IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH, BANGALORE

BEFORE SHRI WASEEM AHMED, ACCOUNTANT MEMBER AND
SHRI KESHAV DUBEY, JUDICIAL MEMBER

IT(TP)A No.2514/Bang/2024
Assessment Year: 2021-22

Parametric Technology (India) Pvt. Ltd., Tower A, No.1 and 2, The Millenia, Murphy Road, Halasuru, Bengaluru – 560 008. **PAN – AABCP 2629 J**	Vs.	The Dy. Commissioner of Income Tax, Circle – 2(1)(2), Bengaluru.
APPELLANT		RESPONDENT

Assessee by	:	Shri Darpan Kirpalani, CA
Revenue by	:	Dr. Divya K.J, CIT (DR)

Date of hearing	:	29.01.2026
Date of Pronouncement	:	24.02.2026

O R D E R

PER WASEEM AHMED, ACCOUNTANT MEMBER:

The present appeal has been instituted by the assessee against the order of the Ld. AO/TPO u/s 143(3) r.w.s. 144C(13) of the Act dt. 23.10.2024 for the AY 2021-22

2. In the memo of appeal, the assessee has raised as many as 14 grounds of appeal challenging the addition made on the issue of Transfer pricing adjustments, we for the sake of brevity and convenience are not inclined to reproduce here.

2.1 At the outset, we note that the Ground No. 4 is general in nature and does not call for any specific adjudication. Accordingly, the same is dismissed as infructuous.

3. Ground Nos. 5, 6, 7 and 8 were not pressed by the assessee at the time of hearing and are accordingly dismissed as not pressed.

4. The issues raised by the assessee in Grounds Nos. 3, 9 to 11 are interconnected and pertain to fresh economic analysis conducted by the TPO and inclusion and exclusion of certain comparables by the TPO and by the learned DRP for computing the ALP of the international transactions carried out by the assessee with the AE.

5. The brief facts of the case on hand are that the assessee, a private limited company, is engaged in the business of software licenses through sale or subscription model and maintenance of software products of its ultimate holding company, PTC Inc. The assessee has divided its transactions in 2 segments mainly:

(i) Software Development Segment (SWD)

(ii) Software Distribution Segment (SDS)

5.1 The assessee benchmarked its transaction under SWD & SDS segment by adopting TNNM as most appropriate method and further PLI as OP/OC which arrived at 18.80% for SWD and 8.64% for SDS segment. The assessee for the comparability analysis under **SWD segment** selected 11 comparables.

5.2 However, the TPO during the assessment proceedings rejected 8 comparables out of 11 comparables selected by the assessee. The assessee's comparables accepted by the TPO are detailed as under:

(i) CG-VAK Software and Exports Limited

(ii) Sagarsoft (India) Limited

(iii) Tata Elxsi Ltd – Software Development and Services

5.3 Thereafter, the TPO applied own filter and selected 18 additional comparable companies inclusive of 3 assessee's comparables. Finally,

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the TPO selected 15 additional comparables and 3 assessee's comparables. The final TPO's comparables are detailed as under:

(i) Hurix Systems Private Limited
(ii) Evoke Technologies Limited
(iii) Indianic Infotech Limited
(iv) Orion India Systems Private Limited
(v) Mindtree Limited
(vi) Sagarsoft (India) Limited
(vii) Great Software Laboratory Private Limited
(viii) Nihilent Limited
(ix) Larsen & Toubro Infotech Limited
(x) Wipro Limited
(xi) Net4Nuts Limited
(xii) Tata Elxsi Private Limited
(xiii) Infosys Limited
(xiv) CG-VAK Software & Exports Limited
(xv) Aptus Software Labs Private Limited
(xvi) Tata Consultancy Services Limited
(xvii) Consilient Technologies Private Limited
(xviii) Cybage Software Private Limited

5.4 The average PLI/margin of the comparables companies was computed at 25.09% with respect to SWD Segment. Accordingly, an upward TP adjustment was made by the TPO for Rs. 2,88,03,369/- only.

6. The aggrieved assessee preferred to file objections before the learned DRP.

6.1 Before the Ld. DRP, the assessee submitted that certain comparable companies were included by the TPO even though their turnover exceeded ₹200 crores for the captioned assessment year, whereas the assessee's turnover from the Software Development (SWD)

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segment was only ₹54.36 crores during the relevant period. It was contended that such high-turnover companies are not functionally and economically comparable with a SWD service provider at the scale of the assessee. As such, the inclusion of such giant companies would materially distort the arm's-length analysis. The assessee, therefore, sought exclusion of the said comparables by applying an appropriate upper-turnover filter. The details of such comparable companies along with their turnover for AY 2021-22, as placed before the Ld. DRP, are as under:

S. No.	**Name of Comparable**	**Turnover (in Rs. Crore)**
1.	Mindtree Limited	7,996.40
2.	Great Software Laboratory Private Limited	265.20
3.	Larsen & Toubro Infotech Limited	11,578
4.	Wipro Limited	48,357.70
5.	Tata Elxsi Private Limited	1,828.39
6.	Infosys Limited	86,191
7.	Tata Consultancy Services Limited	1,36,191
8.	Cybage Software Private Limited	1,142.64

6.2 Further, with reference to the other remaining comparables, the assessee submitted that such companies should not be included in the final set of comparables on account of material functional differences. It was explained that the assessee is only engaged in providing routine software development services to its associated enterprise.

6.3 In contrast, the impugned comparables were stated to be engaged in activities such as development and sale of software products,

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rendering diversified IT services, owning proprietary intangibles, providing end-to-end solutions, or undertaking substantial R&D functions. According to the assessee, these companies are functionally different and therefore cannot be considered comparable under Rule 10B of the Income-tax Rules, 1962, for benchmarking a routine software development service provider.

6.4 It was accordingly prayed that such functionally dissimilar companies be excluded from the final list of comparables while determining the arm's length price of the international transactions relating to software development services.

