# Practical Issues - Forms in International Taxation

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# Agenda

01

#### **TDS**

Section 195

Form- 15CA, 15CB, 27Q

03

#### **Returns:**

Factors to be consider while filing NRI returns

02

**Tax Credit: DTAA** 

Form- 67, 10F, 10FA, 10FB

04

**Equivalisation Levy:** 

**Challan & Form** 

05

**Other Form** 

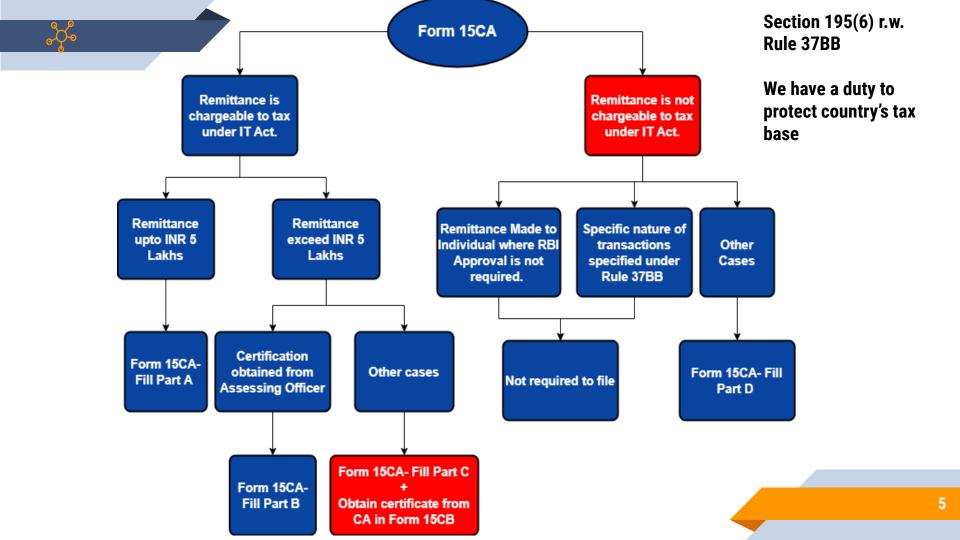


## 15CA/CB & Return Filing



## Section 195: TDS on payment to Non resident

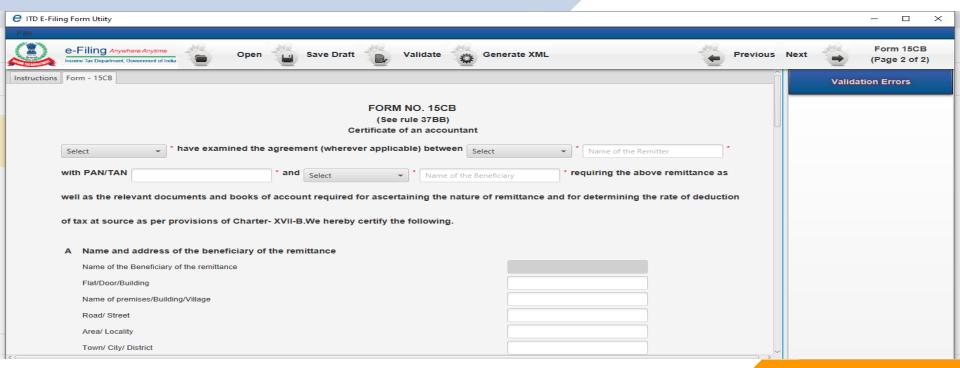
- "Any person responsible for paying to a non-resident, not being a company, or to a foreign company,
- any interest (not being interest referred to in section 194LB or section 194LC) or section 194LD or <u>any other sum chargeable under the provisions of this Act</u> (not being income chargeable under the head "Salaries") shall,
- at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier,
- deduct income-tax thereon at the rates in force."



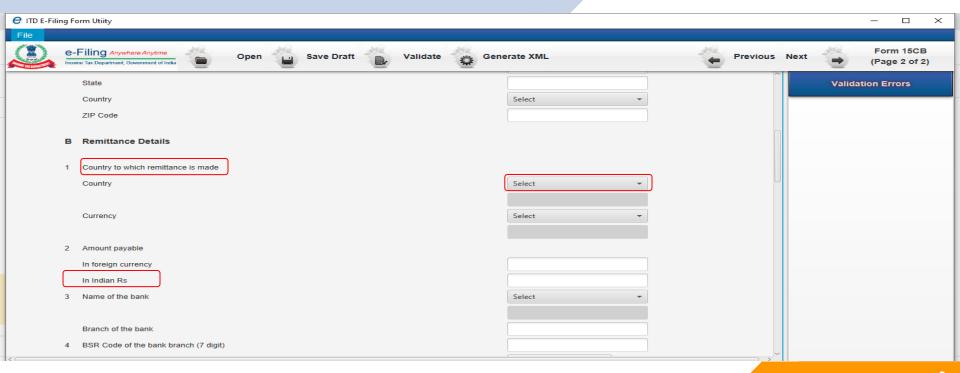


- 15CB is the Tax Determination Certificate where the CA examines the remittance with regard to chargeability provisions under Section 5 and 9 of the Income Tax Act along with the provisions of Double Tax Avoidance Agreements.
- In form 15CB, a CA certifies details of the payment, TDS rate and TDS deduction as per Section 195 of the Income Tax Act, if any DTAA is applicable, and other details of nature and purpose of the remittance.
- Upload of Form 15CB is mandatory prior to filling Part C of Form 15CA. To prefill the details in Part C of form 15CA, the Acknowledgement Number of e- verified form 15CB should be verified.

