IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF AUGUST, 2025

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C M JOSHI

INCOME TAX APPEAL NO. 145 OF 2025

BETWEEN:

1. THE PR. COMMISSIONER OF INCOME TAX-1
   5TH FLOOR, BMTC BUILDING
   80 FEET ROAD, KORMANGALA
   BENGALURU - 560 095.

2. THE DY. COMMISSIONER OF INCOME-TAX
   CIRCLE-2, LTU, PRESENT ADDRESS
   ACIT, CIRCLE-2(1)(1), 2ND FLOOR, BMTC BUILDING
   80 FEET ROAD, KORMANGALA
   BENGALURU - 560 095.

…APPELLANTS

(BY SRI Y.V. RAVIRAJ, ADVOCATE)

Digitally signed by SUMATHY KANNAN
Location: High Court of Karnataka

AND:

1. ROBERT BOSCH ENGINEERING
   AND BUSINESS SOLUTIONS PVT. LTD.,
   NO.123, HOSUR ROAD
   INDUSTRIAL LAYOUT
   KORAMANGALA
   BENGALURU-560 095
   PAN - AAACR 7108R
   REP. BY ITS MANAGING DIRECTOR.

…RESPONDENT

THIS INCOME TAX APPEAL IS FILED UNDER SEC.260-A OF INCOME TAX ACT 1961, PRAYING TO ALLOW THE APPEAL AND SET ASIDE THE ORDER PASSED BY THE INCOME-TAX APPELLATE TRIBUNAL, BANGALORE IN IT(TP)A NO. 446/BANG/2020 DATED 09.12.2024 FOR ASSESSMENT YEAR 2012-2013 ANNEXURE-A CONFIRMING THE ORDER OF THE APPELLATE COMMISSIONER AND CONFIRM THE ORDER PASSED BY THE ASST. COMMISSIONER OF INCOME TAX CIRCLE-2(1)(1), BENGALURU.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C M JOSHI

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU,CHIEF JUSTICE)

1. For the reasons stated in the application - I.A.No.2/2025, the same is allowed. The delay of 55 days in filing the above captioned appeal is condoned.

2. The Revenue has filed the present appeal under Section 260A of the Income Tax Act, 1961 [**the Act**], impugning an order

dated 09.12.2024 [**impugned order**] passed by the learned Income Tax Appellate Tribunal [**ITAT**].

3. The impugned order is a common order passed in IT (TP) A No. 593 / Bang / 2020 in respect of assessment year [AY] 2012-13 as well as IT (TP) A No.446 / Bang / 2020 in respect of AY 2012-13. Whereas IT (TP) A No. 593 / Bang / 2020 was preferred by the Assessee, IT (TP) A No.446 / Bang / 2020 was preferred by the Revenue. The present appeal is confined to the impugned order insofar as it relates to the Revenue's appeal being IT (TP) A No.446 / Bang / 2020.

4. The Revenue has projected the following questions for consideration of this Court:

> "1. Whether the Tribunal was right in ignoring the fact pertaining to availability of segmental financials and wrongly determining the service revenue for the purpose of exclusion of the comparables universal print system ltd and BNR Udhyog Ltd?
>
> 2. Whether the Tribunal was right in computing service revenue filter at entity level by ignoring the segmental financials available for the comparables universal print system ltd and BNR Udhyog Ltd.?"

5. The controversy raised relates to the exclusion of the following two entities as comparables for transfer pricing study: Universal Print System Ltd and BNR Udhyog Ltd. According to the Revenue, the FAR [Functional, Asset and Risk] profile of the said two entities is comparable with the Assessee for the purpose of determining the Arm's length Price [**ALP**] by following the Transactional Net Margin Method [**TNMM**] .

6. The Assessing Officer [**AO**] made a reference to the learned TPO for determining the ALP of the international transactions between the Assessee and its Associated Enterprise. The learned Transfer Pricing Officer [**TPO**] passed an order dated 27.01.2016 under Section 92CA making an transfer pricing adjustment. The learned TPO *inter alia* adopted the following filter for selection of comparables for the purpose of transfer pricing analysis.

