

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES: I: NEW DELHI

BEFORE SHRI RAMIT KOCHAR, ACCOUNTANT MEMBER
AND
SHRI RAJ KUMAR CHAUHAN, JUDICIAL MEMBER

ITA No.5823/Del/2024
Assessment Year: 2021-22

A.HARTRODT India Private
Limited
First Floor, Plot No. 2
Industrial Area ,
Sector-33, Gurugram -122001,
Haryana

v. DCIT,
Circle-1(1), Gurgaon
Haryana.

PAN: AAFCA6346A
(Appellant)

(Respondent)

Assessee by : Shri Ankit Arora , CA & Ms. Vandana
Gupta, CA
Revenue by : Shri Dharam Veer Singh, CIT, DR
Date of Hearing : 06.04.2026
Date of Pronouncement : 03.07.2026

ORDER

PER RAMIT KOCHAR, AM:

The appeal in ITA No.5823/Del/2024 for assessment year: 2021-22 has been filed by the assessee against the assessment order dated 24.10.2024 passed by the learned Assessing Officer, Assessment Unit, Income Tax Department u/s 143(3) r.w.s. 144C(13) read with Section 144B of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') , wherein addition of Rs.1,31,28,013/- on

account of ALP adjustment u/s 92C were made in the hands of the assessee, which assessment order has been passed by the AO in pursuance of the directions given by the Ld. DRP-1, New Delhi, dated 20.09.2024 u/s 144C(5) of the Act (DIN : ITBA/DRP/M/144C(5)/2024-25/1068911749(1)). The AO had earlier issued draft assessment order dated 21.12.2023 u/s. 144C(1) of the Act wherein the AO proposed an addition of Rs.1,40,41,885/- on account of ALP adjustment u/s 92C as proposed by Id. TPO in its Transfer pricing order dated 28.10.2023 passed u/s 92CA(3), which were subjected to challenge by the assessee by filing objection before the Id. DRP which culminated into an order passed by Id. DRP dated 20.09.2024 u/s 144C(5) of the Act. TPO passed order giving effect to the directions of Id. DRP.

2. The brief facts of the case are that the assessee is engaged in the business of international freight forwarding business and provides full fledged logistics service through air and sea mode of transportation and also providing custom clearance and clearing agent services to its client on contractual basis. The assessee also provides consultancy on the above mentioned services to its clients. The reference was made by the National Faceless E-Assessment Centre to the TPO for determining the arms length price u/s 92CA(3) in respect of 'international transactions' entered into by the assessee during the impugned assessment year.

2.2 The assessee has entered into following international transactions as per Form No. 3CEB:

S.No.	Nature of International Transaction	Amount(INR)
1.	Provision of Freight and Forwarding services	19,75,30,242
2.	Payment of Group Affiliation Fees	77,04,023
3.	Availing Freight & Forwarding Services	15,55,33,451
4.	Availing IT Support Services	69,92,547
5.	Interest Earned	1,46,554
6.	Interest Cost	1,573
7.	Reimbursement of Expenses	9,37,96,151

2.3 The assessee submitted its TPSR detailing its benchmarking for the above international transactions. The dispute has arisen between rival parties wrt to determination of ALP wrt item at S. No. 1 and 3 above, i.e. wrt Provision of Freight and Forwarding Services to the tune of Rs. 19,75,30,542/- and availing of Freight and Forwarding Services to the tune of Rs. 15,55,33,451/- . The assessee adopted TNMM method using PLI of OP/OC. The 4 comparables selected by the assessee has an arithmetic mean of 3.13% , based on which it was proposed by the assessee that no adjustment to ALP is warranted as it is within the range of +/-3%. The TPO modified the filters adopted by the assessee, as the assessee had not used appropriate filters to select the comparables, which is

recorded at page 3-4 of the TPO's order. The TPO accepted all the four comparables adopted by the assessee, and included other comparables as were found comparable based on FAR analysis, thus, leading to selection of 23 comparables, with following margins:

35th percentile margin of 2.89%

65th percentile margin of 4.00%

And Median Margin of 3.83%.

