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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ITA 305/2026

THE PR. COMMISSIONER OF INCOME TAX -7 .....Appellant

Through: Mr. Ruchir Bhatia, SSC with Mr. Anant Mann, JSC & Mr. P. Gupta, JSC.

versus

STERIA INDIA PVT. LTD. .....Respondent

Through: Mr. Ajay Vohra, Sr. Adv. with Mr. Neeraj Jain, Mr. Aniket D. Agrawarl & Ms. Kashish Harwani, Advs.

CORAM:
HON'BLE MR. JUSTICE DINESH MEHTA
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% **10.04.2026**

CM APPL. 23479/2026 (delay in re-filing the appeal)

1. Instant application has been filed under Section 260A(2A) of the Income Tax Act, 1961 read with Section 5 of the Limitation Act, 1963 for condonation of delay of 1408 days in re-filing the appeal.

2. For the reasons stated in the application, the delay of 1408 days in re-filing the appeal is condoned.

3. Application stands disposed of.

ITA 305/2026

4. This appeal lays a challenge to order dated 17.11.2020 passed by the learned Income Tax Appellate Tribunal, Bench ‘1-2’, New Delhi (“ITAT”) passed in Appeal No. 511/Del/2016 relating to Assessment Year (“AY”)

2011-12.

5. The appellant has proposed the following substantial questions of law for consideration:-

> *"2.1 Whether the Ld. ITAT erred in not appreciating that the Arm's Length Price of an international transaction, as defined in Section 92F(ii) of the Income tax Act, 1961, is the price applied or proposed to be applied in an uncontrolled transaction, and consequently must remain uninfluenced by extraneous factors and post transaction events like foreign exchange fluctuation which are likely to materially affect the actual receipt or payment but do not impact the price intended to be charged or paid.?*
>
> *2.2 Whether the Ld. ITAT erred in not appreciating the fact that the TPO followed the provisions of' Rule 10B(3) by similarly treating foreign exchange fluctuation as non-operating cost/revenue of the tested party as well as of the comparables to eliminate the differences, thereby leading to a consistent and reliable basis for comparison?*
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> *2.3 Whether in the facts and circumstances of the case the Ld. ITAT was right in, law in considering Infosys RPO fit. Ltd. as functionally non comparable without considering the findings of the TPO w.r.t the fact that the assessee company is also enjoying brand name as in the case of the comparable i.e. BPO Infosys Pvt. Ltd.?*
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> *2.4 Whether in the facts and circumstances of the case the Ld ITAT was right in law in considering TCS E-Serve International Ltd as functionally non comparable without considering the findings of the TPO w.r.t the fact that the assessee company is also enjoying brand name as in the case of the comparable.?*
>
> *2.5 Whether in the facts and circumstances of the case the Ld. ITAT was right in law in considering TCS E Serve. as functionally non comparable without considering the findings of the TPO with respect to the fact that the assessee company is also enjoying brand name as in the case of the comparable i.e. TCS E-Serve?*

2.6 Whether in the facts and circumstances of the case the Ld. ITAT was right in law in considering Accentia Technologies Ltd. as functionally non comparable on the ground of amalgamation. Whether amalgamation of companies should be treated as an extraordinary event for the purpose of comparable when functions of the company remain unchanged?

2.7 Whether in the facts and circumstances of the case the Ld., ITAT was right in law in considering Infinite Data System as functionally non comparable without considering the findings of the TPO w.r.t the fact that the comparable company has passed all the appropriate filters applied by the TPO?

2.8 Whether in the facts and circumstances of the case the Ld. ITAT was right in law in considering Persistent Systems as functionally non comparable on the ground that it is engaged in software product business and this segment of business is not the part of the software development services?

Whether the exclusion of the comparable entities can be sustained as done by the Ld. ITAT without determining the specific characteristics of the transactions: FAR (functions performed, assets deployed and risk assumed) analysis; contractual terms and market conditions as prescribed in Rule 10B(2) of the 1. T. Act, 1962?"

