphasis Supplied)*

- 8.1. Further, during the proceedings before the TPO the Assessee had provided PLI Computation of Export Segment as well as Domestic Segment. On the basis of the segmental details furnished by the Assessee information provided by the Assessee the TPO had made following observations:

*“10. TAXPAYER'S OBJECTIONS AND TPO'S REMARKS:*

- 10.1 The objections of the Taxpayer to the comparables selected by the TPO and their disposal by the TPO along with functional analysis of the comparables is given in the following table:*

*Taxpayer's objection:*

*Segmented PLI should be calculated*

*TPO's comment:*

*It has already been discussed in above paragraphs. In addition, assessee has not provided details of audited expenses. In reply to SCN, assessee has stated that employee cost is the biggest expenditure which is allocated to different segments based on time stamps but no documents substantiating the same has been provided. The PLI calculated by assessee is skewed where export segment segment is having 12% OP/OC ratio and domestic segment is having -38.26% OP/OC ratio. It may also be noted that revenue from operations (domestic) constitutes only 9.7% of total operating revenue. Hence, calculating PLI at entity level will not affect the margins substantially. In the absence of audited segmental data and disproportionate allocation of expenses between two segments by assessee and considering domestic segment having a minor impact on total revenue, TPO has calculated the PLI at entity level." (Emphasis Supplied)*

- 8.2. The above observations made by TPO neither referred to the explanation provided by the Assessee relating to impact of COVID 19 Pandemic nor factored its impact on the profit margins. On the other hand, the TPO returned a finding that in the absence of audited segmental data, and disproportionate allocation of expenses between two segments by Assessee, PLI should be computed at entity level.
- 8.3. In this regard, we note that before the DRP Assessee had submitted that details of expenses as requested by TPO were furnished in Response, dated 20/09/2023, filed before the TPO. Further, the Assessee had given detailed explanation regarding segment-wise PLI calculation which included (a) entity level PLI computed by TPO, (b) the basis of allocation of expenses (c) Assessee's segment-wise computation of PLI (d) computation of allocation of expenses alongwith the basis. Before the DRP it was specifically contended by the Assessee that during the assessment proceedings the Assessee has asserted that the Profit Level Indicator (PLI) for the export segment, constituting the international transaction, was 12.02%. However, the TPO did not consider the segment-wise bifurcation or revenue and expenses. Instead, the TPO calculated the PLI at the entity level, resulting in a

value of 3.9%.

- 8.4. On perusal of the order passed by the DRP we find that the Objections raised by the Assessee regarding rejection of the TP documentation and adoption of entity level PLI were disposed off the DRP in the following manner:

*"2.0 Ground of Objection No. 1: Incorrect rejection of the transfer pricing documentation prepared by the Assessee*

*Ground No 1.1. The TPO AO has erred in disregarding the economic analysis carried out by the Assessee in the Transfer Pricing documentation (TP documentation") and rejecting the same*

*Ground No 1.2: The TPO/AO has erred in computing the transfer pricing adjustment of the entity level by incorrectly treating the entire revenue and expense of the company as an international transaction with the associated enterprise (AE). The adjustment should be limited to the international transactions pertaining to the service segment rather than applying it at the entity level.*

*Ground No. 1.3: The TPO/ AO has erred in rejecting the companies selected by the Assessee in the TP documentation without providing any cogent reasons*

*Ground No 1.4: The TPO AO has erred in not appreciating the fact that the TP documentation maintained by the Assessee cannot be rejected merely on account of difference of opinion.*

*Ground No.1.5: The TPO/AO has erred in treating the outstanding receivable as a separate international transaction and making additional adjustments for interest on receivables.*

- 2.1 Panel: The Transfer Pricing Officer (TPO) has issued a detailed show cause notice to the Assessee Company as per letter dated 04.09.2023. The TPO has pointed out the following defects in the TP documentation of the Assessee Company-*

- The taxpayer has used certain inappropriate filters*

*In view of the above defects and per the provisions of section 92C(3)(c), the TPO held that the data used in the computation of the ALP is not reliable or correct. On these reasons, the TPO rejected the TP Documentation and*

*decided to conduct a fresh search of comparables considering the functions performed, the assets employed and the risks assumed by the taxpayer and by adopting the following appropriate filters-*

- *Use of current year data where available.*
- *Companies having differential financial year ending (not 31" March) or data which does not fall within 12 month period i.e., 01-04-2020 to 31-03-2021 were rejected.*
- *Companies whose income was less than Rs. 1 Crore were excluded*
- *Companies whose service income is less than 75% of the total operating revenues were excluded.*
- *Companies who have more than 25% related party transactions of the sales were excluded.*
- *Companies who have export service income of less than 75% of sales were excluded.*
- *Companies with employee cost less than 25% of total cost were excluded*
- *Companies having persistent loss were excluded.*