6.5 The Ld. DRP, while dealing with the assessee's contention that high-turnover companies should be excluded from the list of comparables, observed that the turnover criterion is not a relevant filter in the software industry, since turnover by itself does not materially influence the margins earned by companies operating in this line of business. It was held that economies of scale are relevant primarily in capital-intensive industries where the fixed-asset base in the form of plant and machinery is substantially large. In contrast, in the software services sector, which is predominantly manpower-driven, human capital is the principal value-creating factor and not the scale of physical assets. Accordingly, the Ld. DRP concluded that mere difference in turnover cannot be a ground for exclusion of otherwise functionally comparable companies engaged in the software services industry.

6.6 In support of its conclusion, the Ld. DRP placed reliance on the decision of the Hon'ble Delhi Bench of the Tribunal in the case of Calibrated Healthcare Systems India Private Limited (ITA No. 527/Del/2012), wherein it was held that once a company is found to be functionally comparable with the assessee, it cannot be excluded merely

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on the ground that its turnover is either significantly higher or lower than that of the assessee.

6.7 The Ld. DRP further placed reliance on the decision of the Hon'ble Bangalore Bench of the Tribunal in the case of Scancafe Digital Solutions (P.) Ltd. v. Income-tax Officer, reported in [2018] 94 taxmann.com 515 (Bengaluru – Trib.), dated 12-04-2017, wherein it was held as under:

> *"Ground Nos.2 and 3 challenge the direction of the DRP applying turnover filter of Rs. 1 to Rs. 200 crores. Though there are decisions to the effect that the companies with the turnover filter of Rs. 1 to Rs. 200 crores should alone be considered as comparables, this proposition was diluted by the Mumbai bench of the Tribunal in the case of Willis Processing Services (I) (P.) Ltd. v. Dy. CIT [2013] 30 taxmann.com 350/57 SOT 339 (Mum. - Trib.)/[TS-49-ITAT-2013(Mum)-TP] wherein it was held that the turnover band of Rs. 1 to Rs. 200 crores is bereft of any rationality as the application of this rule does not enable comparison of a company with Rs. 200 crores with another company having a turnover of Rs. 201 crores. It was further observed by the Hon'ble Tribunal that the turnover was also not a criteria prescribed under rule 10B for selection of comparables. We are also of the considered opinion that the turnover cannot be relevant criteria in a service sector where fixed overheads are nominal and the cost of service is in direct proportion to the services rendered. Following this reasoning we hold that the above companies cannot be excluded from the list of comparables."*

6.8 Based on the aforesaid discussion and judicial precedents relied upon, the Ld. DRP rejected the plea of the assessee for exclusion of high-turnover companies from the final list of comparables and upheld the action of the TPO in this regard.

6.9 Further, with regard to the assessee's plea on functional non-comparability, the Ld. DRP, after examining FAR analysis of the comparables namely Nihilent Limited, Net4Nuts Limited, Aptus Software Labs Private Limited, and Consilient Technologies Private Limited, observed that the said companies are engaged in computer programming and related software-development services and derive the major portion of their operating revenue from such activities. The Ld. DRP noted that this position is clearly borne out from the respective annual reports of the aforesaid companies available in the public

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domain. On this basis, the Ld. DRP concluded that the functional profile of these companies is broadly similar to that of the assessee, which is engaged only in providing software development services to its associated enterprise, and therefore rejected the assessee's objection seeking their exclusion from the final set of comparables.

7. Being aggrieved by the order of the AO/TPO and the direction of the ld. DRP, the assessee preferred an appeal before us.

7.1 The Ld. AR before us filed a paper book containing compilation of tax laws running from pages 1 to 49 and submitted that the lower authorities erred in rejecting the upper-turnover filter applied by the assessee and in retaining certain comparables having substantially higher turnover than that of the assessee in the final set selected by the TPO. It was contended that the assessee's turnover from the software-development segment is only ₹54.36 crores, whereas the impugned comparables operate at a much larger scale, and therefore cannot be considered economically comparable.

7.2 The Ld. AR further submitted that high-turnover companies enjoy economic superiority on account of brand value, market penetration, diversified clientele, ability to command premium pricing, and other scale-driven advantages, which materially influence their profitability. Such entities cannot be treated at par with a low-risk captive software-development service provider like the assessee, and their inclusion would distort the arm's-length analysis. Accordingly, it was prayed that such high-turnover companies be excluded from the final list of comparables.

7.3 The Ld. DR, on the other hand, submitted that turnover, by itself, is not a determinative factor for comparability under the transfer-pricing provisions. It was contended that unless it is demonstrated that the difference in turnover has materially affected the margins of the

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comparable companies, the same cannot be a valid ground for exclusion. The Ld. DR argued that the primary requirement under Rule 10B of the Income-tax Rules is functional similarity, and once the companies are found to be functionally comparable, mere differences in scale would not warrant their rejection.

7.4 It was further submitted that the assessee has not brought on record any cogent material to establish that high turnover per se leads to abnormal profits or that such companies assume materially different risks. According to the Ld. DR, economies of scale or brand value may influence margins, but unless such factors are shown to render the companies functionally dissimilar or to materially distort comparability, exclusion cannot be justified solely on the basis of turnover. The Ld. DR thus supported the action of the TPO in retaining the impugned comparables in the final set and prayed that the grounds raised by the assessee be dismissed.

8. We have heard the rival contentions of both the parties and perused the materials available on record. The question before us whether companies having substantially low turnover (to say assessee company) can be subject to comparison with companies having substantially high turnover for purpose of computation of ALP.

8.1 We note that the assessee under the SWD segment has turnover of ₹ 54.36 crores only. On the contrary comparable companies selected by the TPO have turnover of thousand to 49 thousand crores except for one company namely Great Software Laboratory Private Limited having turnover of ₹265 crores which is still more than 5 times than the assessee company's turnover.

