

**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**"K" BENCH, MUMBAI**  
**BEFORE SHRI PAWAN SINGH, JUDICIAL MEMBER &**  
**SMT.RENU JAUHRI, ACCOUNTANT MEMBER**  
**ITA No. 3653/Mum/2024 (AY: 2016-17)**  
*(Physical hearing)*

DSV Air & Sea Private Limited (Successor of Panalpina World Transport (India) Private Limited) B-201, B-204, The Qube, MV Road, Off International Airport Approach Road, Marol, Andheri East, Mumbai-400 059 <b>PAN : AACCD3848A</b>	Vs	Additional / Joint / Deputy / Assistant Commissioner of Income-tax, Circle 3(1)(1), Aayakar Bhavan, Mumbai-400 020
Appellant / Assessee		Respondent / Assessee

Assessee by	Shri Nikhil Tiwari, Advocate
Revenue by	Shri Bhagirat Ramawat, Sr. DR
Date of Institution	18.07.2024
Date of hearing	02.09.2025
Date of pronouncement	21.11.2025

**Order under section 254(1) of Income Tax Act**

**PER PAWAN SINGH, JUDICIAL MEMBER;**

1. This appeal by assessee is directed against the additions made in assessment order passed under section 143(3) r.w.s. 144C(13) dated 31/05/2024, passed in pursuance of direction of Dispute Resolution Panel (DRP) under section 144C(5) dated 27/05/2024. The assessee has raised the following grounds of appeal:-

***"GROUNDS OF APPEAL***

*Based on the facts and in the circumstances of the case and in law, DSV Air & Sea Private Limited ('the Appellant' or 'DSV India') respectfully craves leave to prefer an appeal under Section 253 of the Income Tax Act, 1961 ('Act') against the order dated on 30 May 2024 passed by the Additional Joint/Deputy/Assistant Commissioner of Income-tax/Income-tax officer, National Faceless Assessment Centre, New Delhi, Assessment Unit, Income-Tax Department (learned AO) issued under Section 143(3) read with Section 144C(13) read with Sections 144(B), ('final assessment*

order"), after considering the adjustments proposed by the Asst. Commissioner of Income Tax, Transfer pricing Officer-1(2)(1), Mumbai ('learned TPO') in his order passed under Section 92CA(3) of the Act and in pursuance of the Directions issued by Dispute Resolution Panel-1 (DRP-1) ('Hon'ble DRP'), Mumbai, on the following grounds:

On the facts and circumstances of the case and in law, the learned AO/Hon'ble DRP/learned TPO, has:

**General Ground**

1. erred in assessing the total taxable income of the Appellant at INR 17,99,47,172 as against of Rs. 9,98,90,730 as reported in the ROI filed by the Appellant,

**Time barred proceedings**

2 the assessment order dated 30 May 2024 passed by the learned AO under Section 143(3) of the Act is beyond the time limit prescribed under Section 153 of the Act and hence time barred and liable to be quashed,

**Reference to the TPO**

3. erred in making a reference of the Appellant's case to the learned TPO under Section 92CA(1) of the Act, without satisfying any of the conditions laid down in clauses (a) to (d) of Section 92C(3) and then making a TP adjustment of INR 8,00,56,442 to the total income of the Appellant which is bad in law;

**Application of additional quantitative filters for benchmarking the transaction**

4 erred in applying turnover filter, i.e. rejecting companies with turnover greater than or equal to 10 times or less than or equal to 10 times of Appellant's turnover selection of operation of comparable companies.

**Rejection of comparables selected by the Appellant in in TP documentation**

5. erred in rejecting Unique Logistics Intl (India) Private Limited on the basis that it falls the related party transactions (RPT) to sales filter of 25% applied by the Appellant as well as the TPO, citing inclusion of director's remuneration while calculating the related party transactions

erred in rejecting Lords Freight India Private Limited in the basis that public data is unavailable, disregarding the fact that the Appellant had submitted the latest audited financial statements of the company before the learned TPO as well as the Hon'ble DRP

7. erred in rejecting *Connect Cargo Private Limited* on the basis that it fails the turnover filter of 1/10 times to 10times applied by the TPO disregarding the fact that the company is functionally similar to the Appellant;