6. Mr. Bhatia fairly states that the issue, which arises for consideration in this appeal is covered against the Revenue and in favour of the assessee on all the proposed substantial questions of law, details of which are provided in the following chart which is reproduced as under:-

Q. No.	*Issue*	*Reason for ITAT in the Impugned Order dtd. 17.11.2020 (Annex 'I',pp. 43-108)*	*Covered in favour of the Assessee by the following legal authorities*
2.1 & 2.2	*Whether ITAT erred in treating* ***Foreign Exchange***	▪ *Direct Value derived from forex fluctuations on trading items arising from international*	▪ *Revenue's appeal bearing ITA 739/2025 for AY 2010-11 dismissed by the Hon'ble*

	***Fluctuation** as <u>operation</u>?*	*transcations cannot be treated as non-operating* ▪ *Matter restored to TPO to verify whether forex fluctuations relates to trading items – if YES, to be treated as 'operating'* *(Paras 16-18)*	*Court on 12.12.2025* ▪ *TPO, in the set-aside proceedings post-ITAT, accepted that forex fluctuations arose on 'trading' items* ▪ *Woodward Governor India (P.) Ltd. [2009] 312 ITE 254 (SC)* ▪ *Ameriprise India (P.) Ltd. [ITA 206/2016; dtd. 23.03.2016] (Del)* ▪ *Safe Harbour Rules, 2013 dated 18.09.2013* ▪ *CBDT Letter dated 20.12.2013 reg. Safe Harbour Rules*
<u>ITES Segment</u>			
2.3	*Whether the ITAT erred <u>excluding</u> **TCS E-Serve Ltd**. comparable?*	▪ *<u>Significant brand Value</u>* *(Paras 41-12)*	▪ *Revenue's appeal bearing ITA 739/2025 for **<u>AY 2010-11 dismissed by this Hon'ble Court</u>** on 12.12.2025* ▪ ***B.C. Management Services (P.) Ltd**. [2018] 403 ITR 45 (Del) [AY 2011-12]* ▪ ***Oracle (OFSS) BPO Services (P.) Ltd**. [2019] 116 ITR51 (Del)* ▪ ***Avaya India (P.) Ltd**. [2019] 416 ITR 638 (Del)* ▪ ***Evalueserve SEZ (Gurgaon) (P.) Ltd**. [ITA 211/2018; decided on 26.02.2018] (Del)*

			▪ ***Cadence Design Systems (India)*** *12025) 182 ITR 115 (Del)* ▪ ***United Health Group Information Services (P.) Ltd****. [ITA 1180/2017: Order dated 21.12.20171] (Del)*
2.4	*Whether the ITAT erred in <u>excluding</u>* ***Accentia Technologies Led.*** *as comparable?*	▪ *Owns <u>significant intangible assets</u>* ▪ ***<u>Functionally Different</u>****: Medical Services* ▪ ***<u>No Segmental Data</u>*** *(Paras 51-56)*	▪ *Revenue's appeal bearing ITA 739/2025 for* ***AY 2010-11 dismissed by this Court*** *on 12.12.2025* ▪ ***B.C. Management Services (P.) Ltd****. [2018] 403 ITR 15 (Del) [AY 2011-12]* ▪ ***Evalueserve SEZ (Gurgaon) (P.) Ltd****. [2019] 416 ITR 51 (Del) [AY 2011-12]* ▪ ***Inductis (India) (P.) Ltd.*** *[2019] 102 taxmann.com 482 (Del) [AY 2011-12]* ▪ ***United Health Group Information Services (P.) Ltd****. [ITA 1180/2017; Order dated 21.12.2017] (Del)*
2.5	*Whether the ITAT erred <u>excluding</u>* ***ICRA Techno Analytics Ltd****. as comparable?*	▪ ***<u>Functionally Different</u>****: Software development, consultancy, licensing, web development, hosting services, etc.* ▪ ***<u>No Segmental Data</u>***	▪ ***B.C. Management Services (P.) Ltd****. [2018] 408 ITR 45 (Del) [AY 2011-12]* ▪ ***Evalueserve SEZ (Gurgaon) (P.) Ltd****. [ITA 241/2018; decided on 26.02.2018] (Del) - followed in AY*