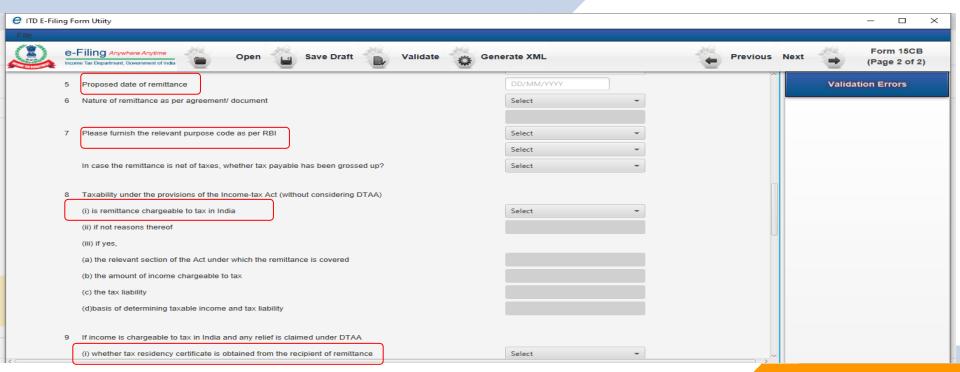




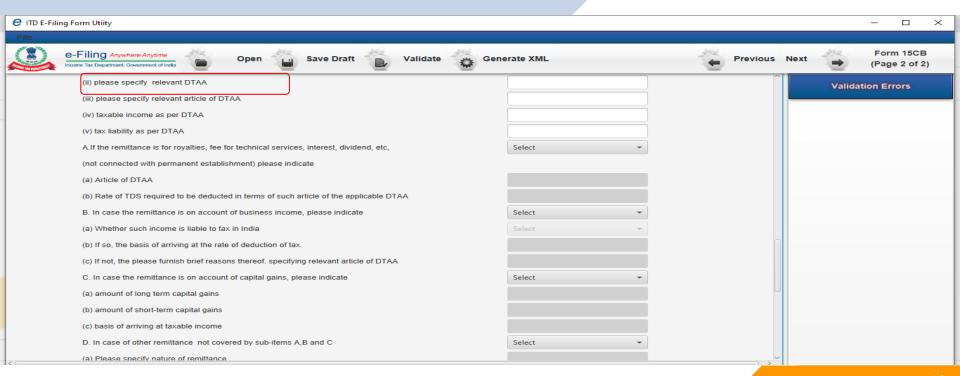




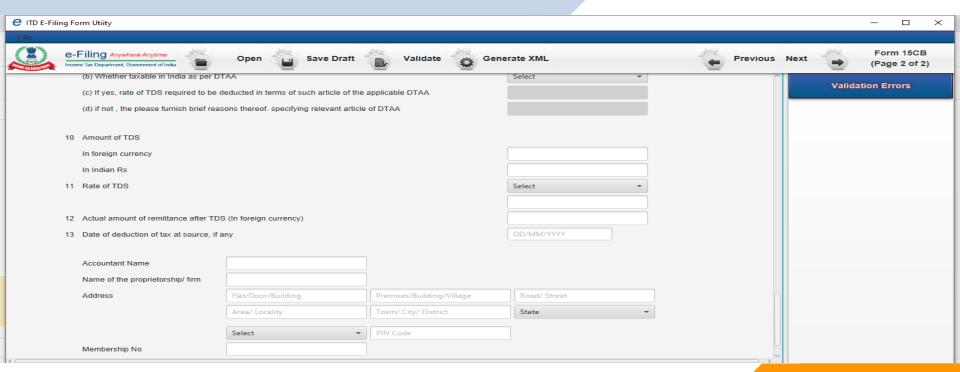














# Steps to keep in mind while making foreign remittance



- Verify the original invoice or agreement to know about the transaction.
- Make classification of transaction on the basis of nature of income.
- Check taxability as per Domestic Law.
- Check taxability as per DTAA along with availability of TRC/Form 10F and no PE certificate.
- Also check the website of the supplier to get additional details about their Indian operations if any.
- Check the rates of TDS applicable & Exchange rate.
- Form 15CA/15CB -Whatever applicable
- Remit the amount.

#### Form- 27Q



- Statement for TDS from additional income like interest, dividends, or any other amount payable(other than salary) to NRI (foreigners).
- Form 27Q is relevant for payments made except the salary to non-resident Indians and foreigners. It is used for the declaration of TDS for the NRIs and Foreigners. Form 27Q is submitted by the deductor every quarter and is relevant for TDS u/s 200(3) of the Income Tax Act of 1961.

#### FORM NO. 27Q

<sup>1</sup>[[See sections 194E, 194LB, [194LBA, 194LBB, 194LBC], 194LC, 194N, 195, 196A, 196B, 196C, 196D, 197A and rule 31A]]

Quarterly statement of deduction of tax under sub-section (3) of section 200 of the Income-tax Act in respect of payments other than salary made to non-residents for the quarter ended \_\_\_\_\_\_\_(June/September/December/March) \_\_\_\_\_\_(Financial Year) Tax Deduction and Collection Account Has the statement been filed earlier for this (d) Number (TAN) quarter (Yes/No) If answer to (d) is "Yes", then Token No. [Permanent Account Number or of original statement Aadhaar Number] [See Note 1] Financial Year Type of Deductor (See Note 2) 2. Particulars of the Deductor Name of the deductor If Central/State Government Name (See Note 3) AIN Code of PAO/TO/CDDO TAN Registration No. Address PIN Code Flat No. Name of the premises/building Telephone No. Road/Street/Lane Alternate telephone No. (See Note 4) Email Area/Location Town/City/District Alternate email (See Note 4) State

<sup>1.</sup> Substituted by the Income-tax (16th Amendment) Rules, 2020, w.e.f. 3-7-2020.

. Particul	lars of the person responsible for deduction of tax:		
(a)	Name	Area/Location	
(b)	Address	Town/City/District	
	Flat No.	State	
	Name of the premises/building	PIN Code	
	Road/Street/Lane		
	Telephone No.	Alternate telephone No. (See Note 4)	

Mobile No.

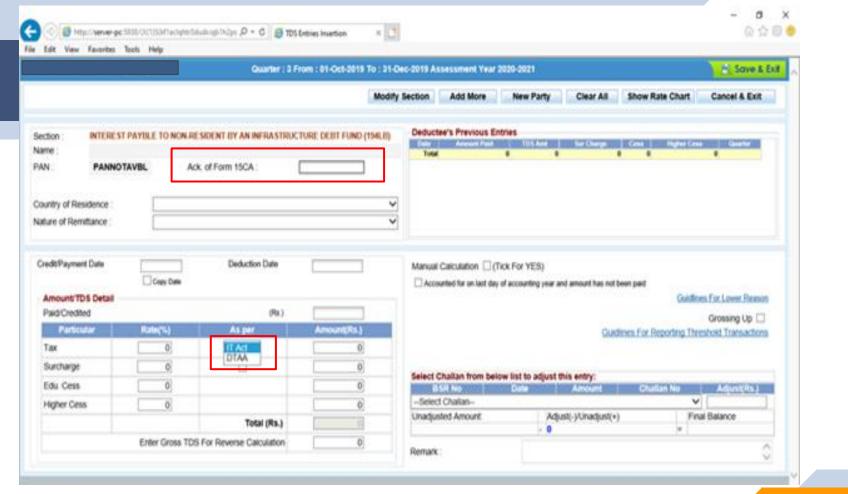
#### 4. Details of tax deducted and paid to the credit of the Central Government:

Alternate email (See Note 4)

Email

Sl. No.	Tax	Surcharge	Education	Interest	Fee (See	Penalty/	Total amount	Mode of	BSR	Challan	Date on which	Minor
			Cess		Note 5)	Others	deposited as per	deposit	code/Receipt	Serial	amount deposited	Head of
							Challan/Book	through	Number of	No./DDO	through	Challan
							Adjustment	Challan (C)/	Form No. 24G	Serial No. of	Challan/Date of	(See Note
							(702+703+704+	Book	(See Note 8)	Form No.	transfer voucher	9)
							705+706+707)	Adjustment (B)		24G (See	(dd/mm/yyyy) (See	
							(See Note 6)	(See Note 7)		Note 8)	Note 8)	
[701]	[702]	[703]	[704]	[705]	[706]	[707]	[708]	[709]	[710]	[711]	[712]	[713]
1												
2											_	
3												

 $\textbf{5.}\ \textbf{Details}\ \textbf{of}\ \textbf{amount}\ \textbf{paid}\ \textbf{and}\ \textbf{tax}\ \textbf{deducted}\ \textbf{thereon}\ \textbf{from}\ \textbf{the}\ \textbf{deductees}\ (\textbf{\textit{see}}\ \textbf{Annexure})$ 



#### Attention!!Attention!!



If your NRI Client is a Equity holder of an Indian Company, then inform them to check their mails, because Indian companies are mailing them to submit certain documents, this includes TRC, Self-Declaration in Form 10F if they wants to avail benefits of DTAA between India and the country of their residence and other required documents.

Tax Credits and Residency Certificates



## Form No. 67 - Foreign Tax credit

- CBDT has released <u>Form 67</u>, which needs to filed by the assessee online when he needs to claim credit of tax whether u/s 90/ 90A/ 91. This needs to be filed by the assessee to take foreign tax credit in the year in which he offers corresponding income to tax in India.
- Form 67 shall be available to all the assessee's login. The assessee is required to login into the e-filing portal. Then under E-file drop down assessee needs to select **Prepare and submit online Forms (Other than ITR).** Select Form 67 from the drop down and the instructions to fill the same would also be available there.
- In the end attach certificate or statement and proof of payment/deduction of foreign tax as referred to in clause (ii) of sub-rule (8) of rule 128.