2.4 The TPO computed assessee's PLI after exclusion of 'other income' of Rs. 8,33,667/- at 1.71% which was outside the 35th -65th percentile range of comparables, and proposed adjustment to ALP to the tune of Rs. 1,40,41,885/-.

2.5 The AO passed draft assessment order, proposing aforesaid adjustment to ALP. The assessee filed objections before Id. DRP, who was pleased to dispose of objections of the assessee vide orders dated 20.09.2024. The assessee raised challenge to inclusion of 8 comparables by Id. TPO, and Id. DRP accepted the contentions of the assessee wrt 6 comparables which were order to be excluded by Id. DRP. The dispute remains wrt to two comparables which were included by Id. TPO as well by Id. DRP, which is presently challenged by the assessee before us. The Id TPO passed order giving effect, revising adjustment to ALP to the tune of Rs. 1,31,28,013/- . The AO passed final assessment order , and finally addition of Rs.1,31,28,013/- was sustained by the AO by way of adjustment to ALP.

2.6 The assessee being aggrieved filed appeal with the Tribunal. The ld. Counsel for the assessee has restricted its arguments against inclusion of two comparables by TPO which inclusion was later upheld by ld. DRP viz. Cargo Service Center India Private Limited and Unique Speditorer Private Limited as well as against non-grant of working capital adjustment. Infact, there was challenge by assessee before ld. DRP wrt inclusion of 8 comparables by ld. TPO, out of which ld. DRP gave relief to the assessee by ordering exclusion of 6 comparables. Remaining two as detailed above are in challenge by the assessee before the Tribunal. Both the parties advanced their arguments. Written submissions are filed by both the parties. The assessee has also filed paper book. Copy of written submissions as well Paper Book are also given by the assessee to ld. CIT-DR.

2.7 Heard both the parties and perused the material on record. The facts in brief are narrated above and not repeated. The assessee is objecting to the inclusion by TPO of following two comparables , vide Ground No. 5:

2.7.1 Cargo Service Center India Private Limited (In Short “CSC”)

We have gone through the orders of ld. TPO, and it is observed that ld. TPO has directed this company to be included as comparable by holding as under at para 6.1 of ld. TPO order:

S.No.	Name of the Company	Assessee's remarks	Comments of the TPO
1.	Cargo Service Center India	Functionally not comparable	Cargo Service Center India Private Limited is

	Private Limited		<p>acceptable as comparable owing to the following reasons:</p> <ul style="list-style-type: none"> • Passes all the filters applied by the undersigned. • Functionally comparable to the assessee company as it is in the logistic sector without much investment in fixed assets • In view of the discussion above, the company is a suitable comparable
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2.7.1.1 We have gone through the orders of the Id. DRP , and it is observed that Id. DRP has directed this company to be included as comparable by holding as under at para 7.1 of Id. DRP order:

S.No.	Comparable	Assessee's Contention	DRPs Finding and Direction
1.	Cargo Service Center India Private Limited	<p>The company was also building a Greenfield air cargo terminal at Delhi airport. Spread over 70000 sq. mt. with an investment of USD100 million , the facility will have capacity to handle close to 1 million MT of cargo. The services provided by the company includes:- Packhouse management and operations including Fruit ripening facility- Cleaning, sorting, grading and storage of fruits and vegetables- Cold Storage services –Other related services –</p>	<p>The entity acts as an authorized representative to several airlines in handling general and perishable cargo, hazardous goods, pharmaceuticals products , livestock and other cargo at quite a few Indian Airports . In comparison, assessee</p>

		Bonded Warehousing for Exim cargo.	is engaged in international freight forwarding business and provided as full fledged logistics services through air and sea mode of transportation . The bench-marking is being done under TNMM as the MaM which is able to weed out major internal differences between tested party and comparable. Hence, to be included on grounds of broad functional similarity.
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2.7.1.2 The main bone of contention of the assessee before the Tribunal is that this company is not functionally comparable. It is engaged in Air Cargo handling operations at Indian airports, while the assessee is simple freight forwarder. It is submitted by Id. Counsel for the assessee that CSC is engaged in design , building and operating international cargo terminal at various airports through concession agreements viz. Delhi Airport, Mangaluru , Ahmedabad, Aurangabad, Mumbai , Kannur and Cochin Airport. The assessee has relied upon the website of this company to substantiate its contentions. It has also filed screen shot of Annual Report for the financial year 2023-24 and 2024-25, in the documents filed with the ITAT. Thus, it is claimed that CSC is functionally dissimilar and hence need to be excluded. The. Ld. CIT-DR objected to the data downloaded from the website to contend that it is not contemporaneous as it is

