

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'I-1', NEW DELHI**

**Before Ms. Suchitra Kamble, Judicial Member**

**Dr. B. R. R. Kumar, Accountant Member**

**(Through Video Conferencing)**

**ITA No. 1076/Del/2018 : Asstt. Year : 2013-14**

ACIT, Circle-6(1), New Delhi	Vs	M/s CH2M Hill India Pvt. Ltd., 604, Shakuntla Building, 59, Nehru Place, New Delhi-110019
<b>(APPELLANT)</b>		<b>(RESPONDENT)</b>
<b>PAN No. AAECA3097N</b>		

**Assessee by : Sh. Ajit Jain, CA**

**Revenue by : Sh. Arun Kumar Yadav, Sr. DR**

<b>Date of Hearing: 10.08.2021</b>
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<b>Date of Pronouncement: 01.11.2021</b>
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**ORDER**

**Per Dr. B. R. R. Kumar, Accountant Member:**

The present appeal has been filed by the Revenue against the order of the Id. CIT(A)-44, New Delhi dated 24.11.2017.

2. Following grounds have been raised by the Revenue:

*"1. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred in exclusion of comparable i.e. Holtec Consulting Pvt. Ltd. by ignoring the TP proceedings wherein it was established that the company is primarily engaged in the business of rendering engineering consultancy services.*

*2. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has erred by ignoring the fact that an entity can be excluded from the list of comparables only on the ground of*

*incomparability taking into account comparability factors as stipulated u/s 92C(1) of the Income Tax Act, 1961 and Rule 10B(2) & (3) of the Income Tax Rules, 1962 and not on the basis of higher or lower profit rate.*

*3. Whether on the facts and in the circumstances of the case and in law, the Ld. CIT(A) has failed to appreciate that the TNMM method was used to benchmark the transactions of assessee company, therefore TPO has used comparable companies which are doing similar nature of business. As the comparable company may not be replica of the assessee while using TNMM method, this comparable company should be included in the final set of comparables."*

3. The only grievance of the Revenue pertains to exclusion of the comparable namely, "Holtec Consulting Pvt. Ltd."

4. Appeal of the assessee for the A.Y. 2013-14 has been dismissed as withdrawn by the Tribunal owing to opting of "Vivad Se Viswas Scheme 2020".

5. Straight to the issue: The comparable in dispute had a profit of 72.45% which is abnormally with the market averages. The OECD guidelines and the TP studies have inbuilt provisions that abnormal profit as well as loss may not be considered for the purpose of benchmarking. Further, we find that the comparable is engaged in the business of rendering Engineering Consultancy Services including mining, project construction management, environment management and logistics whereas the assessee is primarily engaged in the Engineering technical Consultancy in the areas of water, waste management, infrastructure, oil & gas management. Thus, we find that 'Holtec Consulting Pvt. Ltd.' is not a right comparable at the segmental

level and hence decline to interfere with the order of the Id. CIT(A).

6. In the result, the appeal of the Revenue is dismissed.  
Order Pronounced in the Open Court on 01/11/2021.

Sd/-

**(Suchitra Kamble)**  
**Judicial Member**

**Dated: 01/11/2021**

**\*Subodh Kumar, Sr. PS\***

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

Sd/-

**(Dr. B. R. R. Kumar)**  
**Accountant Member**

**ASSISTANT REGISTRAR**