## Form No. 67 - Foreign Tax credit

#### The attachment you need to submit the following statement and certificate:

- 1. A statement of income from the country or specified territory outside India offered for tax for the previous year and of foreign tax deducted or paid on such income in Form No.67 and verified in the manner specified therein.
- 2. Certificate or statement specifying the nature of income and the amount of tax deducted therefrom or paid by the assessee,
  - a. from the tax authority of the country or the specified territory outside India; or
  - b. from the person responsible for deduction of such tax; or
  - c. signed by the assessee:

Provided that the statement furnished by the assessee in clause (c) shall be valid if it is accompanied by,—

- (A) an acknowledgement of online payment or bank counterfoil or challan for payment of tax where the payment has been made by the assessee;
- (B) proof of deduction where the tax has been deducted.

#### FORM NO. 67

[See rule 128]

#### Statement of income from a country or specified territory outside India and Foreign Tax Credit

PA	O	R	T	A

3. Address

1. Name of the assessee

2. Permanent Account Number or Aadhaar Number

4	Assessn	nent year										
5	Details	of income fi	rom a c	ountry o	r spec	cified territo	ory outside	e India and	Foreign Tax	Credit	claimed	
Sl. No.	Name of the country/ specified territory	Source of income	Income from outside India	Tax p outside		Tax payable on such income under normal provisions in India	Tax payable on such income under section 115JB/JC	Credit cl	aimed under se 90/90A	ection	Credit claimed under section 91 Amount	Total foreign tax credit claimed
				Amount	Rate			Article No. of Double Taxation Avoidance Agreements	Rate of tax as per Double Taxation Avoidance Agreements	Amount		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
		Salary										
		House property										
		Business/ professional income										
		Long term capital gain										
		Short term capital gain										
		Interest income										
		Dividend										
		Royalty not being part of business income										
		Fees for technical services not being part of business income										
		Others (specify)										

1.(a)		her any refund of foreign tax has been claimed in any prior accounting year as a of carry backward of losses	Yes/No
(b)	If rep	ly to (a) above is Yes, furnish the following details:—	
	( <i>i</i> )	the accounting year to which such loss pertains	
	(ii)	the accounting year(s) in which set off of carry backward of loss has been undertaken	
	(iii)	refund claimed for the accounting year(s)	
	(iv)	previous year to which refund referred to in (iii) relates	
2.(a)	Whet	her credit for any foreign tax has been claimed which is under dispute	Yes/No
(b)	If rep	ly to (a) above is Yes, furnish the following details:—	
	( <i>i</i> )	the nature and amount of income in respect of which tax is disputed	
	(ii)	the amount of such disputed tax	
		Verification	
I		son/daughter of	holding
[ <i>Perr</i> know	nanen ledge	t Account Number or Aadhaar Number and belief, the information given in Part A and Part B of the statement above is correstated.	to the best of my
		eclare that I am making this statement in my capacity as	also competent to
Verif	ied to	day the day of 20	
Place	:	<u></u>	(Signature)
		ch certificate or statement and proof of payment/deduction of foreign tax as referred to of rule 128.	o in clause (ii) of

Mandatory to attach these documents with this form





- TRC is such proof of residency, is a certification issued by the tax authority of the country of the income-earner, attesting that the latter is a resident of such country in the tax year concerned for purposes of the tax treaty being invoked.
- India has signed Double Taxation Avoidance Agreements (DTAAs) with many countries so that the income is taxed only once.

#### **TRC- Resident of India**

#### Rule 21AB(3): provides that the assessee,

- being a <u>resident in India</u>, shall,
- for <u>obtaining certificate</u> of residence for the purposes of an agreement referred to in section 90 and section 90A,
- make an application in Form No. 10FA
- to the <u>Assessing Officer</u>

#### Rule 21AB(4): provides that the

- Assessing Officer on receipt of an application and be satisfied in this behalf,
- shall issue a certificate of residence in respect of the assess Form No. 10FB.

#### "FORM NO. 10FA

[See rule 21AB (3)]	
Application for Certificate of residence for the purposes of an ag and 90A of the Income-tax Act, 1961	reement under section 90
То	
The Assessing Officer,	i
	i
,	t
	7
Sir,	
	ha arrantad in my agga/in Place
I request that a certificate of residence in Form No. 10FB	be granted in my case/in
the case of [for person other t	nan marviduarj
The relevant details in this regard are as under:	
(i) Full Name and address of the applicant	
(ii) Status (State whether individual, Hindu	
undivided family, firm, body of individuals,	
company etc.)	
(iii) Nationality (in case of individual)	
(iv) Country of incorporation/registration (in case of others).	
(v) Address of the applicant during the period for	
which TRC is desired	
(vi) Email ID	
(vii) Permanent Account Number or Aadhaar	
Number/TAN (if applicable)	
(viii) Basis on which the status of being resident in	
India is claimed	
(ix) Period for which the residence certificate is applicable	
(x) Purpose of obtaining Tax Residency Certificate	
(must be specified)	
(xi) Any other detail	
The following document in support are enclosed: -	

(1) (2) (3)

#### VERIFICATION

լաո	name	$^{\mathrm{1n}}$	DIOCK	i le	ettersj
son	/		daughter		of
,	in	the	capac	city	of
[de	signation	for	person	other	than
		,			
				day	of
of the Ap	plicant _				
	son [de knowledge that the	son / in [designation knowledge and be	son / in the leading in the leading for leading in the leading for leading in the	son / daughter , in the capac, [designation for person knowledge and belief, the information of the context of the cont	son / daughter , in the capacity [designation for person other knowledge and belief, the information of the day day

### This will what you receive from government

#### FORM NO. 10FB

[See rule 21AB (4)]

Certificate of residence for the purposes of section 90 and 90A

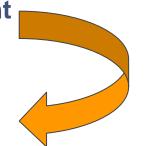
- 1. Name of the Person
- Status
- 3. Permanent Account Number or Aadhaar Number
- 4. Address of the person during the period of Tax Residency Certificate.

#### Certificate

It is	s hereby	certified	that th	e above	mentioned	person	is a	resident	of India	for	the
pur	poses of	Income-t	ax Act	1961.							

This certif	icate is valid for the period
Issued on	the day of,

Name of the Assessing Officer
Designation
Seal ".



#### In case of Non Resident

#### Section 90(4)/90A(4)-

- provides that an assessee, not being a resident,
- to whom an agreement referred to in sub section (1) of section 90/90A applies,
- shall <u>not be entitled to claim any relief</u> under such agreement <u>unless a certificate of his being a resident in any country</u> outside india or specified territory outside india as the case may be is obtained by him from the government of that country or specified territory.
  - Rule 21AB(1)-
- One has to file Form 10F with the <u>tax residency certificate obtained from that other country.</u>
- Form 10F Offline available
- The assessee is not required to provide Form 10F, if all the prescribed information in this form is provided by TRC.