***Introduction of additional comparables by the learned TPO***

8. erred in accepting ***North Eastern Carrying Corporation Limited*** in the final set of comparables disregarding the fact that the company is engaged in only road transportation services and hence is functionally different compared to the Appellant which does not provide road transportation and is only engaged in air and ocean transportation services

9 erred in accepting ***Arkay Logistics Private Limited*** in the final set of comparables disregarding the fact that the company is functionally different as is engaged in providing freight transport by motor vehicles and is a significant asset owning company with assets to tangible assets ratio of 96% as compared to the Appellant which is an asset light company (asset to tangible assets ratio of 0%) Le. a Non Vessel Owning Common Carrier (NVOCC) without prejudice to the above, the company also fails RPT to sales filter of 25% for FY 2018 19 and FY 2017-18 and hence ought to be at least rejected for these years

10 erred in accepting ***Sanmar Shipping Limited*** in the final set of comparables disregarding the fact that the company is a significant asset owning company with assets to tangible assets ratio of-76% as compared to the Appellant which is a NVOCC (with assets to tangible assets ratio of 0%) engaged in air and ocean transportation services.

11. erred in accepting ***Balurghat Technologies Limited*** in the final set of comparables disregarding the fact that the company is functionally different as it is engaged in various activities and does not report segmental information for freight forwarding services and is a significant asset owning company with assets to tangible assets ratio of-39% as compared to the Appellant which is a NVOCC (with assets to tangible assets ratio of 0.00%) engaged in air and ocean transportation services.

12. erred in accepting & companies-***PCC Logistics Private Limited, Prakash Parcel Services Limited, Committed Cargo Care Limited, Premier Road Carriers Limited. Express Roadways Private Limited, AVG Logistics Limited, Om Logistics Limited and Lakhotia Transport Co. Pvt. Ltd.*** disregarding the fact that these companies are functionally different compared to the Appellant as they are significant asset owning companies as compared to the Appellant which is a NVOCC engaged in air and ocean transportation services.

13. erred in accepting **Total Transport Systems Limited** in the final set of comparables disregarding the fact that the company is engaged in various activities along with freight forwarding and does not report segmental information and hence is functionally different compared to the Appellant which is engaged only in air and ocean transportation services.

14. erred in accepting M+R Logistics (India) Private Limited in the final set of comparables disregarding the fact that the annual report of the company is neither available in public domain nor is provided by the learned TPO.

*Margin computation and incorrect calculation of operating margin (OP/OC) for additional comparables introduced by the learned TPO*

15. erred in not sharing the detailed operating margin computation and filters analysis for the comparable companies which were additionally introduced with the Appellant and inaccurately computing operating margins for 13 of the additionally introduced comparable companies.

*Grant of economic adjustments*

16. erred in not allowing the Appellant the benefit of the working capital adjustment which is required to be undertaken in its case to account for the difference in working capital levels between the comparable companies and the Appellant.

17. erred in not allowing the Appellant the benefit of risk adjustment to account for the difference between the risks assumed by the Appellant and the risks assumed by the comparable companies.

***Initiation of penalty proceedings under section 270A of the Act***

18 erred in initiating penalty proceedings under Section 270A of the Act.

*Each of the above grounds of appeal is without prejudice and independent of one*

*The Appellant craves leave to add, alter, amend or delete one or more of the grounds of appeal before the time of hearing of appeal, so as to enable the Hon'ble Income Tax Appellate Tribunal decide this appeal according to law."*

2. Brief facts of the case are that assessee is a subsidiary of Panalpina World Transport (India) Private Limited. The assessee is merged with DSY Air & Sea Pvt Limited, i.e. with its holding company. The assessee is engaged in freight forwarding services, specialised in international A&C

freight consignments and associated services. The assessee, while filing return of income for A.Y. 2020-21 declared income of Rs.9.98 crores. The case was selected for scrutiny. The assessee reported certain international transaction with its associated enterprises (AEs). Thus, the assessing officer (AO) made reference to Transfer Pricing Officer (TPO) for computation of arm's length price. The TPO, in its order passed u/s 92CA(3) dated 28/07/2021, proposed the adjustment of about Rs. 8.00 Crore in respect of international transactions relating to 'Provision of Freight Forwarding Services'. On receipt of report of TPO, the AO issued a draft assessment order by assessing total income under section 144C(1) of the Act dated 25/09/2023, proposing the adjustment on the basis of order of TPO. On service of draft assessment order, the assessee exercised its option to file objection before the DRP. The Ld.DRP vide its direction dated 18/10/2023, upheld the TP adjustment. On receipt of direction of DRP, the AO passed final assessment order dated 30/05/2024 under section 144C(13) of the Act. Aggrieved by the addition / adjustment on account of transfer pricing adjustment, the assessee has filed present appeal before the Tribunal.

