

# Hyundai Motors India Engineering Pvt . Ltd – ITAT, Hyderabad

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**Decision Outcome: Partially allowed**

**Category: Selection of comparables**

**Summary of decision:**

- Taxpayer is in the business of provision of ITES services to its AEs
- Taxpayer selected 6 comparables which were rejected and TPO proposed 20 new comparables
- The arms length price was determined at 24.12% after economic adjustments and filters
- ITAT ruled on the various filters applied by the TPO as follows:
  - Turnover Filter: Turnover greater than Rs.1 cr and less than Rs.150 cr was applied by TPO. Taxpayer argued that even companies below Rs. 1 cr to be included. ITAT noted that as taxpayer's turnover was Rs 15.79 cr, hence the range needs to be accepted
  - Related party transactions accepted at 25% whereas the taxpayer applied 10%
  - Export sales filter considered at 25%
- Further ITAT excludes Infosys BPO as it is a market leader and has an element of brand value attached to it. Wipro & HCL Comnet excluded due to high turnover.

# POSCO Engineering & Construction Co Ltd- ITAT, Mumbai

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**Decision Outcome: Partially allowed**

**Category: Profit Level Indicators (PLI)**

- The taxpayer is engaged in construction contracts by the AEs
- The taxpayer used Cost Plus Method (CPM) to benchmark the transactions and the TPO rejected CPM and adopted TNMM
- ITAT dismisses the PLI computation for both taxpayer and the TPO
- While selecting PLI and applying TNMM, the steps given in Rule 10B(1)(e) are required to be followed stringently
- When the costs are taken as a denominator in the ratio computation, it is the total operating cost that needs to be applied including cost of goods sold, selling, administration, distribution and depreciation etc.
- ITAT set aside the matter to TPO and directed the AO/ TPO to re-compute Operating profits/ total costs of the taxpayer as well as the comparables, by considering operating profits in numerator and total operating costs in denominator.