#### FORM NO. 10F

[See sub-rule (1) of rule 21AB]

### Information to be provided under sub-section (5) of section 90 or sub-section (5) of section 90A of the Income-tax Act, 1961

I			capacity of
releva	nt to the previous year	ase/i	n the case
Sl.No	Nature of information	:	Details #
(i)	Status (individual, company, firm etc.) of the assessee	:	
(ii)	Permanent Account Number or Aadhaar Number of the assessee if allotted	:	
(iii)	Nationality (in the case of an individual) or Country or specified territory of incorporation or registration (in the case of others)		
(iv)	Assessee's tax identification number in the country or specified territory of residence and if there is no such number, then, a unique number on the basis of which the person is identified by the Government of the country or the specified territory of which the assessee claims to be a resident		
(v)	Period for which the residential status as mentioned in the certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A is applicable		
(vi)	Address of the assessee in the country or territory outside India during the period for which the certificate, mentioned in $(\nu)$ above, is applicable		

2. I have obtained a certificate referred to	in sub-section (4) of section 9	00 or sub-section (4) of
section 90A from the Government of		(name of country or
specified territory outside India)		

Signature:	
Name: .	
Address:	
Permanent Account Number or Aadhaar Number	

#### Verification

I do what is stated above is correct, cor	hereby declare that to the best of my knowledge and belief implete and is truly stated.
Verified today the	day of
	Signature of the person providing the information
Place:	
Notes:	

- 1. \*Delete whichever is not applicable.
- 2. #Write N.A. if the relevant information forms part of the certificate referred to in sub-section (4) of section 90 or sub-section (4) of section 90A.

## I'M NRI

Which ITR is applicable to me ???

Which ITR is applicable to my company ??

## Returns



Which ITR to be File- For Non Resident	

ITR-1	For individuals being a resident (other than not ordinarily resident) having total income upto Rs.50 lakh, having Income from Salaries, one house property, other sources (Interest etc.), and agricultural income upto Rs.5 thousand] [Not for an individual who is either Director in a company or has invested in unlisted equity shares	➤ Its for Resident only, even not ordinarily resident can't file this form
ITR 2	For Individuals and HUFs <b>not having</b> income from profits and gains of business or profession	✔ Can File
ITR 3	For individuals and HUFs <b>having</b> income from profits and gains of business or profession	✓ Can File Even in case of presumptive income u/s 44B/BB/BBA etc, File ITR-3 only.
ITR 4	For Individuals, HUFs and Firms (other than LLP) being a resident having total income upto Rs.50 lakh and having income from business and profession which is computed under sections 44AD, 44ADA or 44AE	X Its for Resident.

## Which ITR to be File- For Non Resident



ITR-5	For persons other than- (i) individual, (ii) HUF, (iii) company and (iv) person filing Form ITR-7	✓ can file
ITR 6	For Companies other than companies claiming exemption under section 11	✓ Can File Companies includes Foreign Companies
ITR 7	For persons including companies required to furnish return under sections 139(4A)/(4B)/(4C)/(4D) only	Foreign trust registered in The India trust Act 1882- ✔ Foreign trust not registered in The India trust Act 1882 ★





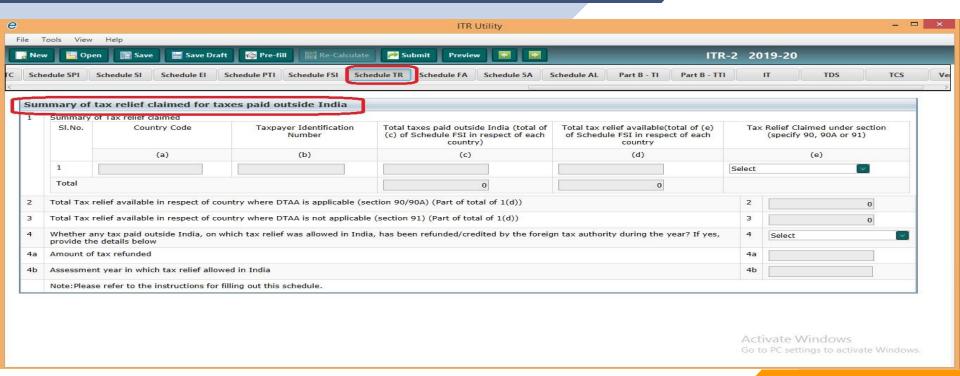
- Before filing return of Income for **NR** you need to check whether he/ she is actually liable to file return of Income or not for which you need to study the below 2 section other than studying section 139(1):
- Section 115A(5): It shall not be necessary for a non-resident (not being a company) or of a foreign company to furnish under sub-section (1) of section 139 a return of his or its income if—
  - (a) his or its total income in respect of which he or it is assessable under this Act during the previous year consisted only of income referred to in clause (a) [or clause (b)] of sub-section (1) [i.e. Interest, Royalty, Fees for technical service etc.]; and
  - (b) TDS has been deducted from such income and the rate of such deduction is not less than the rate **specified** under clause (a) or, as the case may be, clause (b) of sub-section (1).
- **Section 115G:** It shall not be necessary **for a non-resident Indian** to furnish under sub- section (1) of section 139 a return of his income if—
  - (a) **his total income** in respect of which he is assessable under this Act during the previous year **consisted** only of investment income or income by way of long-term capital gains or both; and
  - (b) the tax deductible at source under the provisions of Chapter XVII-B has been deducted from such income.





- Check Residential status checked every year.- Advice to maintain travel details every year.
- Get information from **Form 26AS** in absence of complete documentation- In updated Form 26AS one can get all information about investment made, sale of shares etc.
- If an income has been taxed in two countries Take credit of foreign tax paid (not disputed or refunded) as per DTAA
- Check in DTAA that credit of which type of tax can be taken.
- Where DTAA doesn't exist one can take credit as per section 90 and claim unilateral relief.
- Always remember to ask for **proof of payment of tax** in foreign country while claiming credit as same needs to be uploaded.
- Check Applicability of Form 67, Transfer Pricing etc.



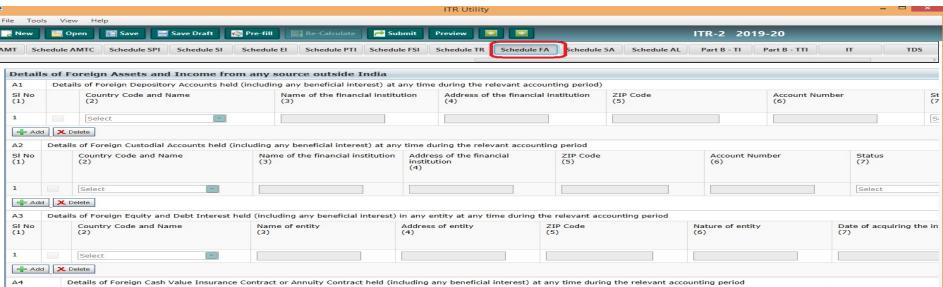




Foreign asset

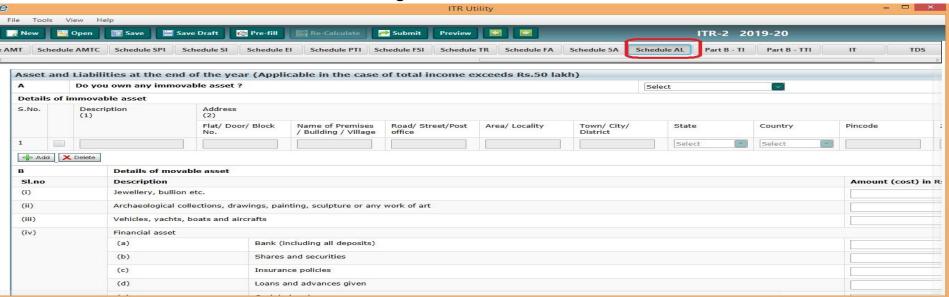
Resident

Schedule FA needs to be filed by Resident who have Foreign asset and not by NRI.





Schedule AL needs to be filed by Resident who have Total Income above Rs. 50 lakh and not by NRI. It will include Indian as well as Foreign asset.