*2.2 Having considered the submissions, we note that the TPO has rejected the TP study as the assessee had not adopted appropriate filters for selection of comparable and had not considered current year data for comparability analysis. Proper comparability can be achieved only after making proper FAR analysis of the tested party and based on this analysis, significant economic functions are identified and thereafter relevant filters are adopted based on significant economic functions performed by the tested party. Once proper filters are chosen and applied on the public data base the proper comparables can be identified. Seen from this perspective, this panel finds that there are certain filters which the assessee has not applied. This deficiency was cured by the TPO who applied proper filters as mentioned in the TP order. Therefore, the action of the TPO suggests that the reason for rejection of ALP determined by the assessee has been use of data by the assessee which is not reliable or correct. It is pertinent to note that the recently inserted Rule 10B(5) mandatarily requires the use of current year data even if it is subsequently available at the time of determination of arm's length price during the course of assessment proceedings. The word 'shall' used in the proviso to Rule 10 8(5) clearly stipulates such mandatory condition. Thus, the TPO has to necessarily take into account the current year data for the purpose of comparable analysis. In view of the above, we do not find any infirmity in the TPO's action in rejecting the TP study and consequently doing a fresh analysis.*

Considering the above, we find that action of the TPO is justified and claim of the assessee company is not acceptable.

- 2.3 Hon'ble ITAT Delhi has approved what the CIT (A) had observed on similar ground in the case of Global Vantedge Pvt Ltd. The observation of the CIT (A) is reproduced below:

*The case that the appellant is trying to make is that in every case, the ALP determined by the taxpayer should be accepted. This cannot be accepted since if the assessee is given the power to determine the ALP which cannot be challenged by the tax officers then the transfer pricing regulations introduced into the tax legislation shall become infructuous. The taxpayer should be the one determining the same, however, it should be subject to scrutiny by the tax administration so that any profit shifting methodology being adopted by the assessee can be rejected. However, with this power, also comes the responsibility of being judicious and thus the AO/TPO have to exercise their authority in accordance to the Transfer Pricing Regulation.*

- 2.4 Considering the above, we find that action of the TPO is justified and claim of the assessee company is not acceptable.

- 3.0 Ground of Objection No. 2: PLI to be calculated only on the export segment related to associate enterprise instead of computing it at entity level

*Ground No 2.1: The learned TPO / AD analysed our operating profit margin computation but has calculated the PLI as an entity level by segregating the entire revenue and expenses of the company to export sector. However, we have provided services to both domestic and export customers.*

- 3.1 Panel: Having considered the submissions of the assessee, the Panel noticed that the assessee has submitted that it has two units, one at Kochi which is exclusively dedicated to cater to the export business to the AE. The other Unit at Trivandrum provides services to both the AE and the domestic entities. The assessee contended that the TPO considered the entity level PLI. The assessee has contended it has submitted the segmental details of both the units. It was submitted that the single largest expenditure is the employee benefit expenditure which has been allocated based on the hours spent by each employee on each project which is prepared based on time sheets. However, the Panel noted that the assessee has not furnished any details of

*the employees and the man hours spent on each project. The time sheets have also not been submitted before the Panel. Hence the assessee's submissions cannot be considered. Grounds rejected."*

9. Perusal of the above extract of the order passed by the DRP shows that the DRP had accepted the findings returned by the TPO. The contention of the Assessee that the transfer pricing documentation of the Assessee cannot be rejected merely on account of selection of inappropriate filters and/or inclusion/exclusion of comparables has not been considered by the DRP. The contentions of the Assessee regarding rejection of detailed economic analysis giving impact of COVID 19 Pandemic on margins, and non-consideration of explanation provided by the Assessee for skewed PLI for domestic segment and export segment were not examined by the DRP. We note that before the TPO/DRP the Assessee had explained that due to the unprecedented outbreak of the COVID-19 pandemic and the ensuing lockdowns imposed across India, the domestic operations of the Assessee were severely affected. A significant number of Indian clients either suspended or cancelled their engagements. In contrast, the Assessee's international operations, particularly in the United States of America., remained relatively unaffected owing to milder restrictions and a quicker economic recovery in that region. As a result, the material on record (including the financial statements and submission filed by the Assessee) show that for the relevant previous year, while the export revenue increased to INR.17.30 Crores, domestic revenue declined drastically to Rs.1.86 crores, signifying a reduction of over 60%. The overall turnover increased to INR.19.16 Crores. The Assessee opted for safeguarding long-term business continuity and employee welfare which resulted in proportionately higher expenses and resulted in losses in the domestic segment. However, the international segment continued to remain profitable and reflected in PLI of 12.02% which according to the Assessee was on arm's length.