- 3.** We have heard the submission of Ld.Authorised Representative of the assessee (Ld.AR) and the learned Senior Departmental representative (Ld. Sr-DR) for the revenue and with their assistance have gone through the orders of lower authorities and various voluminous documents filed. Ground no. 1 and 3 are general and need no specific adjudication. Ground no. 4 to 14 relates to rejection of certain comparable selected by

assessee and inclusion of certain comparables by TPO. The Id AR of the assessee submits that the assessee is primarily engaged in the business of freight forwarding and logistic services especially in international Air and sea freight consignment. The business activities of assessee is not in dispute. The assessee is an assets light company, not owning significant tangible asset which can be appreciated on the basis of schedule appearing in Note No.10 of audited financial statement. During the relevant financial year, the assessee entered into transaction with its AE of freight forwarding transactions and received Rs. 239.68 Crore pertaining to freight forwarding services and paid Rs. 294.24 Crore from/to various its AEs. For benchmarking, such transaction the assessee adopted Transaction Net Margin Method (TNMM) as most appropriate method with profit level indicator (PLI) of OP / OC. The assessee's margin during the relevant financial year was 0.62%. The assessee, in its transfer pricing study report selected 5 comparable companies. TP study report is filed at pages 339 to 347 of paper book. The weighted average of 5 comparables were 1.81% which were within 3.00 % of value of international transaction between assessee and its AE is within the arm's length in terms of Second Proviso to section 92C(2) of the Act. The assessee selected the following 5 comparable companies:-

S.No.	Name of the company	Weighted average of OP / OC
1	Unique Logistics Intl (India) Pvt Ltd	1.08%
2	Connect Cargo Pvt Ltd	1.26%
3	Lords Freight India Pvt Ltd	1.54%
4	Cargo Care Shipping & Forwarding (India) Pvt	2.40%

	Ltd	
5	Expo Freight Pvt Ltd	2.75%
		OP / OC (%)
	Arithmetic Mean	<b>1.81%</b>

4. The TPO undertook the proceedings and accepted TNMM as most appropriate method. However, he rejected 4 comparables without specifying any reasons, viz.

- (i) Unique Logistic Intl Ltd
- (ii) Connect Cargo Pvt Ltd,
- (iii) Lords Freight India Pvt Ltd and
- (iv) Cargo Care Shipping & Forwarding (India) Pvt Ltd

5. The TPO introduced his following 17 additional comparables and determined arm's length range to be 3.09% to 4.3% with a mean margin of 3.9% and suggested transfer pricing adjustment of Rs. 8.005 Crore.

The TPO introduced following new comparables;

Sr. No	Name of comparables	Margins as pr TP Order
1	Prakash Parcel Services Ltd. (Karnataka)	0.68%
2	Yusen Logistics (India) Pvt. Ltd.	0.73%
3	Continental Carriers Pvt. Ltd.	1.57%
4	Jet Freight Logistics Ltd.	1.75%
5	North Eastern Carrying Corpn. Ltd.	2.20%
6	M+R Logistics (India) Pvt. Ltd.	2.59%
7	Expo Freight Pvt. Ltd. (common comparable)	3.09%
8	Balurghat Technologies Ltd.	3.83%
9	Lakhotia Transport Co. Pvt. Ltd.	3.93%
10	Premier Road Carriers Ltd.	4.03%
11	P C C Logistics Pvt. Ltd.	4.08%
12	Committed Cargo Care Ltd.	4.37%
13	Total Transport systems Ld.	5.69%
14	Express Roadways Pvt. Ltd.	6.46%
15	A V G Logistics Ltd.	6.46%
16	Om Logistics Ltd.	9.51%
17	Arkay Logistics Ltd.	12.91%
18	Sanmar Shipping Ltd.	23.66%
	<b>35<sup>th</sup> percentile</b>	<b>3.09%</b>
	<b>Median</b>	<b>3.98%</b>
	<b>65<sup>th</sup> percentile</b>	<b>4.37%</b>