## **Equalisation Levy**

#### **Equalisation Levy**

- As per Finance Bill of 2016, Equalization levy is applicable for certain specified services related to digital domain wherein the amount of consideration exceeds a specified value (threshold of Rs. 1,00,000).
- Rules to The Finance Act, 2016 states that with effect from July 1, 2016, equalization levy @ 6%
- should be deducted by a resident and carrying on business or profession or non-resident (having permanent establishment in India)
- on the amount of consideration
- paid or payable to the non-resident not having permanent establishment in India.
  - ► In case there is a delay in payment: Interest is charged at 1% of the outstanding levy for every month or part thereof is delayed.
  - Penalty for failure of filing statement of compliance INR 100/day for each day the non-compliance continues.

#### **Finance Act 2020 Amendments**

The Finance Act 2020 amended the Finance Act 2016, introducing a new **Equalisation Levy at 2%** on the consideration **received/receivable by an e-commerce operator** from the **following transactions** (e-commerce supply or services):

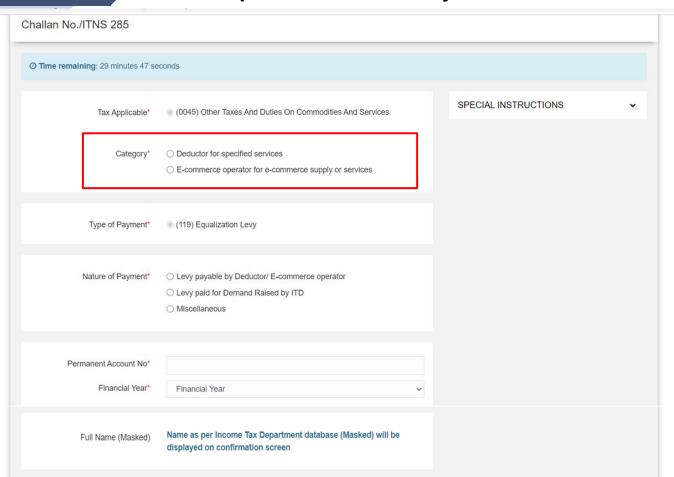
- Online sale of goods owned by the e-commerce operator; or
- Online provision of services provided by the e-commerce; or
- Online sale of goods or provision of services or both, facilitated by the e-commerce operator; or
- Any combination of the above-mentioned activities

The levy is applicable on consideration received by the e-commerce operator on the **above transactions from a**:

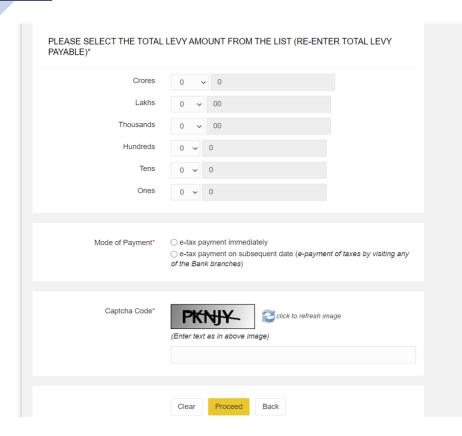
- Person resident in India.
- Non-resident, where the:
  - 1. Sale of advertising, which targets a customer who is resident in India, or a customer who accesses the advertising though an IP address located in India; and
  - 2. Sale of data, collected from a person who is resident in India or from a person who uses an IP address located in India
  - 3. Person who buys goods or services, or both, uses an IP address located in India.

Thus, the levy captures online sales of any goods or provision of any services by or through a non-resident e-39 commerce operator.

## Equalization Levy Challan - ITNS 285



Flat/Door/Block No.		
Name of premises/Building/Village		
Road/Street/Lane		
Area/Locality		
City/District*		
State*	State	
Pin Code*		
Email ID		
Mobile No.		
PAYABLE LEVY AMOUNT (IN RS.	. ONLY)*	
Equalization Levy (Basic tax)		
Interest		
Penalty		
Others		
Total Levy Amount		
Total Levy Amount (In words)		



#### **Equalisation Levy - Forms**

Form	Description	Due Date for Submission	DSC/EVC Mandatory	Online/Offline
Form 1 (Equalisation levy)	Statement of Specified Services Equalisation levy Rules, 2016	30th June of immediately following Financial Year	DSC or EVC is mandatory	Both
Form 3 (Equalisation levy)	Appeal to the Commissioner of Income-tax (Appeals)- Equalisation levy Rules, 2016	30 days from the date of receipt of the order of the A.O.	DSC or EVC is mandatory	Online





# **Other Forms**

#### Form 60



- As per section 285BA of the Income Tax Act, CBDT has mentioned a few transaction viz. Specified financial transaction, where it is mandatory for a person to quote PAN number, if they surpass the quantum of those transaction.
- However, If any individual who does not have a PAN card, then in place of that he/ she must submit Form 60 to the concerned authority at the time of doing any such financial transactions.
- Form 60 (Substitute of a PAN Card) is a declaration which applicant needs to provide details which include name, address etc along with their identity proof.
- This will be most useful in case of NRI who wish to invest in a company in India as in most cases NRI or Non-resident won't be having PAN in India as they are not required to and that time they need to provide declaration under Form 60 for SFT purpose.

#### **Procedure** Need to insert Form 61 **Statement** Acknowledgement no. (If filed) in this form of SFT 61A Form **Form** Income Individual or -60 61A Tax **Indian** Person **Portal** (Not **Entity** Indian Income company or **Entity** firm) Form Tax **Portal** -61 **Not Having PAN Declaration** information provided in Form 60.

#### Income-tax Rules, 1962

#### FORM NO. 60

[See second proviso to rule 114B]

Form for declaration to be filed by an individual or a person (not being a company or firm) who does not have a permanent account number and who enters into any transaction specified in rule 114B

1	First Name										
	Middle Nam										
	Surname										
2	2 Date of Birth/ Incorporation of declarant DDDMMMYYYY								Y	Y	
3	Father's Name (in case of individual)										
	First Name										
	Middle Name										
	Surname										
4	Flat/ Room No.		5	Floor No.							
6	Name of premises			Block Name/No.							
8	Road/ Street/ L	ane	9	Area/ Locality							
10	Town/ City		11	District 12 State							
13	Pin code 14	Telephone Numb	er (	(with STD code)	15	Mo	bile	Numl	ber		
	Amount of tran	` ,									
	Date of transact				D	D	M			Y	Y
	transaction			mes, number of p						the	
19	Mode of transac			que, $\square$ Card, $\square$ Dr		Ban	ker'	s Che	que,		
20				ansfer, □ Other							
20	Aadhaar Numb	er issued by UIDA	.1 (1	f available)							

21	1 If applied for PAN and it is not yet generated enter D D M M Y Y Y Y date of application and acknowledgement number										
22	22 If PAN not applied, fill estimated total income (including income of spouse, minor child etc. as per section 64 of Income-tax Act, 1961) for the financial year in which the above transaction is held										
	a Agricultural income (Rs.)										
	b Other than agricultural incom	ne (Rs.)									
Details of document being produced in support of identify in Column 1 (Refer Instruction overleaf)  Document identification number  Name and address of t authority issuing the document											
24	Details of document being produced in support of address in Columns 4 to 13 (Refer Instruction overleaf)	Document code	number Name and address of the authority issuing the document								
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# THANKS!