10. We note that DRP declined to consider the submission of the Assessee relating to furnishing of segmental details on the ground that relevant details of audited expenses were not submitted by the Assessee. In this regard we note that in the case of **Spectris Technologies [P] Ltd. Vs. The Dy.CIT Circle – 9(1), New Delhi [ITA No.1818/Del/2013, dated 07/03/2024 for the Assessment Year 2007-2008]**, cited on behalf of the Assessee, it has been held by the Tribunal as under:

*“17. Merely because segmental accounts are not audited cannot make them untrustworthy without pointing out any specific defect/error/fallacy in them. Observations of the Id. CIT(A) that non compete fee and good will has not been allocated is not accepted as the TPO himself has not allocated these expenses.*

*18. As mentioned elsewhere, the assessee has not only provided segmental account but has also allocated expenses and has given basis of allocation. Considering the facts of the case in totality, we do not find any merit in the stand taken by the TPO/Assessing Officer as confirmed by the Id. CIT(A). We, accordingly, direct the Assessing Officer to delete the impugned adjustment.”*

11. In the above decision the Tribunal has concluded that in absence of any defect/infirmity being pointed out in the segmental accounts furnished by the Assessee, the same cannot be rejected by the TPO/Assessing Officer as unreliable merely because such segmental accounts were not audited. While deleting the transfer pricing adjustment, the Tribunal took note of the fact that the Assessee had provided segmental accounts along with the basis of allocation of expenses. We note that in the present case also the segmental accounts were accompanied by the basis of allocation. We have already concluded that the TPO/Assessing Officer had failed to consider the explanation furnished by the Assessee for difference in the PLI of domestic as well as export segment as well as the economic analysis done by the Assessee. Therefore, we hold that in the facts and circumstances of the case, the authorities below erred in rejecting

the segmental accounts furnished by the Assessee. Further, we are of the view that the material on record the same supports the contention of the Assessee that the transfer pricing documentation as well as the contention raised by the Assessee regarding computation for PLI export segment (as opposed to entity level computation of PLI) were rejected by the TPO/DRP without appreciating the correct facts and material on record. The authorities below had failed in to consideration the impact of COVID 19 Pandemic on domestic and export segment. Further, the finding by the DRP that the Assessee had failed to submit segmental details is contrary to the material on record. While the Assessee has not furnished audited segmental accounts, the material on record clearly shows that the segmental PLI computation and the basis of allocation as well as computation of segmental cost were placed before the TPO/DRP. Therefore, the findings returned by the authorities below, to this extent, are contrary to material on record. The approach adopted by the TPO rejecting the TP documentation of the Assessee without taking into consideration the material furnished by the Assessee cannot be sustained and is hereby rejected. We also reject the contention of the Revenue that the Assessee had artificially created segmentation and therefore, TPO was correct in computing PLI at entity level. The Assessee had maintained two clearly defined segments with Kochi Unit exclusively providing services the AEs and the Trivandrum Unit providing services to both domestic clients and AEs.

12. In view of the above, transfer pricing adjustment of INR.3,95,53,825/- is set aside with the following directions. Accepting the contention advanced by the Learned Authorised Representative for the Assessee, we direct the TPO/Assessing Officer to consider the transfer pricing documentation and segmental details furnished by the Assessee afresh and carry out the exercise of determining the ALP of the international transactions and transfer pricing adjustment, if any, denovo after granting the Assessee a reasonable opportunity of being

heard. During the course of hearing it was submitted by the Learned Authorised Representative for the Assessee that the TPO had, for the first time, rejected the segmental approach on the ground that time sheets were not submitted a requirement never communicated earlier during the assessment proceedings. It was submitted that had such a requirement been raised, the Assessee would have readily provided the same, and that the Assessee was willing to do so even at this stage. Accordingly, the Assessee is directed to provide time-sheets to the TPO/Assessing Officer to support reasonable allocation of expenses. Since we have restored the issue back to the file of TPO/Assessing Officer, all the rights and contentions are left open. In terms of the aforesaid Ground No.1 and 2 raised by the Assessee is allowed for statistical purposes while all the other grounds raised by the Assessee are dismissed having been rendered infructuous.

13. In result the appeal preferred by the Assessee is partly allowed.

Order pronounced on 13.11.2025.

Sd/-  
**(Inturi Rama Rao)**  
Accountant Member

Sd/-  
**(Rahul Chaudhary)**  
Judicial Member

मुंबई Mumbai; दिनांक Dated : 13.11.2025

Milan,LDC

**आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. आयकर आयुक्त/ The CIT
4. प्रधान आयकर आयुक्त / Pr.CIT
5. विभागीय प्रतिनिधि ,आयकर अपीलीय अधिकरण ,मुंबई / DR,  
ITAT, Mumbai
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

सत्यापित प्रति //True Copy//

उप/सहायक पंजीकार / (Dy./Asstt. Registrar)  
आयकर अपीलीय अधिकरण, मुंबई / ITAT, Mumbai