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8.2 It is pertinent to note that the companies with very high turnover operate at a different scale and benefit from economies of scale, better market position and cost advantages, which directly affect their profitability. Size of the company is a recognised factor for comparability, as differences in turnover and market share influence pricing and margins. Though in our considered view turnover filters cannot be applied mechanically and must depend on the facts of each case, keeping in mind the turnover of the tested entity. The purpose is to select companies having broadly similar scale of operations, assets and risk profile. This approach is in line with the OECD Transfer Pricing Guidelines in para 3.43 which states that *Size criteria in terms of Sales, Assets or Number of Employees. The size of the transaction in absolute value or in proportion to the activities of the parties might affect the relative competitive positions of the buyer and seller and therefore comparability* and the guidance note on transfer pricing issued by ICAI in para 5.50 which states *under TNMM where margins are to be compared, the margin of a 1,000 crore company cannot be compared with that of a 10 crore company. The two most obvious reasons are the size of the two companies and the relative economies of scale under which they operate.*

8.3 Further paragraph 15.4 of the ICAI Guidance Note on Transfer Pricing emphasizes that significant differences in company size and turnover, such as comparing a Rs. 1,000 crore entity to a Rs. 10 crore entity, materially affect profitability and comparability under Rule 10B(2) of Income Tax Rule. However, the learned DRP rejected the objection of the assessee for application of upper turnover limit mainly relying on the decision of coordinate bench of this tribunal in the case of Scancafe Digital Solutions (P.) Ltd. v. Income-tax Officer (supra). In the said order

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the bench followed the decision of Mumbai bench order in the case of Willis Processing Services (I) (P.) Ltd. vs. Deputy Commissioner of Income-tax - 2(3), reported in [2013] 30 taxmann.com 350 (Mumbai). The Mumbai bench held the classification of large, medium and small company based on turnover of more than 2000, 200 to 2000 crores and 1 to 200 by Dun & Bradstreet was not made in the context of comparables under TP Regulations. It was further observed that as per such classification of small, medium and large-scale company-based range of turnover, an entity having Rs. 1 crore of turnover can be compared to the entity having turnover of 200 crore. But another entity having turnover of 199 crore cannot be compared with the entity with turnover of 201 crores. Therefore, it was held by the Mumbai bench that such classification of turnover range cannot be applied for selection or rejection of comparable entity. In addition, the bench also found that in the said case the company having higher turnover had average margin of 30.74% as compared to company having lower turnover had average margin of 31.36%. Hence the Mumbai bench in light of the aforesaid observation rejected the assessee's grounds for exclusion of comparable company having turnover exceeding Rs. 200 crores from the comparable set.

8.4 In our considered opinion, the coordinate bench of Mumbai Tribunal in the above-mentioned case more focused on mechanical application of range of turnover for classification of small, medium and large-scale company. By mechanical application of such range, it was rightly pointed out by the bench that the entity with turnover of Rs. 199 crores will be classified as small scale whereas other entity with turnover of 201 be classified as medium scale. However, we beg to differ from the view of Hon'ble Mumbai bench. We agree that upper turnover cannot be

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applied mechanically as per the classification of range of turnover as discussed above, but at the same time a company having substantially low turnover such as appellant assessee with turnover of Rs. 54 crores with other company having turnover of 1000 cores or above cannot be compared.

8.6 It is well settled that turnover is a relevant criterion for determining comparability, as the scale of operations has a direct bearing on profitability owing to economies of scale. Companies having significantly higher turnover enjoy cost efficiencies and market advantages which are not available to smaller entities.

8.7 As stated in the earlier paragraph, the appellant assessee's turnover is of Rs. 54.36 crores, whereas several of the comparables selected by the TPO have substantially higher turnover. In such circumstances, the application of an upper turnover filter becomes necessary to ensure a fair comparison. The tribunal has taken a consistent view that large or medium scale companies with substantially higher turnover cannot be compared. For the ready reference, the view taken by the coordinate bench of this tribunal in Autodesk India (P) Ltd. v. DCIT reported in (2018) 96 taxmann.com 263 reads as under:

> *"17.7. We have considered the rival submissions. The substantial question of law (Question No. 1 to 3) which was framed by the Hon'ble Delhi High Court in the case of Chryscapital Investment Advisors (India) (P.) Ltd., (supra) was as to whether comparable can be rejected on the ground that they have exceptionally high profit margins or fluctuation profit margins, as compared to the Assessee in transfer pricing analysis. Therefore as rightly submitted by the learned counsel for the Assessee the observations of the Hon'ble High Court, in so far as it refers to turnover, were in the nature of obiter dictum. Judicial discipline requires that the Tribunal should follow the decision of a non-jurisdiction High Court, even though the said decision is of a non-jurisdictional High Court. We however find that the Hon'ble Bombay High Court in the case of CIT v. Pentair Water India (P.) Ltd. Tax Appeal No. 18 of 2015 judgment dated 16-9-2015 has taken the view that turnover is a relevant criterion for choosing companies as comparable companies in determination of ALP in transfer pricing cases. There is no decision of the jurisdictional High Court on this issue. In the circumstances, following the principle that where two views*

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are available on an issue, the view favourable to the Assessee has to be adopted, we respectfully follow the view of the Hon'ble Bombay High Court on the issue. Respectfully following the aforesaid decision, we uphold the order of the DRP excluding 5 companies from the list of comparable companies chosen by the TPO on the basis that the 5 companies turnover was much higher compared to that the Assessee.

17.8. In view of the above conclusion, there may not be any necessity to examine as to whether the decision rendered in the case of Genisys Integrating (supra) by the ITAT Bangalore Bench should continue to be followed. Since arguments were advanced on the correctness of the decisions rendered by the ITAT Mumbai and Bangalore Benches taking a view contrary to that taken in the case of Genisys Integrating (supra), we proceed to examine the said issue also. On this issue, the first aspect which we notice is that the decision rendered in the case of Genisys Integrating (supra) was the earliest decision rendered on the issue of comparability of companies on the basis of turnover in Transfer Pricing cases. The decision was rendered as early as 5-8-2011. The decisions rendered by the ITAT Mumbai Benches cited by the learned DR before us in the case of Willis Processing Services (supra) and Capegemini India (P.) Ltd. (supra) are to be regarded as per incurium as these decisions ignore a binding co-ordinate bench decision. In this regard the decisions referred to by the learned counsel for the Assessee supports the plea of the learned counsel for the Assessee. The decisions rendered in the case of M/S.NTT Data (supra), Societe Generale Global Solutions (supra) and LSI Technologies (supra) were rendered later in point of time. Those decisions follow the ratio laid down in Willis Processing Services (supra) and have to be regarded as per incurium. These three decisions also place reliance on the decision of the Hon'ble Delhi High Court in the case of Chriscapital Investment (supra). We have already held that the decision rendered in the case of Chriscapital Investment (supra) is obiter dicta and that the ratio decidendi laid down by the Hon'ble Bombay High Court in the case of Pentair (supra) which is favourable to the Assessee has to be followed. Therefore, the decisions cited by the learned DR before us cannot be the basis to hold that high turnover is not relevant criteria for deciding on comparability of companies in determination of ALP under the Transfer Pricing regulations under the Act. For the reasons given above, we uphold the order of the CIT(A) on the issue of application of turnover filter and his action in excluding companies by following the ratio laid down in the case of Genisys Integrating (supra)".