# Let's Stay Connected





+91-9636111444



Namanshrimal@jainshrimal.com

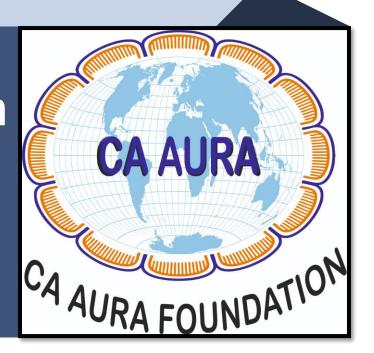


www.linkedin.com/in/naman-shrimal



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Effective Search Process on TP Software
Prepared by CA Harshita Dhariwal Presented by CA Naman Shrimal



# Agenda

01

Transfer Pricing Software

03

**Live Search** 

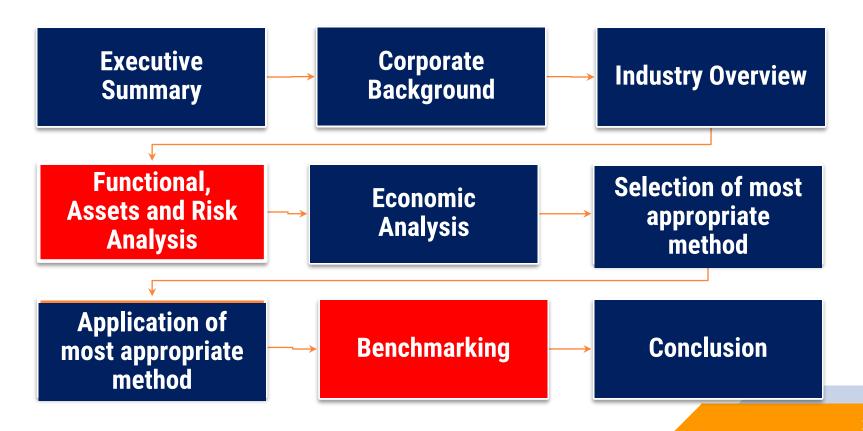
02

**FAR Analysis** 

04

Other uses of TP Software

#### TYPICAL STEPS









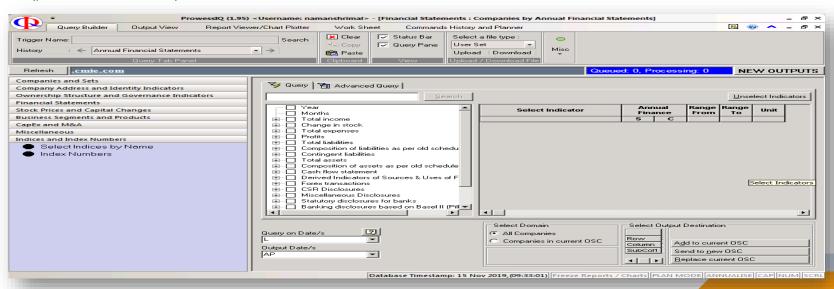
## **Indian Databases**

Types of Databases with description



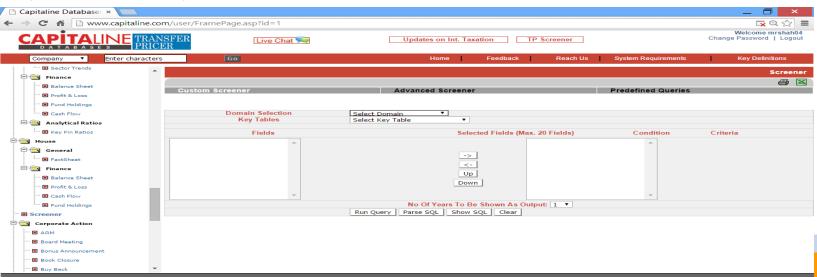
### **PROWESS IQ**

- Developed by Centre for Monitoring Indian Economy (CMIE)
- Database of the financial performance of large and medium sized Indian companies
- Data of over 51,134 companies covers broad spectrum of sectors/products/services
- User friendly querying
- Now annual reports can be downloaded
- (prowess.cmie.com)



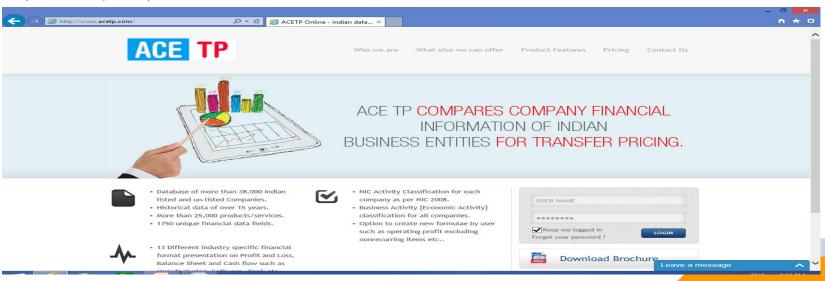
#### **CAPITALINE TP**

- Developed by Capital Markets Publishers P Ltd (Publisher of Capital Market Magazine)
- Data of over 35,000 listed and unlisted Indian Companies
- Various subscriber options, depending upon intended use
- Vast coverage of industries
- Extensive data analysis and customizable formulae builder
- Facility to download annual report from within the application
- (www.capitaline.com)



## **ACE TP**

- Developed by Accord InfoTech P Ltd
- Database of over 38,000 Indian Companies
- 1750 unique financial fields
- Specially developed with inputs from Transfer Pricing professionals
- User customizable formulae
- Varity of subscribing options available
- (www.acetp.com)





# **FAR Analysis**

#### FUNCTIONS, ASSETS AND RISK ANALYSIS (FAR ANALYSIS)

- The functions, assets and risks analysis provides factual foundation for establishing the transfer pricing methodology consistent with the arm's length standard set forth in the relevant transfer pricing regulations contained in the Act and the Rules.
- A FAR analysis reviews the functions, assets and risks assumed by the taxpayer and its AEs for the specific international transactions under review. By providing a description of the functions and assets and their location within a corporate group, the FAR analysis provides the first step in evaluating the relative contribution to profit of various related entities.
- FAR analysis helps in finding the comparables for benchmarking the transactions.



#### **COMMONLY USED FUNCTIONS, ASSETS & RISKS**

#### **Functions Performed**

- R&D
- Procurement of Raw material
- Negotiation of prices
- Advertisement activity
- Providing after sales service
- Warranty service

#### **Assets held**

- Premises
- Equipments
- Machines
- Employee skill base
- Brand Names
- Trademarks

#### Risks assumed

- Market Risk
- Inventory Risk
- Credit Risk
- Product Technology Risk
- Foreign Exchange Risk
- Personnel Risk

#### **Illustration Functions**

Functions	Marketer or full fledged distributor	Buy-sell distributor	Commission Agent
1) Warehousing & inventory managements	XXXX	X	Х
2) Sales & Distribution function	XXXX	XX	XX
3) Warranty after sales services	XXXX	-	-
4) Strategic marketing	XX	-	-
5) Billing & Collection	XX	XX	-

Legend: xxxx, significant xxx, High xx, Moderate x, N.A. -

#### **Assets**

Particular	Marketer or full fledged distributor	Buy-sell distributor	Commission Agent
1) Manufacturing facilities/ equipments	XX	-	-
2) General office equipments	XXX	XXX	XXX
3) Technical intangibles	XXX	XXX	-
4) Marketing intangibles	XXX	XXX	-

Legend: xxxx, significant xxx, High xx, Moderate x, N.A. -

#### Risks

Particular	Marketer or full – fledged distributor	Buy-sell distributor	Commission agent
1) Market Risks	XXX	XX	XX
2) Product Liability risk	Х	Х	-
3) Inventory risk	XXXX	XX	Х
4) Obsolescence risk	XXXX	XX	-
5) Credit risk	XXXX	XXXX	-
6) Foreign exchange risks	XXXX	XXXX	-
7) Manpower risks	XX	XX	xx
8) General Business risks	XXXX	XXXX	XXXX

Legend: xxxx, significant xxx, High xx, Moderate x, N.A. -

### **FAR Analysis**

- Importance -
  - To identify an appropriate reward that each of the related parties should earn with respect to inter company transactions under review
  - To determine the economic characterization of the entities in the transaction and to select a tested party
  - To determine the most appropriate method for benchmarking the transaction
  - To identify any uncontrolled transaction involving one of the controlled parties

# LET'S UNLOCK OUR BRAINS

think and ano



Let's have a brain exercise with examples of FAR Analysis..