the current data and we are concerned with assessment year 2021-22 , as well it is contended by ld. CIT DR that these are additional evidences for which no application for admission of additional evidences is filed by the assessee before the ITAT. The ld. CIT-DR filed extract of annual report of Cargo Service Center India Private Limited for financial year ended 31st March 2021, and it is was contended that in the annual report/audited accounts, it is clearly mentioned that this company is in the business of cargo handling activities. Thus, it was prayed by ld. CIT-DR that this company need to be included as comparable. After carefully going through the contentions of both the parties and perusing the material on record, we are of the considered view that inclusion of comparable is to be based on FAR analysis which will include analyzing functions, assets deployed and risks assumed. The assessee has filed additional evidences before ITAT for the first time seeking exclusion of aforesaid comparable. These additional evidences require verification and enquiry. Thus, we are of the considered view that the matter need to be restored to ld. DRP to give detailed finding on FAR analysis of this comparable vis-à-vis the assessee , for the contemporaneous period. Merely saying that the comparable is functionally comparable is not sufficient but FAR analysis is required to be done. It is true that in TNMM method, exact FAR may not be achievable and minor variations are acceptable , and ld. CIT-DR rightly relied on the Tribunal order in *Copal Research India Private Limited v. DCIT (2016) 73 taxmann.com 157(Del)* with

respect thereto. Thus, we are restoring the matter back to the file of Id. DRP for fresh adjudication on merits in accordance with law. Proper opportunity of being heard to be provided. We order accordingly.

2.7.2 Unique Speditore Private Limited(In Short ‘USPL’)

We have gone through the orders of Id. TPO, and it is observed that Id. TPO has directed this company to be included as comparable by holding as under at para 6.1 of Id. TPO order:

S.No.	Name of the Company	Assessee's remarks	Comments of the TPO
1.	Unique Speditorer Private Limited	Functionally not comparable	<p>Unique Speditorer Private Limited is acceptable as comparable owing to the following reasons:</p> <ul style="list-style-type: none"> • Passes all the filters applied by the undersigned. • Functionally comparable to the assessee company being in the logistic sector • In view of the discussion above, the company is a suitable comparable

2.7.2.1 We have gone through the orders of the Id. DRP , and it is observed that Id. DRP has directed this company to be included as comparable by holding as under at para 7.1 of Id. DRP order:

S.No.	Comparable	Assessee's Contention	DRPs Finding and Direction
1.	Unique Speditorer Private Limited	.Functionally not comparable Along with, rendering of freight forwarding services, it also provides various value added services to its customers . These services include Turnkey project Handling : USPL provides end to end logistics support service, specializing in offering an extensive range of equipment and vehicles on lease hire.. Besides this, it also offers Port Handling , CFS & ICD Handling, Domestic Cargo, Project Cargo and Base Management Material Handling Operations. The company arranges material handling operations . The company arranges material handling operations including equipment for bulk, precious or other special cargoes.	The entity is engaged in business of custom broker, forwarding , shipping agent , stevedoring consolidator and warehousing agent. In comparison , assessee is engaged in international freight forwarding business and provides full-fledged logistics services through air and sea mode of transportation. The bench-marking is being done under TNMM as the MaM which is able to weed out minor internal differences between the tested party and comparable. Hence, to be included on ground of broad functional similarity.