		(Paras 60-64)	*2011-12, reported @ [2019] 416 ITR 51 (Del)* ▪ ***Macquarie Global Services (P.) Ltd**. [2022] 449 ITR 306 (Del) [AY 2011-12]*
2.6	*Whether the ITAT erred in <u>excluding</u> **Eclerx Services Ltd.** as comparable?*	▪ ***<u>Functionally Different</u>**: KPO* *(Paras 71-74)*	▪ ***B.C. Management Services (P.) Ltd**. [2018] 403 ITR 45 (Del) [AY 2011-12]* ▪ ***Rampgreen Solutions (P.) Ltd**. [2015] 377 ITR 533 (Del)* ▪ ***Honeywell International (India) (P.) Ltd**. [2024] 158 taxmann.com 376 (Del)* ▪ ***Reservation Data Maintenance India (P.) Ltd**. [2023] 156 taxmann.com 663 (Del)* ▪ ***Future First Info. Services (P.) Ltd**. [2021] 162 ITR 157 (Del)* ▪ ***Corporate Executive Board India (P.) Ltd**. [2020] 420 ITR 52 (P&H)*
		<u>Software / IT Segment</u>	
2.7	*Whether the ITAT erred in <u>excluding</u> **E-Infochips Ltd**. as comparable?*	▪ ***<u>Functionally Different</u>**: Diversified Business - Soltware, ITeS and Products* ▪ ***<u>No Segmental Data</u>*** *(Paras 99-100)*	▪ ***Saxo India (P.) Ltd**. [2017] 397 ITR 160 (Del) [AY 2011-12]* ▪ ***Alcatel Lucent India Ltd**. [2018] 95 taxmann.com 612 (Del) [AY 2011-12]* ▪ ***United Health***

			***Group Information Services (P.) Ltd**. [ITA 1180/2017; Order dated 21.12.2017] (Del)* ▪ ***Comverse Network Systems India (P.) Ltd**. [2020] 119 taxmann.com 513 (P&H)*
2.8	*Whether the ITAT erred <u>excluding</u> **E-Zest Solutions Ltd.** as comparable?*	▪ ***<u>Functionally Different</u>**: KPO – Product development and Technical Services* *(Paras 106-107)*	▪ ***Rampgreen Solutions (P.) Ltd**. [2015] 377 ITR 533 (Del)* ▪ ***Mentor Graphics (India) (P.) Ltd**. [2024] 469 ITR 524 (Del)* ▪ ***Barclays Technology Centre India (P.) Ltd**. [2018] 409 ITR 138 (Bom)*
2.9	*Whether the ITAT erred in <u>excluding</u> **Acropetal Technologies Ltd.** as comparable?*	▪ ***<u>Functionally Different</u>**: Engineering Design, Information Technology, Healthcare Industry* ▪ ***<u>Difference Business Model</u>**: Major portion of activity is outsourced; Employee Cost less than 25% of Total Cost* ▪ ***<u>Significant R&D & Advertisement Expense</u>*** *(Paras 108, 111-112)*	▪ ***Omniglobe Information Technologies (India) (P.) Ltd**. [2024] 460 ITR 249 (Del)* ▪ ***Freescale Semiconductor India (P.) Ltd**. [2024] 169 taxmann.com 48 (Del)*