8.8 Further, we find that this tribunal subsequently in the case of Robert Bosch Engineering and Business Solutions Pvt. Ltd. vs. DCIT in IT(TP)A No. 593/Bang/2020 followed the decision in the case of Autodesk India (P) Ltd. supra and excluded the company with turnover exceeding 200 crores from the comparable set.

8.9 Against the order the of the Tribunal the revenue filed appeal before the Hon’ble Karnataka High Court in ITA No.146/2025). In the

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said case, the Hon'ble High Court did not admit the Revenue's grounds of appeal on this issue by observing as under:

> *"10. Indisputably, a company that has a significantly large turnover cannot be considered as a comparable with an assessee, whose turnover is a small fraction of that of the said entity.*
> *11. The question whether the entities are comparable is required to be determined on the basis of similar FAR [Functions, Assets and Risks] profile. It would be erroneous to assume that the size of an entity and its turnover has no bearing on the FAR profile. It is erroneous to suggest that a company of a huge size and a large turnover would be subjected to the same risks as that of a smaller entity, whose turnover is a small fraction of the other entity. The entities would also not be comparable when one considers the value of assets. Additionally entities having a large turnover, would have the benefit of economies of scale, which would not be available to companies with a relatively lower turnover.*

8.10 In the light of the above facts, once the order of the Tribunal in the case of Robert Bosch Engineering and Business Solutions Pvt Ltd.(supra) was carried in appeal before the Hon'ble Karnataka High Court in ITA No. 146/2025, and the Hon'ble High Court declined to admit the Revenue's grounds on the turnover filter issue, the doctrine of merger comes into operation. The order of the Tribunal, to the extent it was subject matter of challenge before the High Court and was examined by it, stands merged with the order of the High Court. In other words, the reasoning and conclusion of the Tribunal on exclusion of companies having turnover exceeding ₹200 crores cannot thereafter be viewed as a mere Tribunal view indeed it attains affirmation at the level of the Hon'ble jurisdictional High Court.

8.11 The Hon'ble High Court has categorically observed that a company having significantly large turnover cannot be compared with a small entity and that size and turnover have a direct bearing on FAR analysis, asset base, risk profile and economies of scale. Once such findings are recorded by the Hon'ble jurisdictional High Court while dealing with the appeal arising out of the Tribunal's order, the Tribunal's

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decision on this aspect merges with the High Court's order. The consequence is that the principle laid down on the relevance of turnover filter is no longer open to re-agitation before subordinate authorities within the State.

8.12 Further, under the rule of judicial precedence, the decision of the Hon'ble jurisdictional High Court is binding on the Tribunal and all lower authorities within its territorial jurisdiction. Therefore, after the High Court's order in ITA No. 146/2025, the issue of exclusion of high turnover companies from the comparable set, on the reasoning approved by the Hon'ble High Court, is settled within the jurisdiction. Any contrary view taken earlier by coordinate benches or relied upon from other jurisdictions cannot prevail over the binding effect of the Hon'ble jurisdictional High Court's decision.

8.13 Likewise, we also find that the Hon'ble jurisdictional High Court of Karnataka also taken similar view in the case of CIT vs. **Yodlee Infotech (P.) Ltd.** reported in 111 taxmann.com 121 and has dismissed the revenue ground of appeal on the issue of exclusion of comparable company with turnover exceeding 200 cores. The relevant question raised by the Revenue and finding of the bench reads as under:

> *(2) Whether on the facts and in the circumstances of the case the Tribunal is right in law in accepting the claim of assessee to adopt turnover filter of Rs.200 Crores following the decision of Co-ordinate Bench in the case of M/s. Genisys Pvt. Ltd v. DCIT reported in 64 DTR page 225 even when said decision has not reached finality and without appreciating that the turnover is not a relevant filter in the software industry, as the size of the turnover and margins are not linked and the Economics of scale are relevant factor only in capital intensive companies which have substantive fixed assets in the form of plant and machinery?*
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> *Regarding substantial question of law No.2:*
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> *"20. We have to hold that assessee can seek exclusion of comparables which were a part of its own list, at a later stage, and therefore, we are constrained to reject the line of argument of the learned DR. Coming to the arguments of the learned AR that M/s Tata Elxsi Ltd., M/s Sasken Communication Ltd., M/s Persistent Systems Ltd., M/s L & T Infotech and M/s Infosys Ltd., had turnover in excess of Rs. 200 Crores and were to be excluded, we are of the opinion*

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that turnover filter can be applied for selection of comparables. This has been the view consistently taken by the Co-ordinate Benches of this Tribunal in a number of cases. In the case of M/s Genisys (P.) Ltd. v. DCIT [2011] 64 DTR 225 it was held by this Tribunal as under at paras-8 to 09 of its order:

8. According to learned counsel for the assessee size is an important fact of an enterprise level difference. He submitted that comparables should have something similar or equivalent and should possess same or almost the same characteristics. To use a simile, he submitted that a Maruti 800 car cannot be compared to a Benz car, even though both are cars only. He submitted that unusual pattern, stray cases, wide disparities have to be eliminated as they do not satisfy the test of comparability. Companies operating on large scale benefit from economies of scale, higher risk taking capabilities, robust delivery and business models as opposed to the smaller or medium sized companies and therefore, size matters. Two companies of dissimilar size therefore, cannot be assumed to earn comparable margins and the impact of difference in size could be removed by a quantitative adjustment to the margins or price being compared if it is possible to do so reasonably accurately. He submitted that size as one of the selection criteria has also been approved by various Benches of the Tribunal, in the following cases:

8.1 He further submitted that size as a criteria for selection of comparables is also recommended by OCED in its TP guidelines. The observation of OCED in para 3.43 of the chapter on guidelines reads as follows:

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8.2 The learned counsel for the assessee submitted that similar observations were also made by ICAI in para 15.4 of TP guidance note. He submitted that TPO's range of Rs. 1 crore to infinity has resulted in selection of companies like M/s Infosys which is having a turnover of Rs. 9,028 crores which is 1,1007 times bigger than the assessee company which has a turnover of Rs. 8.15 crores. He further submitted that NASSCOM has also categorized the companies based on the turnover as follows:

8.3 The learned Departmental Representative rebutted this argument and submitted that the Act or Rules does not provide for the turnover filter. He submitted that as rightly pointed out by the TPO in the case of service sector, the size of the company does not matter because, the infrastructure layout is very less and it will not affect the profit ratio in any way. He drew out attention to the particular portion of TPO's order wherein the TPO has the reasoning given for rejecting the turnover filter.

9. Having heard both the parties and having considered the rival contentions and also the judicial precedents on the issue, we find that the TPO himself has rejected the companies which are making losses as comparables. This shows that there is a limit for the lower end for identifying the comparables. In such a situation, we are unable to understand as to why there should not be an upper limit also. What should be upper limit is another factor to be considered. We agree with the contention of the learned counsel for the assessee that the size matters in business. A big company would be in a position to bargain the price and also attract more customers. It would also have a broad base of skilled employees who are able to give better output. A small company may not have these benefits and therefore, the turnover also would come down reducing profit margin. Thus, as held by the various Benches of the Tribunal, when companies which are loss making are excluded from comparables, then the

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super profit making companies should also be excluded. For the purpose of classification of companies on the basis of net sales or turnover, we find that a reasonable classification has to be made. Dun & Bradstreet and NASSCOM have given different ranges. Taking the Indian scenario into consideration, we feel that the classification made by Dun & Bradstreet is more suitable and reasonable. In view of the same, we hold that the turnover filter is very important and the companies having a turnover of Rs. 1 Crore to Rs. 200 crores have to be taken as a particular range and the assessee being in the range having turnover of Rs. 8.15 crores, the companies which also have turnover of Rs. 1 to Rs. 200 crores only should be taken into consideration for the purpose of making TP study."

The appeal filed by the Revenue against the judgment of the Hon'ble Tribunal in the case of Genisys (P.) Ltd. v. Dy.CIT [2011] 64 DTR 225 has been considered by this Court in ITA No.17/2012 and the same has been dismissed on 09.07.2018 as no substantial questions of law arose for consideration.

8.14 Accordingly, on the principle of merger and judicial discipline, the view that companies with turnover exceeding ₹200 crores are not comparable with small or medium scale stands affirmed and binding within the jurisdiction of the Hon'ble Karnataka High Court.

8.15 Before parting, we note that the Ld. DR also relied on the decision of ITAT in the case of M/s Yokogawa Technology Solutions India Pvt. Ltd. vs. DCIT in IT(TP)A No. 2328/Bang/2024, where the Tribunal held that while an upper turnover filter should be applied based on the assessee's turnover, but it is not necessary that the limit must always be ₹200 crores. Hence, we note that tribunal in this case has held that upper turnover filter should apply. Only issue was therein that upper limit of Rs. 200 cannot be applied in each case which we agree. In our considered view what should be the upper turnover will depend upon the facts and circumstances involved in particular case. In the present case the appellant assessee turnover is of Rs. 54 crores only whereas the comparable companies have turnover of Rs. 265 cored to 49 thousand cores which is substantially high and such large-scale companies cannot be compared to the assessee company. Hence the view taken by the Tribunal in M/s Yokogawa Technology Solutions India Pvt. Ltd. (supra) is distinguishable from the present facts of the case.

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8.16 In view of the above and following the binding decision of the Hon'ble Karnataka High Court (Supra) affirming the Bangalore ITAT order, we hold that companies having disproportionately high turnover compared to the assessee cannot be considered as valid comparables and are liable to be excluded by applying an appropriate upper turnover filter. With this, we conclude our adjudication on the grounds relating to the Software Development (SWD) segment in favour of the assessee.

9. We shall now proceed to deal with the remaining grounds raised in the appeal under the other segment i.e. software distribution services.

9.1 The assessee for the comparability analysis of SDS segment selected 11 comparables to determine the ALP of the International transactions with the AE, the details stand as under:

(i) Compuage Infocom Limited.
(ii) Dynacons Systems and Solutions Limited.
(iii) Fujisan Technologies Limited.
(iv) Goldstone Technologies Limited – Software Licenses Resale
(v) Ingram Micro India Limited.
(vi) Micropoint Computers Private Limited.
(vii) Redington India Limited.
(viii) Savex Technologies Private Limited.
(ix) Supertron Electronics Private Limited.
(x) Quick Heal Technologies Limited.
(xi) Vama Industries Limited.

9.2 Based on the above set of comparables, the assessee claimed its international transaction with its AE at ALP. However, the TPO during the assessment proceedings rejected all the comparables out of 11 assessee's comparables. Thereafter, the TPO applied own filters and selected 09 additional comparable companies. Thus, the TPO finally proposed 09 comparables to which assessee filed certain objections.

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However, the TPO rejected the submission of the assessee and confirmed the selection of 09 comparables. The final TPO's comparables are detailed as under:

(i) Crayon Software Experts India Private Limited
(ii) Designtech Systems Private Limited
(iii) Locuz Enterprise Solutions Limited
(iv) K7 Computing Private Limited
(v) Microsoft Corporation
(vi) Tally Solutions
(vii) Innovana Thinklabs Limited
(viii) Quick heal Technologies Limited
(ix) Zoho Corporation

9.3 The average PLI/margin of the comparables companies was computed at 9.76% and accordingly, an upward TP adjustment was made by the TPO for Rs. 14,13,85,527/- only.