6. The Id. AR of the assessee submits that Id. DRP in its direction dated 27.05.2024 upheld the rejection of 4 comparables, which were rejected by TPO and also upheld the inclusion of 17 comparables included by TPO. The DRP upheld the rejection of Unique Logistics Intl (India) Pvt. Ltd. (Unique Logistics) on the ground that it fails RPT filter as KMP expenses to be a party of RPT expenses for the purpose of recomputing RPT filer. For Connect Cargo Pvt. Ltd., the DRP held that it fails on turnover filter. Lords Freight India Pvt. Ltd., the DRP held that public data is not available. For Cargo Care Shipping and Forwarding India Pvt. Ltd., the DRP held that no public data available after 31.03.2019. The DRP upheld inclusion of all 17 comparables by taking view that asset ownership /asset intensity is not a decisive factor in deciding comparability of a company as assessee can hire vehicles if it does not own the same. Under TNMM only a broad level of functional comparability is necessary and comparables operate in the same sector and perform broadly similar functions. The Id. AR submits that he accepts that inclusion of Yusen Logistics (India) Pvt. Ltd., Continental Carriers Pvt. Ltd. and Jet Freight Logistics Ltd. which were selected by TPO. However, he objects to the inclusion of 14 additional comparables included by TPO for the reasons that first 13 comparables companies were predominantly engaged in provisions of road transportation services, which is functionally not comparable to the assessee who is engaged only in air and ocean freight services. The TPO himself rejected

4 comparables companies on the ground in his show cause notice that they were engaged in road transportation services. Or these companies owned significant asset, making them different to the assessee which is an asset light company in accordance with Rule 10B(2) of Income Tax Rules, 1962 which states comparability must be assessed based on functions perform, asset employed and risk assumed (FAR) of the comparables *vis-a-vis* the assessee. For 14 comparables that is M+R Logistics (India) Pvt. Ltd., the Id. AR of assessee submits that audited financial statement was not available in the public domain. The Id. AR furnished detail chart of all 14 comparable companies which is sought to be excluded from final set of comparable narrating functional difference and decision of various tribunal or higher courts wherein such comparable companies were accepted as engaged in road transportation and / or rejected on the basis of fact that they owned significant assets.

7. On the other hand, the Id. CIT-DR for the revenue supported the order of TPO and DRP. The Id. CIT-DR for the revenue submits that for applicability of TNMM, exact functional similarity is not needed and some functional differences can be tolerated. To support such submissions relied on the decision Mumbai Tribunal in case of Huhtamaki India Limited vs DCIT in ITA No. 8042/M/2029 and particular para 4.19 of such decision and the decision of Bangalore Tribunal in GE India Technology Centre Pvt. Ltd. in ITA No. 789/Bang/2010. The Id. CIT-DR for the revenue submits that in TNMM, what is needed is functional comparability and not similarity of the underlying industry. Even the

comparables from different industry may be used if broad functional comparability is there. The difference between the product similarity that services would be the product in this case and the functional similarity is the difference between TNMM and direct transactional method. The product is very important in TNMM functional similarity is more important than the sector or industry. The comparability range that is the result of bench marking process is usually a long range, and it takes care of some functional differences between the tested parties and the comparables. For example the Arm's Length Range, as selected by TPO is in the present case is from 0.7% to almost 20% and that is a huge range. This indicates that the methods are so designed that the marginal differences (in fact more than that) are accepted and no adjustment is made. However, if an entity is falling outside even such a massive range that clearly means that the charges have not been recovered at market rate and an adjustment is warranted. The Id. CIT-DR for the revenue further submits that assessee is a clearing and forwarding agent and not involved in actual transportation but carries out the function's auxiliary to the work o actual transportation. In such a scenario to ensure a functional comparability that would be acceptable for application of TNMM, an entity involved in these auxiliary functions is to be selected and the actual mode by which the final transportation takes place in respect of such functions can be any of road, air or sea. The actual transportation is not a functions being compared in the given case but functions auxiliary are being compared. To support his submission relied