> - "Companies whose SWD / IT enabled Service is less than 75% of the total operating revenues were excluded
>
> The companies whose revenues from software development and related services are more than 75% of their operating revenues are selected as comparables. This is an appropriate filter as this is the stage which will determine the correct comparability. In respect of

> enterprises whose main sources of income is from service segment, the companies whose income from software development / ITeS comes to more than 75% of the operating revenues have been considered for the ALP study as the other segment may not materially affect the financial results of the company."

7. The Assessee had objected to the inclusion of the said two comparables on the ground that the two entities were not comparable on the basis of their FAR profile. The said objections were rejected by the learned TPO.

8. The Assessee had appealed the final assessment order before the learned Commissioner of Income Tax Appeals [CIT(A)]. The Learned CIT(A) found that the two entities in question [Universal Print System Ltd and BNR Udhyog Ltd] were required to be excluded, as the filter selected by the learned TPO had not been correctly applied. According to the CIT(A), the filters were required to be applied at entity level and not at the segment level. The relevant extract of the learned CIT(A)'s order is set out below.

> "Universal Print Systems Ltd:
>
> The primary contention raised by the assessee is that this comparable company fails the service revenue filter of 75% applied by the TPO. It is seen that the TPO has taken the

BPO segment of this company. While doing so the filters seem to have been applied at segment level. The filters need to be applied at entity level and not at segment level. That being the considered position, I find merit in assessee's argument with regard to the application of service filter.

Total sale of ITeS services: 6,17,67,000 (21.63%)

Total revenue: 28,55,14,000

As seen from above, this company fails the filter and hence needs to be excluded. Since the company is to be excluded other contentions of the assessee become academic and are not considered. Ground allowed.

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BNR Udyog (seg):

The primary contention raised by the assessee is that this comparable company fails the service revenue filter of 75% applied by the TPO. It is seen that the TPO has taken the BPO segment of this company. While doing so the filters seem to have been applied at segment level. The filters need to be applied at entity level and not at segment level. That being the considered position, I find merit in assessee's argument with regard to the application of service filter.

Total sale of ITeS services: 1,47,40,000 (42.92%)

Total revenue: 3,43,43,644

As seen from above, this company fails the filter and hence needs to be excluded. Since the company is to be excluded,

other contentions of the assessee become academic and are not considered. Ground allowed."

9. The Revenue appealed the said decision before the Learned ITAT. However, the learned ITAT did not find any fault with the decision of the learned CIT(A). The relevant extract of the impugned order is set out below:

"47. Coming to ground of appeal raised by the revenue against the exclusion of comparable companies namely Universal Print System Ltd and BNR Udhyog Limited, we note that the ld. CIT-A has given categorical finding that these 2 companies do not meet the criteria adopted by the AO /TPO for selecting the comparables. As such these 2 Companies do not meet the criteria of 75% for revenue from the operations of ITES services. This finding of the ld. CIT-A has not been disputed by the learned DR appearing on behalf of the revenue. Accordingly, we do not find any reason to interfere in the finding of the learned CIT-A. Hence, the ground of appeal of the revenue is hereby dismissed."

10. It is contended on behalf of the Revenue that where details of the comparable segments are available, it would be apposite to determine the ALP on the basis of the financials of the said segment. Clearly, there can be no cavil with the said proposition. In

cases where the financials of the relevant segment are available and can be authenticated, there would be no difficulty in determining the ALP on the basis of financials of the given segment. However, in the present case, the issue is not whether financials for a particular segment can be adopted. As noted above, the CIT (A), had faulted the selection of comparables on the basis of the filter adopted. Thus, if the revenues of the comparable segment is less than 75% of the total revenue of the entity, the same could not be selected for purpose of the transfer pricing study on the basis of the selected filter. It would be not open to look into the financials of the segment for overcoming the filter as adopted. We find no infirmity with the said view. Thus, no substantial question of law arises for consideration in this appeal.

11. The appeal is accordingly, dismissed.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(C M JOSHI)
JUDGE

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List No.: 1 Sl No.: 16