2.10	*Whether the ITAT erred <u>excluding</u>* ***Infosys Technologies Ltd****. as comparable?* *Whether the ITAT erred in <u>excluding</u>* ***Wipro Technologies Ltd****. as comparable?*	▪ *<u>Significant brand value</u>* ▪ ***Functional Profile****: Engaged Development of Sofiware products* *(Paras 115-117)*	▪ *Revenue's appeal bearing ITA 739/2025 for <u>AY 2010-11 dismissed by this Hon'ble Court</u> on 12.12.2025* ▪ ***Microsoft India (R&D) (P.) Ltd.*** *[2021] 131 ITR 183 (Del) [AY 2011-12]* ▪ ***Global Logic India Ltd.*** *[2023] 155 taxmann.com 183 (Del) [AY 2011-12]* ▪ ***Open Solutions Software Services (P.) Ltd.*** *[2020] 315 CTR 197 (Del)* ▪ ***Cashedge India (P.) Ltd.*** *[ITA 279/2016; decided on 01.05.2016] (Del)* ▪ ***Agnity India Technologies (P.) Ltd.*** *[2013] 219 Taxman 26 (Del)*
2.11	*Whether the ITAT erred in <u>excluding</u>* ***Persistent Systems Ltd****. comparable?*	▪ ***<u>Functional Profile:</u>*** *R&D, engineering services, on-site professional services* ▪ ***<u>No Segmental Data</u>*** *for software services* ▪ ***<u>Difference Business Model</u>:*** *Outsourcing of product development services* *(Paras 118, 122 123)*	▪ *Revenue's appeal bearing ITA 739/2025 for <u>AY 2010-11 dismissed by this Hon'ble Court</u> on 12.12.2025* ▪ ***Microsoft India (R&D) (P.) Ltd.*** *[2021] 431 ITR 483 (Del) [AY 2011-12]* ▪ ***Open Solutions Software Services (P.) Ltd.*** *[2020] 315 CTR 197 (Del)* ▪ ***Cashedge India (P.) Ltd.*** *[ITA 279/2016; decided on 01.05.2016] (Del)* ▪ ***Mentor Graphics***

			(India) (P.) Ltd. *[ITA 126/2022: decided On 26.01.20221] (Del)*
2.12	*Whether the ITAT erred in <u>including</u>* ***Thinksoft Global Services*** *comparable?*	▪ ***<u>Similar Functional Profile:</u>*** *Software verification & validation service, which is subset of software services;* ▪ ***<u>No differentiating parameter between the assessee and this Co.</u>*** *(Paras 124, 127)*	▪ ***Finastra Software Solutions (India) (P.) Ltd.*** *[2018] 93 taxmann.com 460 (Bang. Trib.)* ▪ ***EF Information Systems (P.) Ltd.*** *[2020] 119 taxmann.com 152 (Bang. Trib.)* ▪ ***Atlas Healthcare Software India (P.) Ltd.*** *[2020] 185 ITD 372 (Kol. Trib.)* ▪ ***Data Core (India) (P.) Ltd.*** *[2018] 89 taxmann.com 81 (Kol. Trib.)*
2.13	*Whether ITAT followed principles outlined u/r 10B(2)?*	***<u>Factors considered while adjudicating comparability in terms of 10B(2)/(3):</u>*** ▪ *Specific characteristics of the* ***property*** *transferred or* ***services*** *provided in controlled uncontrolled transactions;* ▪ ***functions*** *performed, taking into account* ***assets*** *employed or to be employed and the* ***risks*** *assumed, by the respective parties;* ▪ *the contractual terms between the respective parties;* ▪ ***market conditions*** *such as geography, size, laws, labour and*	▪ ***Agnity India Technologies (P.) Ltd.*** *[2013] 219 Taxman 26 (Del)* ▪ ***Rampgreen Solutions (P.) Ltd.*** *[2015] 377 ITR 583 (Del)* ▪ ***Chryscapital Investment Advisors (India) (P.) Ltd.*** *[2015] 376 ITR 183 (Del)* ▪ ***Oracle (OFSS) BPO Services (P.) Ltd.*** *[2019] 416 ITR 54 (Del)* ▪ ***Open Solutions Software Services (P.) Ltd.*** *[2020] 315 CTR 197 (Del)*

		capital costs, economic development, competition, etc.; ▪ *reasonably accurate* ***adjustments*** *to be made to eliminate the material ellects of differences between controlled and uncontrolled transactions.*	

7. Since the substantial questions of law arising in this appeal have already been set at rest, the appeal is liable to be dismissed as no question remains to be decided.

8. The appeal is, accordingly, dismissed.

DINESH MEHTA, J

VINOD KUMAR, J

APRIL 10, 2026/*sr*