on the decision of Special Bench of Tribunal in case of Aztee Software & Technology Services Ltd. reported in (207) 107 ITD 141 wherein the bench held that TNMM requires establishing comparability at a broad functional level. It requires comparison between net margins derived from the operation of the uncontrolled parties and net margin derived by an associated enterprise on similar operation. In Pino Bisazza Glass (P) Ltd. vs ACIT in ITA No. 1690/Ahd/2010 held that under TNMM what is needed is functional similarity and not sectoral or industrial similarity. Even in respect of broad functional similarity in an entity level comparison if 75% or more of the revenue is from similar functions, functional comparability is considered adequate for application of TNMM. As most entities might have some minor part of their revenue from other functions and functions also and insisting on a 100% matching might not return any comparables at all. The TPO has taken care of the fact and used a filter where companies having less than 50% of their sales from services were excluded. This filter is not challenged by assessee and application of this filter would mean as long as 50% or more of the sales of the potential comparables are from comparables function segment of services auxiliary to the transportation, the acceptable comparability is there. Further, as long as the assessee does not challenge the filter itself they cannot challenge the individual comparables on this ground. The Id. Sr DR submits that AR of assessee made his submission for exclusion of certain comparables on the ground that such comparables owned significant assets. The asset do not make unique and valuable

contribution, first of all such submission is misleading in referring percentage of said asset as percentage of total intangible asset because these are service sector entities and in general their balance sheets are not intangible asset heavy. Even if they owned a single or a number of vehicles, such vehicles would end up making almost 100% or a very big percentage of their tangible assets without making any significant contribution to their sales or turnover or altering their functional profile. Secondly, the TPO has applied 50% of filter or less of their revenue may be from other segments, which would mean that they might have assets corresponding to these other assets. As long as the contribution of such assets to the turnover remains 50% or less, the assessee has not challenged the said filter, such asset cannot alter entity level comparability and TPO was right in adopting such comparables companies are good comparables. The Sr DR for revenue also given his note in writing in supporting the comparable functionality of all such first 13 comparables. For comparability M+R Logistics, he relied on order of TPO and DRP.

8. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities carefully. We have also deliberated on various case laws relied by both the parties. Firstly, we are considering the rejection of 4 comparable selected by assessee and excluded by TPO. The TPO rejected 4 comparables selected by assessee in its Transfer Pricing Study Report (TPSR) which includes Unique Logistics, Connect Cargo Pvt. Ltd., Lords Freight India Pvt. Ltd. and

Cargo Care Shipping India Pvt. Ltd.

We find that the TPO rejected all above four comparable of assessee without assigning any reason. Though in show cause notice as mentioned in para 5.4.1 of order of TPO, he proposed to reject comparables of the assessee. The assessee filed its detailed reply as recorded in para 5.4.2 of order of TPO. The TPO in para 5.4.3 of his order simply concluded that submissions of assessee is not acceptable. The TPO straightway referred all the comparable selected by him. Hence the action of TPO is not justified and we direct the AO / TPO to include all four comparable i.e. Unique Logistics, Connect Cargo Pvt. Ltd., Lords Freight India Pvt. Ltd. and Cargo Care Shipping India Pvt. Ltd in the final set of comparables.

9. We find that the Id AR of the assessee primarily in his submissions objected about inclusion of 13 comparable, which is discussed below,

(1) For exclusion of North-Eastern Carrying Corporation Limited, we find that TPO included this comparable by taking view that this company is offering domestic, international and commercial goods transportation and having warehouse services and is comparable with assessee. The Id. DRP upheld the action of TPO by taking view that asset bases are broadly comparable and TNMM allows broad comparability. The financial result of this comparable is available at page no. 687 to 695 of paper book (PB). The asset base of comparable is not much large and is not relevant as the assessee has assessed to transport vehicle on hire. The asset owning company face

downward pressure on merging due to interest cost. On considering the submissions of both the parties we find that this comparable is not comparable with assessee company as the same is engaged in road transportation having warehousing operations. The assessee is only engaged in air and ocean freight services and does not have own warehouse. The TPO, himself rejected four of his comparables viz. Vikas Road Carriers, EITA India Ltd., CCI Logistics Ltd. and Associated Road Carriers Ltd. Further, we find that Delhi Tribunal in CEVA Freight India Private Limited vs DCIT in ITA NO. 4956/Del/2013 excluded the comparable which is engaged in road transport business and has freight income from its own truck and container and such comparable company is not engaged in air and ocean transportation like assessee's business. Thus, the AO/TPO is directed to exclude this comparable from the final set of comparable.