10. Aggrieved by the order of the TPO, the assessee filed objections before the Ld. DRP.

10.1 Before the Ld. DRP, the assessee submitted that the TPO erred in including certain comparables which are functionally different from the assessee's distribution segment. The assessee also submitted distinguishing factors between product development companies and software distribution companies. As per the Assessee, due to differences in functions, assets employed, and risks assumed, product-development companies generally earn higher profit margins to compensate for substantial investments in research and development and ownership of intellectual property. Whereas, the distribution-oriented companies operate under a distinct business model, with emphasis on marketing and sales functions, and therefore tend to earn margins that are

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influenced by distribution intensity, market risk, and customer acquisition efforts. Such entities cannot be equated with a routine captive software-development service provider for the purposes of comparability analysis. Accordingly, the assessee prayed for exclusion of Quick heal Technologies Limited, K7 Computing Private Limited, Tally Solutions and Innovana Thinklabs Limited on the grounds of functional dissimilarity and inclusion of certain comparables which were part of assessee's TP study report.

10.2 Regard the comparable i.e. Quick heal Technologies Limited, the Ld. DRP observed that, on perusal of the records, it is seen that 99.76% of the revenue of the said entity is derived from the sale of software products and, therefore, it is comparable to the assessee's software-licensing/distribution segment.

10.3 As regards the assessee's contention that the cost of material purchased by the said company is only a minuscule portion of the total cost and that the substantial raw-material consumption and high employee-benefit expenses indicate that the company is engaged in development and sale of software products, the Ld. DRP noted that the assessee itself is incurring significant employee costs amounting to around 23.86% of the total revenue of the segment. It was further observed that in the assessee's distribution segment, the cost of material purchases constitutes only about 23.11% of the total revenue. Hence, the Ld. DRP held that the aforesaid plea of the assessee is devoid of merit.

10.4 Further with regard to K7 Computing Pvt Ltd, the Ld. DRP, after examining the annual report of the said company, observed that 96.57% of its revenue was derived from sale of products. The Ld. DRP further noted that the assessee itself is incurring substantial employee costs

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amounting to around 23.86% of the total revenue of the segment and that, in the assessee's distribution segment, the cost of material purchases constitutes only about 23.11% of the total revenue. In view thereof, the Ld. DRP held that the assessee's plea seeking exclusion of the said company on the ground of functional dissimilarity was devoid of merit. Accordingly, the objection raised by the assessee was rejected and the said company was upheld as a comparable.

10.5 With regard to tally solutions, the Ld. DRP noted the assessee's submission that only 36% of the operating revenue of the said company was derived from sale of products and that the remaining 64% was from sale of services. After considering the annual report, the Ld. DRP observed that the revenue from services is intrinsically linked to the products sold.

10.6 The Ld. DRP further noted that, in the assessee's distribution segment, substantial costs towards maintenance services had been booked and, therefore, the revenue reported in the said segment also involves a service component. In view of the above, the Ld. DRP held that there was no infirmity in the selection of the said company as a comparable. Accordingly, the objection raised by the assessee was rejected.

10.7 With respect to Goldstone Technologies Ltd. (software-licence resale), Compuage Infocom Ltd, Redington India Ltd, Supertron Electronics Pvt Ltd, Savex Technologies Pvt Ltd, Ingram Micro India Ltd, Micropoint Computers Pvt Ltd, Dynacons Systems & Solutions Ltd, Vama Industries Ltd, and Fujisan Technologies Ltd, the Ld. DRP observed that none of these companies figured in the search matrix prepared by the TPO.

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10.8 The Ld. DRP further noted that it had already upheld the rejection of the assessee's transfer-pricing documentation, which necessarily meant that a fresh search exercise was required to be carried out by the TPO. Pursuant to such fresh search, the TPO had independently identified a set of comparables. According to the Ld. DRP, the assessee could only seek inclusion of those companies from within the TPO's search matrix which were wrongly rejected and not out of the proposed fresh companies altogether.

10.9 Since the aforesaid entities were not part of the TPO's search matrix, the Ld. DRP held that examination of their functional comparability was not warranted, as doing so would amount to cherry-picking of comparables. Accordingly, the plea for inclusion of these companies was rejected.

11. Aggrieved by the order of the AO/TPO and the direction of the ld. DRP, the assessee preferred an appeal before us.

11.1 The Ld. AR before us submitted that the lower authorities gravely erred in benchmarking the appellant's limited-risk distribution segment with entities which are engaged in development and distribution of software products. It was contended that the appellant merely acts as a distributor/reseller of software products of its associated enterprise and does not undertake any product development, research and development activities, or intellectual-property creation.

11.2 The Ld. AR further submitted that the lower authorities erred in retaining companies such as Quick Heal Technologies Ltd, K7 Computing Pvt Ltd, Tally Solutions Pvt Ltd, and Innovana Thinklabs Ltd in the final set of comparables, despite the fact that these entities are primarily engaged in development and sale of proprietary software products and

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solutions, incur substantial research and development expenditure, and bear market and technology risks.

11.3 According to the Ld. AR, such companies cannot be regarded as comparable to a routine, low-risk distributor like the appellant, and their inclusion would materially vitiate the arm's-length analysis. He accordingly prayed that the aforesaid companies be excluded from the final list of comparables for the purposes of benchmarking the international transactions relating to the distribution segment.

11.4 In respect of Innovana Thinklabs Ltd, the Ld. AR submitted a compilation of judicial precedents and placed reliance on the decision of the jurisdictional Bangalore Bench of the Tribunal in the case of SAP India (P.) Ltd. v. Deputy Commissioner of Income-tax, reported in [2025] 180 taxmann.com 631, dated 17-11-2025, wherein the very same company was directed to be excluded from the list of comparables.

11.5 At the conclusion, the Ld. AR submitted that the assessee is not pressing its objection in respect of K7 Computing Pvt Ltd, and accordingly the ground seeking exclusion of the said company was not pressed.