2.7.2.2 The main bone of contention of the assessee before the Tribunal is that this company is not functionally comparable. It is submitted that apart from rendering freight forwarding services , it also provides various value added services to its customers. These services include Turnkey project Handling :

USPL provides end to end logistics support service, specializing in offering an extensive range of equipment and vehicles on lease hire.. Besides this, it also offers Port Handling , CFS & ICD Handling, Domestic Cargo, Project Cargo and Base Management Material Handling Operations. This company USPL has handled many turnkey projects of various size and weights and have the experience and expertise for handling such projects. The company arranges material handling operations . The company arranges material handling operations including equipment for bulk, precious or other special cargoes. It was submitted that this comparable provides services which are akin to consultancy services such as handling of schemes such as EPCG, SHIS, DBk, VKGUY, Advance authorization license , EOU , legal assistance in matters pertaining to EXIM Policy , notifications , value, classification and daily updates, liasoning with Ministries , clearances under EPCG, MEIS, DBK and other services etc. The assessee has relied upon the website of this company to substantiate its contentions. Thus, it is claimed that USPL is functionally dissimilar and hence need to be excluded. The. Ld. CIT-DR objected to the data downloaded from the website to contend that it is not contemporaneous as it is the current data and we are concerned with assessment year 2021-22 as well it is contended that these are additional evidences for which no application for admission of additional evidences is filed by the assessee before the ITAT.It was also submitted by ld. CIT-DR that the assessee is also providing services

including legal services as is done by this comparable. The ld. CIT-DR has filed extract of annual report of USPL for financial year 2020-21 and submitted that the main income of USPL is from clearing and forwarding business. Thus, it was prayed by ld. CIT-DR that this company need to be included as comparable. After carefully going through the contentions of both the parties and persuing the material on record, we are of the considered view that inclusion of comparable is to be based on FAR analysis which will include analyzing functions, assets deployed and risks assumed. The assessee has filed additional evidences before ITAT for the first time seeking exclusion of aforesaid comparable. These additional evidences require verification and enquiry. Thus, we are of the considered view that the matter need to be restored to ld. DRP to give detailed finding on FAR analysis of this comparable vis-à-vis the assessee , for the contemporaneous period. It is true that in TNMM method, exact FAR may not be achievable and minor variations are acceptable, and ld. CIT-DR rightly relied on the Tribunal order in *Copal Research India Private Limited(supra)* with respect thereto. But, however, merely saying that the comparable is functionally comparable is not sufficient. Thus, we are restoring the matter back to the file of ld. DRP for fresh adjudication on merits in accordance with law. Proper opportunity of being heard to be provided. We order accordingly.

2.8 The assessee is also objecting to non-grant of working capital adjustment., vide Ground No. 6 raised before the Tribunal. The assessee has relied upon

several judgments of ITAT. The assessee has submitted that working capital adjustment will increase comparability between assessee and comparables. The assessee has relied upon Rule 10B(3) of the Income-tax Rules, 1962. The assessee raised this issue before Id. TPO , wherein Id. TPO rejected the contentions of the assessee as the assessee fails to demonstrate that the difference in the working capital deployed is the reason for difference in the margins earned by the assessee and the comparables. As per TPO that all the companies are efficient profit maximizers , but poor management may be a simple reality. Thus as per TPO, the assessee is not able to demonstrate why there are material deviation in the working capital source or level, and hence the contentions of the assessee was rejected. The assessee did not raise this issue before Id. DRP in the objections filed with Id. DRP. Now , before the Tribunal, the assessee has raised this ground No. 6 requesting grant of working capital adjustment. The Id.CIT DR objected to raising of this ground before the Tribunal, as the same was never raised before Id. DRP. The Id. CIT-DR also relied upon Rule 10B(1)(e)(iii) . After hearing both the parties, we admit this ground of appeal and restore the same before Id. DRP for passing directions on merits in accordance with law. Proper opportunity of being heard to be provided. Thus, Ground no. 5 and 6 are allowed for statistical purposes in the manner as indicated above. We order accordingly.

2.9- Ground No. 1,2,3,4 , 7 and 8 are dismissed as not been pressed by the assessee.

3. In the result, the appeal of the assessee in ITA No. 5823/Del/2024 for assessment year 2021-22 is partly allowed for statistical purposes in the manner as indicated above.

Order pronounced in the open court on 03.07.2026.

Sd/-
(RAJ KUMAR CHAUHAN)
JUDICIAL MEMBER

Sd/-
(RAMIT KOCHAR)
ACCOUNTANT MEMBER

Dated: 3rd July , 2026.

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. DRP
5. DR

Asstt. Registrar, ITAT, New Delhi