(2) For Arkay Logistic Limited, we find that TPO included this comparable by taking view that this company is primarily is engaged in business of end to end logistics and allied services for all types of cargoes. Thus, the functions and activities are comparable with that of the assessee. The Id. DRP upheld the action of TPO by taking view that the company is functionally similar as it is also in transport and logistics business. We find that audited financial statements of the company for FY 2019-20 are not available in public domain and accordingly, this company cannot be considered comparable as it is not possible to verify whether the company passes all the filters

applied by the assessee as well as the TPO and also compute the operating margin of the company. We further find that this company is primarily engaged in the business of end to end logistics and allied services for all types of cargoes. The Id. TPO has already rejected four of his own comparables viz. Vikas Road Carriers, EITA India Ltd., CCI Logistics Ltd. & Associated Road Carriers Ltd. In our view, this company is not comparable with the assessee. Thus, the AO/TPO is directed to exclude this comparable from the final set of comparable.

(3) For Sanmar Shipping Limited, we find that TPO included this comparable by taking view that this company owns and operates cargo ships worldwide. Thus, the functions and activities are comparable with that of the assessee. The Id. DRP upheld the action of TPO by taking view that the sector of applicant and the comparable are same. The asset bases are broadly comparable and the TNMM allows broad comparability. Further, the company is also in transport and logistics business. Further, the DRP also took the view that this is asset heavy companies and that if those are in the same business and perform same/similar functions they will report a lower profitability due to depreciation claim. Hence, the comparability of the applicant with an asset-heavy concern is beneficial to the assessee as the reported PLI are reduced. Furthermore, the DRP also held that the in past their predecessor have held that the assessee is a part of a large conglomerate and the asset base of only one entity in the group ought not be looked at. The financial result of this comparable is

available at page no. 1384-1385 of PB. We find that Mumbai Tribunal in Aramex India Private Limited vs DCIT in ITA No. 6749/M/2017 dated 18.05.218 rejected the comparable owning significant asset. The same view was taken in DCIT vs DHL Logistics P. Ltd. in ITA No. 1385 & 1923 of 2016 dated 10.08.2020. Thus, in our view, this comparable is also not comparable with assessee company.

(4) For Balurghat Technologies Limited, we find that TPO included this comparable without any specific finding as can be seen at page no. 13 at serial no. 9 of list of comparable. The Id. DRP upheld the action of TPO by taking view that sector of assessee and comparable company are same. The asset bases are broadly comparable and the TNMM allows broad comparability. We find that functional data of this comparable is available at page no. 762 to 768 and 769. This comparable is in the business of dispensing fuel, transport service of freight and tourism and have shown revenue from 3 activities. Further, this company has significant asset and 39% of total tangible assets are vehicles, however, the assessee is an asset light company. Thus, this comparable is also not comparable with the assessee company. The AO/TPO is directed to exclude this comparable.

(5) For PCC Logistics Private Limited, we find that TPO accepted this comparable company as it is engaged in the business of transport, cartage, haulage contractor owners and charters of road vehicles, aircraft and ships as carriers of goods and passengers and comparable with the assessee. The Id. DRP upheld the action of TPO

by taking similar view that asset base are broadly comparable and that asset base is not relevant as held in respect of other comparables. We find that financial data of this comparables is available at page no. 771 to 780 of paper book. This company is engaged in transport by road and rail, cartage, haulage contractor owners and charters of road vehicles. Thus, this company is not comparable with the assessee. The AO/TPO is directed to exclude this comparable.

(6) For Prakash Parcel Services Ltd., we find that the TPO accepted/included this comparable by taking view that this company is provided transportation services, warehousing and 3PL services, handling services, customs clearance and project cargo services and thus comparable with assessee. The Id. DRP upheld the action of TPO by taking similar view that asset base are broadly comparable and that asset base is not relevant as held in respect of other comparables. We find that financial data of this comparables is available at page no. 782 to 791 of paper book. This company is primarily in the business of transportation and logistics. It also engaged clearance and project cargo services. This company has significant asset and 62% of total tangible asset are vehicles wherein the assessee is an asset light company. This comparable company owned more than 185 vehicles. Thus, in our view, this comparable is also not good comparable with assessee company. The AO/TPO is directed to exclude this comparable.