12. On the other hand, the Ld. DR submitted that the TPO conducted a proper FAR analysis and rightly retained the comparables. It was argued that companies like Quick Heal Technologies Ltd and Tally Solutions Pvt Ltd operate in the same broad software industry and cannot be excluded merely because they develop products or own intangibles. Functional similarity, not exact identity, is the test. Regarding Innovana Thinklabs Ltd, it was contended that comparability must be examined year-wise, and prior Tribunal rulings do not mandate automatic exclusion. Accordingly, the DR prayed that the benchmarking be upheld.

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13. We have heard the rival submissions of both the parties and carefully perused the materials available on record. We note that the Bangalore Bench of the Tribunal in SAP India (P.) Ltd. v. Deputy Commissioner of Income-tax, reported in [2025] 180 taxmann.com 631, had occasion to examine the comparability of Innovana Thinklabs Ltd in detail and, after analysing its functional profile, research and development activities, ownership of intellectual property and absence of segmental information, directed its exclusion from the list of comparables. The relevant para is reproduced below for ready reference:

> *"The assessee has also asked for exclusion of Innovana Think Ltd stating that it is a software development company and its research and development activities, and ownership of intellectual property rights and absence of any segmental data makes it not comparable. The similar arguments were raised before the learned TPO wherein it the learned transfer pricing officer held that its entire revenue is from software sales in this company is functionally like the taxpayer.*
>
> *The learned dispute resolution panel also held that the revenue from sale of software is Rs. 40.73 crores against total revenue of Rs. 42.58 crores which is more than 95% of the total revenue which consist of other income and finance income also. As the revenue from the sale of products are more than 95% there is no need of any segmental data and therefore the above company was held to be functionally comparable.*
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> *On careful perusal of the company overview we find that this company is engaged in software and application development business which directly provide services to create new applications and enhance the functionality of its users of existing software products. The company's product portfolio consists of application and software such as ad blocker, disk cleanup, space reviver, file opener, privacy protector. It has also developed new various products which are sold in over 126 countries in 13 different languages. This itself shows that the company is in the software development activities and is having their own products for sale and it's not a distributor at all. Therefore, this company is functionally dissimilar to the assessee and the learned TPO is directed to exclude the same."*

13.1 We further observe that in the year under consideration also, Innovana Thinklabs Ltd. continues to be engaged in software and application-development activities, owns proprietary products, and operates as a full-fledged entrepreneur assuming significant market and technology risks, whereas the assessee before us is only a limited-risk

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distributor of software products of its associated enterprise and does not undertake any development functions. The Revenue has not brought on record any material to demonstrate a change in the functional profile of the said company during the relevant assessment year.

13.2 Coming to Quick Heal Technologies Ltd and Tally Solutions Pvt Ltd, we find that these companies are also primarily engaged in development and sale of proprietary software products, own significant intangibles, and undertake entrepreneurial and market risks. Such functional profiles are materially different from that of the assessee's distribution segment, which merely involves resale of software products of its associated enterprise on a limited-risk basis without owning any intellectual property or carrying out research and development activities.

13.3 In view of the above factual position and respectfully following the decision of the coordinate Bench in SAP India (P.) Ltd. (supra), we hold that Innovana Thinklabs Ltd., Quick Heal Technologies Ltd. and Tally Solutions Pvt Ltd. are functionally dissimilar to the assessee. Accordingly, we direct the learned TPO to exclude the aforesaid companies from the final set of comparables while benchmarking the international transactions relating to the distribution segment. Hence, the ground od appeal of the assessee is allowed.

13.4 With regard to **Ground No. 9** relating to the assessee's objection to the TPO's adoption of PLI for the SDS segment as OP/OC instead of OP/OR, the Ld. AR submitted that the said ground is not pressed. Accordingly, Ground No. 9 is dismissed as not pressed.

14. Ground No. 11 being academic in nature does not require adjudication and is accordingly dismissed.

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15. Ground No. 12 relates to the adjustment made on account of notional interest on outstanding trade receivables arising from international transactions with the associated enterprise.

15.1 The relevant facts of the case are that the TPO treated the delay in realization of trade receivables from the AEs as unsecured loans advanced to the AEs and, accordingly, computed notional interest for the period of such delay during the year under consideration. In doing so, the learned TPO placed reliance on the provisions of section 92B of the Act, wherein the definition of "international transaction" was retrospectively amended to include capital financing transactions arising in the course of business.

15.2 The learned TPO computed notional interest on the average receivables of the assessee for the captioned AY by applying the SBI PLR applicable for the captioned Assessment year at the rate of 12.27% and, on such basis, determined the total notional interest adjustment at Rs. 89,97,020/- only.

16. Aggrieved assessee filed objections before the Ld. DRP.

16.1 Before the Ld. DRP, the assessee submitted the interest on delayed receivables should not be considered a separate international transactions reason being they represent only a consequence of the principal international transaction i.e. sales. The assessee also relied on the judgment of Hon'ble Delhi High Court in the case of Kusum Healthcare Pvt. Ltd. reported in TS-412-HC-2017(Del)-TP wherein the Hon'ble Court held that separate adjustment on the pretext of o/s receivable is unjustified when the comparables are accepted and TP of underlying transaction i.e. sale of goods is also accepted. Similar reliance was also placed by the assessee on various other judicial prudence.

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16.2 The assessee further contented that outstanding trade receivables cannot be categorised as an advancement of loan to the AEs. The assessee referred to the OECD guidelines in para 1.143 which emphasizes that tax authorities should recognise and appreciate the actual transactions undertaken by a taxpayer and not disregard the same unless in exceptional circumstance. The assessee relied on the judicial precedent in the Highways Construction Co. Limited reported in 199 ITR 702 wherein the Hon'ble Guwahati High Court has held there is no provision in the IT Act that empowers tax authorities to include interest, which is neither due nor collected.

16.3 Further, the assessee contended that amount of outstanding receivables gets adjusted in the working capital adjustments and hence, addition is not required separately thereon.

16.4 Without prejudice to the above contentions, the assessee further submitted that the average realization period of its receivables for the relevant year was 77 days in respect of the Software Development Services (SWD) segment. It was contended that the said realization period is well within the agreed credit terms with the associated enterprises as well as the prevailing industry practice. Accordingly, no notional interest is liable to be imputed on the outstanding receivables.

