UOP India Private Limited v. Principal Commissioner of Income Tax-9

ITA 497/2023

2023:DHC:7371-DB; ITA 497/2023 | 2023-09-01

Tribunal must decide its statutory power before reconsidering exclusion of the accepted transfer-pricing comparable.

Income-tax Act,1961: sections 254

High Court of Delhi | 2-judge bench (Division Bench) | Justice Rajiv Shakdher | Justice Girish Kathpalia

Assessment years: Not specified in order text

01 FACTS OF THE CASE

UOP challenged the Tribunal's exclusion of Onward Technologies Ltd., a comparable accepted by the TPO for its engineering and technical inspection segment. Revenue had sought its exclusion through an additional ground after other comparables were excluded.

Source: PDF pp.2–4

02 DISCUSSION BY THE HON'BLE COURT

The assessee disputed the Tribunal's power under section 254 to undo the TPO's accepted position. Revenue asserted plenary appellate power. The Court found that the Tribunal had recorded submissions without addressing this threshold issue.

Source: PDF pp.3–4

03 JUDICIAL DECISION

With both sides agreeing to reconsideration, the Court set aside the impugned order and required the Tribunal first to examine the scope of section 254, then to decide whether exclusion of Onward was valid on the facts.

Source: PDF pp.4–5

04 OUTCOME / IN WHOSE FAVOUR

The question was answered for the assessee for statistical purposes. The matter returned to the Tribunal; Onward's final inclusion or exclusion remained open.

Source: PDF pp.4–5

05 EXPERT COMMENTS

AKHB Expert Comments — editorial analysis, distinct from the Court's findings.

Power precedes comparability: The remand separates two questions that should not be collapsed: whether the Tribunal could entertain the requested change and whether Onward was functionally comparable. A renewed decision must explain the statutory basis before deciding the factual issue. The High Court did not itself settle either question. (PDF pp.4–5)

An accepted comparable is relevant, not automatically immutable: Acceptance by the TPO supplied the setting for UOP's jurisdictional objection. It was not converted into a general rule forbidding Revenue from raising additional grounds. Equally, the reference to plenary power was Revenue's argument rather than the Court's concluded interpretation of section 254. (PDF pp.3–5)

Preserve the limited appellate result: The statistical answer cannot be used as a final transfer-pricing victory or as a direction to restore all excluded comparables. The operative inquiry concerns Onward and expressly permits a factual conclusion either way after the power question is addressed. The order mentions a financial year in a quoted ground but does not expressly identify the assessment year. (PDF pp.3–5)

Source: PDF pp.4–5

SOURCE & VERIFICATION

Original High Court judgment PDF — AKHB source repository

Complete 5-page original reviewed; source bytes verified.

Full original and all five panels re-reviewed on 21 October 2026.

Open cited source rendition

Complete original source and all five note panels checked; original docket identities preserved.

STATUTORY SCOPE

Current law and subsequent treatment not independently verified.

LATER TREATMENT

Source checked 2026-10-21. Subsequent proceedings and current judicial treatment have not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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