(7) For Committed Cargo Care Limited, we find that TPO included this comparable by holding that this company is engaged in custom brokerage, air freight, express freight, sea freight, document processing, multi modal facility, 4PL & supply chain management, packaging and warehousing tracking and tracing facility. The Id. DRP has not given any specific finding. We find that financial statement of this comparable is available at page no. 794 to 802 of paper book. This comparable company is engaged in various services, such as 4PL, supply chain management, packaging and warehousing. On the other hand, the assessee company is in air and ocean freight services. Thus, not comparable with this comparable company. The AO/TPO is directed to exclude is comparable.

(8) For Premier Road Carriers Limited, we find the TPO included / accepted this comparable by holding that this comparable is engaged in integrated logistics solutions, project transportation, storage solutions and over dimensional cargo and comparable with the assessee. The Id. DRP confirmed the action of assessing officer with the same view as in respect of comparable no. 4, 5 & 6. We find that financial details of this comparable are available at page no. 804 to 809 of paper book. This comparable is predominantly engaged in the business of bulk and over dimensional consignments. This company is also engaged in public carriers, transporters and carriers of goods. Thus, in our view, this comparable company is also not comparable

with the assessee company which is in the business of air and ocean freight services.

(9) For Express Roadways Private Limited, we find that TPO included / accepted this comparable by holding that this company is engaged in transportation of all modes of transportation and providing warehousing facilities and related services and comparable with assessee. The Id. DRP confirmed the action of TPO by holding that this comparable is also in the same sector. Asset bases are broadly comparable and the TNMM allows broad comparability. The asset base of this comparable is not much large and that asset base is not relevant. We find that financial statement of this comparable company is available at page no. 815 to 818 of paper book. This company is engaged in transportation of goods and services by all modes of transportation and providing warehousing facilities and related services. This company owns significant asset and 81% of total tangible asset are vehicles where as the assessee is an asset light company. This company owned a fleet of 700 vehicles. In our view, this comparable is not a good comparable with the assessee company. The AO/TPO is directed to exclude this comparable.

(10) For AVG Logistics Limited, we find that TPO included / accepted this comparable by holding that this company is engaged in transportation of goods and providing warehousing facilities and related services and other incidental services and is comparable with assessee. The Id. DRP confirmed the action of TPO by holding that this comparable is

also in the same sector. Asset bases are broadly comparable and the TNMM allows broad comparability. The asset base of this comparable is not much large and that asset base is not relevant. We find that financial statement of this comparable company is available at page no. 820 to 827 of paper book. This company is engaged in transportation of goods and providing warehousing facilities and related services. This company has shown revenue from transportation as well as from warehousing. This company owns significant asset and 93% of total tangible asset are vehicles, where as the assessee is an asset light company. In our view, this comparable is not a good comparable with the assessee company. The AO/TPO is directed to exclude this comparable.

(11) For Om Logistic Limited, we find that TPO included / accepted this comparable by holding that this company provides logistic support and solution and also engaged in transportation, warehousing facilities and logistic services and comparable with assessee. The Id. DRP confirmed the action of TPO by holding that this comparable is also in the same sector. Asset bases are broadly comparable and the TNMM allows broad comparability. The asset base of this comparable is not much large and that asset base is not relevant. It was also held that issue of factual comparability is factual issue and needs to be examined each year, as the business conditions and models may changes every year. We find that financial statement of this comparable company is available at page no. 829 to 842 of paper

book. This company is engaged in logistic and warehousing services and have multimodal logistic company. This company owns significant asset and owned a fleet of 700 vehicles. In our view, this comparable is not a good comparable with the assessee company. The AO/TPO is directed to exclude this comparable.

(12) For Lakhotia Transport Company Private Limited, we find that TPO included / accepted this comparable by holding that sector of this company and assessee is same. The asset base of the comparable is not much large and asset base is not relevant. The Id. DRP confirmed the action of TPO by holding that this comparable is also engaged in road transportation. We find that financial statement of this comparable company is available at page no. 846 to 847 of paper book. This company is engaged in road transportation. No other details regarding business operation is available in annual report. In our view, this comparable is not a good comparable with the assessee company as the assessee is in air and ocean freight services. The AO/TPO is directed to exclude this comparable.