### **Guess the type of companies**

Company A	Mar-16	Mar-17	Mar-18	Company B	Mar-16	Mar-17	Mar-18
Total Income	33.56	36.86	40.18	Total Income	13.07	15.66	21.58
Sales- Income from non-financial services	30.08	34.99	39.41	Sales- Income from non-financial			
Income from financial services	3.43	1.81	0.66	services	12.92	15.57	21.56
Other income	0.05	0.66	0.10	Income from financial services	0.01	0.03	0.01
				Other income	0.14	0.06	0.01
Change in stock							
3				Change in stock			
Total expenses	28.04	31.074	35.376				
Other Operating expenses	6.066	6.649	5.97	Total expenses	12.88	15.17	21.05
Raw materials, stores & spares				Other Operating expenses	0.34	0.96	1.49
Purchase of finished goods				Raw materials, stores & spares			
Compensation to employees	19.862	22.108	26.743	Purchase of finished goods	11.45	13.26	18.71
Financial services expenses	0.013	0.016	0.054	Compensation to employees	0.81	0.69	0.64
Non-cash charges	2.099	2.301	2.609	Financial services expenses	0.23	0.19	0.14
				Non-cash charges	0.05	0.07	0.07

## Profit and Loss of Company A- Service V/s Company B- Trading

Company A	Mar-16	Mar-17	Mar-18	Company B	Mar-16	Mar-17	Mar-18
Total Income	33.56	36.86	40.18	Total Income	13.07	15.66	21.58
				Sales- Income from non-financial services	12.92	15.57	21.56
Sales- Income from non-financial services	30.08	34.99	39.41	Income from financial services	0.01	0.03	0.01
Income from financial services Other income	3.43 0.05	1.81 0.66	0.66 0.10	Other income	0.14	0.06	0.01
Change in stock				Change in stock			
Total expenses	28.04	31.074	35.376	Total expenses	12.88	15.17	21.05
Other Operating expenses	6.066	6.649	5.97	Other Operating expenses	0.34	0.96	1.49
Raw materials, stores & spares				Raw materials, stores & spares			
Purchase of finished goods				Purchase of finished goods	11.45	13.26	18.71
Compensation to employees	19.862	22.108	26.743	Compensation to employees	0.81	0.69	0.64
Financial services expenses	0.013	0.016	0.054	Financial services expenses	0.23	0.19	0.14
Non-cash charges	2.099	2.301	2.609	Non-cash charges	0.05	0.07	0.07
				•			17

#### **Guess the type of companies**

Company A	Mar-17	Mar-18	Mar-19	Company B	Mar-17	Mar-18	Mar-19
Total income	810.55	835.30	832.98	Total income	154.36	133.33	82.13
Sales	810.36	835.29	832.83	Sales	153.34	129.61	77.49
Industrial sales	804.83	829.37	830.18	Industrial sales	153.34	97.58	42.73
Income from non-financial services	5.53	5.92	2.65	Income from non-financial services		32.03	34.76
Income from financial services	0	0	0	Income from financial services	1.01	3.69	0.99
Other income	0.19	0.01	0.15	Other income	0.01	0.03	3.65
Change in stock				Change in stock	32.84	3.89	-7.98
Total expenses	785.71	840.61	854.40	Total expenses	177.11	134.09	73.62
Raw materials, stores & spares	0.43	1.76		Raw materials, stores & spares	0	0	0
Purchase of finished goods	755.4	815.61	828.25	Purchase of finished goods	131.45	92.93	54.16
Compensation to employees	13.44	6.08	4.49	Compensation to employees	4.49	5.01	1.02
Other operating expenses	16.39	17.08	20.22	Other Operating expenses	30.42	20.78	10.27
Financial services expenses	0	0	0	Financial services expenses	10.19	14.7	7.57
Non-cash charges	0.05	0.08	1.44	Non-cash charges	0.56	0.67	0.6

#### Company A-Trading(No stock) V/s Company B-Trading(Stock)

Company A	Mar-17	Mar-18	Mar-19	Company B	Mar-17	Mar-18	Mar-19
Total income	810.55	835.30	832.98	Total income	154.36	133.33	82.13
Sales	810.36	835.29	832.83	Sales	153.34	129.61	77.49
Industrial sales	804.83	829.37	830.18	Industrial sales	153.34	97.58	42.73
Income from non-financial services	5.53	5.92	2.65	Income from non-financial services		32.03	34.76
Income from financial services	0	0	0	Income from financial services	1.01	3.69	0.99
Other income	0.19	0.01	0.15	Other income	0.01	0.03	3.65
Change in stock				Change in stock	32.84	3.89	-7.98
Total expenses	785.71	840.61	854.40	Total expenses	177.11	134.09	73.62
Raw materials, stores & spares	0.43	1.76		Raw materials, stores & spares	0	0	0
Purchase of finished goods	755.4	815.61	828.25	Purchase of finished goods	131.45	92.93	54.16
Compensation to employees	13.44	6.08	4.49	Compensation to employees	4.49	5.01	1.02
Other operating expenses	16.39	17.08	20.22	Other Operating expenses	30.42	20.78	10.27
Financial services expenses	0	0	0	Financial services expenses	10.19	14.7	7.57
Non-cash charges	0.05	0.08	1.44	Non-cash charges	0.56	0.67	0.6

#### **Guess the type of companies**

Company A	Mar-17 N	/lar-18 N	/lar-19	Company B	Mar-17	Mar-18	Mar-19
Total liabilities	5.12	5.91	7.12	Total liabilities	10.78	12.24	12.82
Total Capital	0.29	0.29	0.29	Total Capital	1.09	2.94	4.50
Reserves and funds	1.21	1.72	2.18	Reserves and funds	1.02	0.9	0.65
Long term borrowings excl current portion	2.06	2.92	3.27	Long term borrowings excl current portion	6.75	6.21	5.17
Deferred tax liability	0.14	0.13	0.15	Long term provisions	0.24	0.28	0.15
Current liabilities & provisions	1.42	0.85	1.23	Current liabilities & provisions	1.65	1.90	2.33
Total assets	5.12	5.91	7.12	Total assets	10.78	12.24	12.82
Tangible Fixed Assets	1.85	2.12	2.45	Tangible Fixed Assets	0	0.58	1.15
Intangible Assets	0.57	0.66	0.7	<b>J</b>	_		
Long term loans & advances	0.01	0.02	0.02	Intangible Assets	0	0	0
<b>J</b>				Long term loans & advances	5.52	7.18	4.41
Current assets and loans & advances	2.69	3.11	3.95	Current assets and loans & advances	1.49	1.26	1.53

## Assets and Liabilities of Company A-Manufacturing V/s Company B-Trading

Company A	Mar-17 Mar-18 Mar-19			Company B	Mar-17	Mar-18	Mar-19
Total liabilities	5.12	5.91	7.12	Total liabilities	10.78	12.24	12.82
Total Capital	0.29	0.29	0.29	Total Capital	1.09	2.94	4.50
Reserves and funds	1.21	1.72	2.18	Reserves and funds	1.02	0.9	0.65
Long term borrowings excel current portion	2.06	2.92	3.27	Long term borrowings excel current portion	6.75	6.21	5.17
Deferred tax liability	0.14	0.13	0.15	Long term provisions	0.24	0.28	0.15
Current liabilities & provisions	1.42	0.85	1.23	Current liabilities & provisions	1.65	1.90	2.33
Total assets	5.12	5.91	7.12	Total assets	10.78	12.24	12.82
Tangible Fixed Assets	1.85	2.12	2.45	Tangible Fixed Assets	0	0.58	1.15
Intangible Assets	0.57	0.66	0.7	Intangible Assets	0	0	0
Long term loans & advances	0.01	0.02	0.02	Long term loans & advances	5.52	7.18	4.41
Current assets and loans & advances	2.69	3.11	3.95	Current assets and loans & advances	1.49	1.26	1.53