16.5 The assessee further submitted that there are plethora of decisions of various Benches of the Tribunal wherein it has been held that realization periods ranging from 180 days to even one year are reasonable in the facts of the case, and therefore, where the average credit period of the taxpayer falls within such range, no separate interest adjustment is warranted on account of delayed receivables.

17. However, the Ld. DRP, with regard to contention of the assessee regarding whether the interest on delayed receivables constitutes a

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separate international transaction, submitted that the amendment inserted by way of Explanation to sec. 92B the term 'internation transaction' would specifically include within its ambit "deferred payment or receivable or any other debt arising during course of business…" and hence, non-charging or under-charging of interest on excess period of credit allowed to the AE for the realization of invoices would amount to an international transaction. The Ld. DRP further relied on plethora of judicial courts in this regard.

17.1 With regard to contention of assessee that interest on delayed receivables gets adjusted within working capital adjustment and a separate adjustment is not required, the Ld. DRP submitted that working capital adjustment have no impact on determination of ALP on interest receivables from the beyond stipulated credit period. The ld. DRP relied on the judgment of Hon'ble Delhi ITAT in case of Bechtel reported in ITA 6530/Del/2016 wherein the hon'ble ITAT held interest for credit period allowed as per the agreement is given in the price charged for rendering of services. Whereas the non-realisation of invoice value beyond the stipulated period is a separate international transaction whose ALP is required to be determined. Granting of working capital adjustment is confined to the international transaction of rendering of services, whose ALP is separately determinable. On the other hand, the international transaction of interest receivable from its AEs for late realization of invoices beyond such stipulated period is a separate international transaction. Allowing working capital adjustment in the international transaction of rendering of services can have no impact on the determination of ALP of the international transaction of interest on receivables from AEs beyond the stipulated period allowed as per

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agreement. Accordingly, the Ld. DRP remanded back the matter to the TPO to recompute interest as per invoice wise details.

18. Being aggrieved by the order of the AO/TPO and the direction of the ld. DRP, the assessee filed an appeal before us

18.1 The Ld. AR before us submitted that the lower authorities erred in making a transfer-pricing adjustment of ₹0.56 crores on account of notional interest on the appellant's outstanding trade receivables from its associated enterprises. It was contended that the learned TPO was not justified in treating the alleged delay in realization of receivables as a separate international transaction, ignoring the settled position that outstanding receivables and notional interest thereon are merely incidental to the principal international transaction and cannot be benchmarked independently.

18.2 The Ld. AR further submitted that the learned TPO failed to appreciate the fact that the assessee is a debt-free entity and has not incurred any interest cost in respect of borrowed funds. In such circumstances, it was argued that no notional interest adjustment on receivables is warranted, particularly when there is no finding that the assessee has diverted borrowed funds for the benefit of its associated enterprises. Accordingly, the Ld. AR prayed that the impugned adjustment on account of notional interest on outstanding receivables be deleted.

18.3 On the other hand, the Ld. DR before us submitted that the outstanding receivables from associated enterprises constitute a separate international transaction within the meaning of section 92B of the Act, particularly in view of the Explanation inserted therein which specifically includes receivables within its ambit. It was contended that any delay in realization of invoices beyond the agreed credit period

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amounts to extension of credit facility to the associated enterprises and, therefore, warrants benchmarking from an arm's length perspective.

18.4 The Ld. DR further argued that the debt-free status of the assessee is not determinative of the issue, as the arm's length principle requires comparison with independent parties under similar circumstances. Even if the assessee has not incurred interest expenditure, the opportunity cost of funds blocked in receivables cannot be ignored. It was submitted that an independent enterprise would not allow its debtors to enjoy prolonged credit without charging appropriate interest or factoring such credit terms into the pricing of the underlying transaction.

18.5 Accordingly, the Ld. DR supported the action of the learned TPO/AO in imputing notional interest on the delay in realization of receivables beyond the stipulated credit period and submitted that the adjustment made is in accordance with the provisions of transfer pricing regulations and deserves to be upheld.

19. We have considered the rival submissions of both the parties and perused the materials available on record. The TPO has treated the outstanding trade receivables from AEs as a separate international transaction and computed interest thereon by adopting the SBI PLR rate. The assessee has contended that the rate adopted by the TPO is not correct, as the invoices were raised in foreign currency.

It is an undisputed fact that the receivables arise from services rendered to AEs and the invoices were denominated in foreign currency. In such cases, the interest rate applicable to foreign currency transactions should be applied. The adoption of domestic SBI PLR rate is not justified.

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19.1 The Tribunal in several cases has consistently held that where the underlying transaction is in foreign currency, the appropriate benchmark rate is LIBOR plus a reasonable basis point spread.

19.2 Accordingly, we direct the TPO to recompute the interest on delayed receivables, if any, by adopting LIBOR plus 200 basis points. Interest shall be computed only for the actual period of delay beyond the agreed credit period. The TPO shall grant reasonable opportunity to the assessee while recomputing the adjustment.

19.3 Further, we note that working capital adjustment is computed on the basis of opening and closing balances of receivables and payables. However, delayed realisation of receivables has to be examined on a transaction-to-transaction basis.

19.4 If an invoice is raised during the year and the amount is realised within the same financial year, but beyond the agreed credit period, such delay may not be fully reflected in the working capital adjustment. This is because working capital adjustment is calculated with reference to the balances as on the first and last day of the financial year, and not with reference to each individual invoice.

19.5 Therefore, to that limited extent, the contention of the assessee that all delays in receivables automatically get subsumed in the working capital adjustment cannot be fully accepted. Hence, the ground of the assessee's appeal is allowed in part in the above terms.

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

Order pronounced in court on 24th day of February, 2026

Sd/- Sd/-

(KESHAV DUBEY) **(WASEEM AHMED)**
Judicial Member Accountant Member

Bangalore
Dated, 24th February, 2026

/ vms /

Copy to:

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

By order

Asst. Registrar, ITAT, Bangalore

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