(1) For Total Transport System Limited, we find that TPO included / accepted this comparable by holding that this company is engaged in consolidation / deconsolidation of cargo freight forwarding, logistic warehousing and transportation. Thus, comparable with the assessee. The Id. DRP confirmed the action of TPO by holding that sector of assessee and comparable are the same. Asset bases are broadly comparable and the TNMM allows broad comparability. We find that

financial statement of this comparable company is available at page no. 860 to 864 of paper book. This company is engaged in consolidation / deconsolidation of cargo freight forwarding, logistic warehousing and transportation. In our view, this comparable is not a good comparable with the assessee company. The AO/TPO is directed to exclude this comparable.

10. In the result, the AO /TPO is directed to exclude all 13 comparable to include all four comparable of assessee which were excluded without specifying reasons and to compute fresh adjustment.

11. Ground No. 15 relates to not sharing detailed operating margin computation and filter analysis. No specific submissions are made on this ground of appeal; thus, this ground of appeal is treated as not pressed and dismissed as such.

12. Ground No. 16 relates to not allowing working capital adjustment. The Id AR of the assessee submits that working capital adjustment is the most common adjustment applied word wide by the taxpayer, especially when using TNMM method. Asset intensity or balance sheet adjustment are intended to account for the fact that amount of capital employed in a business affects its economic profit. Such type of adjustment is also allowed by some tax administrator while making transfer pricing adjustment. The adjustments are made at different level of accounts receivable and account payables between the assessee and the tested party and the comparable companies. Rule 10B(1)(e)(iii) of the Income Tax Rules, 1962 also provides that adjustment should be made to the

profit margin of independent comparables companies to take in to account the differences in functions and risk. To support his submissions, the Id AR of the assessee relied on the following decisions;

- ❖ Visual Graphics Computing Services (India) Pvt Ltd [TS-709-HC-2020 (Mad)-TP (High Court), (2020).
- ❖ Red Hat India Private Limited Vs ACIT (ITA No. 1379/Mum/2021,
- ❖ Norton Life Lock Software Solution Private Limited Vs ACIT (ITA No. 7374/Mum/2017.

13. On the other hand, the Id Sr DR for the revenue supported the order of lower authorities.

14. We have considered the rival submissions of both the parties and have gone through the orders of lower authorities. We find that before TPO the assessee made specific submissions for working capital adjustment as recoded in para 5.4.4 of his order. The TPO disregarded such submissions by refereeing United Nations Practical Manual on Transfer Pricing for developing Countries (UN TP Manual). The TPO has also given his other reason for not allowing such adjustment as mentioned in para 5.4.6 to 5.2.11. The Id DRP upheld the action of TPO by relying of OECD guideline. It was also held that the assessee the assessee has not been able to demonstrate that working capital adjustment exists between the comparable and the assessee and that the profit of the comparables has been affected due to working capital difference. Considering the mandate of Rule 10B(1)(e)(iii) coupled with the decision of Madras High Court in CIT Vs Visual Graphics Computing Services (India) Pvt Ltd (supra) and coordinate of bench of tribunal as recorded above, we direct

the AO /TPO to allow working capital adjustment while computing fresh adjustment while giving effect of this order. The assessee is directed to provide requisite details for availing the benefit of such adjustment. In the result, this ground of appeal is allowed for statistical purpose.

15. We find that no other grounds of appeal are argued or pressed while making submissions, thus all remaining grounds of appeals have become academic.

16. In the result, appeal of the assessee is partly allowed.

Order was pronounced in the open Court on 21/11/2025.

**Sd/-**

**SMT. RENU JAUHRI  
ACCOUNTANT MEMBER**

**Sd/-**

**PAWAN SINGH  
JUDICIAL MEMBER**

MUMBAI, Dated: 21/11/2025  
*Pavanan / Biswajit Sr PS*

Copy of the order forwarded to:

- (1) The Assessee;
- (2) The Revenue;
- (3) The PCIT / CIT (Judicial);
- (4) The DR, ITAT, Mumbai; and
- (5) Guard file.

By Order

Assistant Registrar  
ITAT, Mumbai