#### **Guess the type of companies**

Company A	Mar-17	Mar-18	Mar-19	Company B	Mar-16	Mar-17	Mar-18
Total income	8.66	10.85	11.87	Total Income	13.07	15.66	21.58
Sales	8.57	10.73	11.73	Sales	12.92	15.57	21.56
Industrial sales	8.41	10.69	11.73	Industrial sales	12.92	15.57	21.56
Income from non-financial services	0.16	0.04		Income from non-financial services			
Income from financial services	0.05	0.07	0.09	Income from financial services	0.01	0.03	0.01
Other income	0.04	0.05	0.05	Other income	0.14	0.06	0.01
Change in stock	0.1	0.17	0.14	Change in stock			
Total expenses	8.22	10.33	11.41	Total expenses	12.88	15.17	21.05
Other operating expenses	1.74	1.71	1.92	Other Operating expenses	0.34	0.96	1.49
Raw materials, stores & spares	5.29	7.14	7.88	Raw materials, stores & spares			
Purchase of finished goods				Purchase of finished goods	11.45	13.26	18.71
Compensation to employees	0.93	1.11	1.14	Compensation to employees	0.81	0.69	0.64
Financial services expenses	0.12	0.19	0.25	Financial services expenses	0.23	0.19	0.14
Non-cash charges	0.14	0.18	0.22	Non-cash charges	0.05	0.07	0.07

#### **Company A- Manufacture V/s Company B- Trading**

Company A	Mar-17 Mar-18 Mar-19		Mar-19	Company B	Mar-16 Mar-17 N		
Total income	8.66	10.85	11.87	Total Income	13.07	15.66	
Sales	8.57	10.73	11.73	Sales	12.92	15.57	
Industrial sales	8.41	10.69	11.73	Industrial sales	12.92	15.57	
Income from non-financial services	0.16	0.04		Income from non-financial services			
Income from financial services	0.05	0.07	0.09	Income from financial services	0.01	0.03	
Other income	0.04	0.05	0.05	Other income	0.14	0.06	
Change in stock	0.1	0.17	0.14	Change in stock			
Total expenses	8.22	10.33	11.41	Total expenses	12.88	15.17	
Other operating expenses	1.74	1.71	1.92	Other Operating expenses	0.34	0.96	
Raw materials, stores & spares	5.29	7.14	7.88	Raw materials, stores & spares			
Purchase of finished goods				Purchase of finished goods	11.45	13.26	
Compensation to employees	0.93	1.11	1.14	Compensation to employees	0.81	0.69	
Financial services expenses	0.12	0.19	0.25	Financial services expenses	0.23	0.19	
Non-cash charges	0.14	0.18	0.22	Non-cash charges	0.05	0.07	

## You Finally know about yourself

I AM WHO I AM.
NOT WHO YOU THINK I
AM. NOT WHO YOU
WANT ME TO BE.
I AM ME.

- Brigitte Nicole

fb.com/LessonsTaughtByLife

## **Characterization**

It is summary of FAR analysis done above.

Based on the FAR analysis, we conclude that whether the **Indian Entity** or it's **AE** has more functions to performed, Assets employed and Risks assumed.

Based on this, we characterise the company in the report and comparability of the companies will be based on the same. Format of characterization is provided under:

Particular	Name of Transaction		
Functions performed	Conclusion based on functions performed		
Assets employed	Conclusion based on assets employed		
Risks assumed	Conclusion based on risks assumed		



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# **Live Search**

On the software – Prowess IQ

### How effective search is conducted ??



**FAR Analysis** 

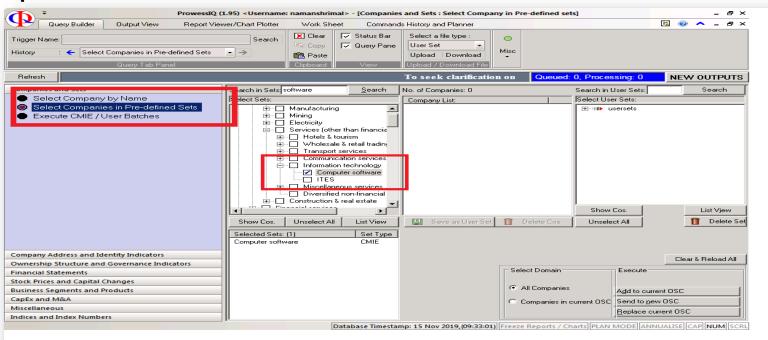
## BACKGROUND OF THE CASE

Facts	<ul> <li>Indian company providing software development services</li> <li>Revenue from operation during the year 10 crores</li> <li>NCP (Net cost plus mark up/Total operating cost)</li> </ul>				
Transaction	Provision of software development services				
Tested Party	Assessee Company				
Selection of Method	CUP: No Internal CUP, External CUP data unavailable RPM: not a reseller Gross Margin of comparable unavailable CPM: Gross Margin data of comparables unavailable PSM: No intangibles involved TNMM: Selected in absence of any other preferred method Any other method: Since TNMM is selected				



#### Select companies in pre-defined sets:-

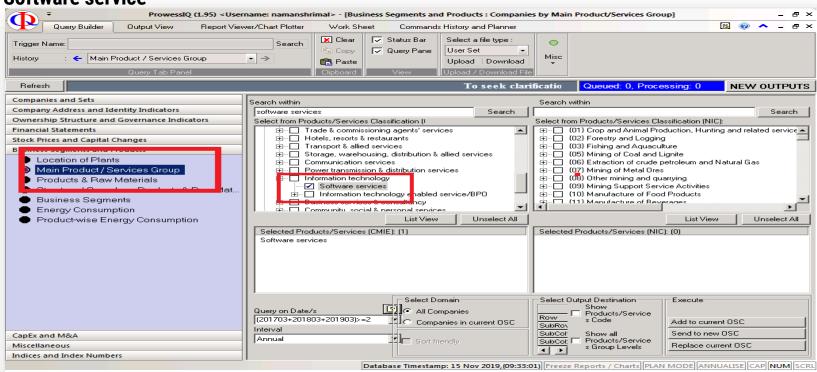
#### **Computer Software**





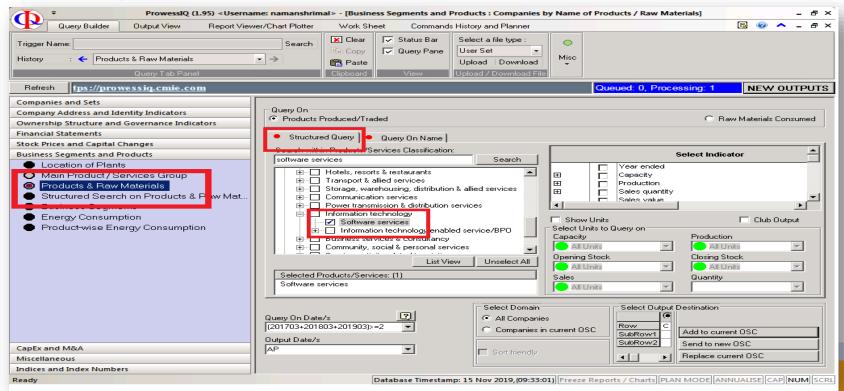
#### **Main Product/ Services Group of Company**

#### **Software service**



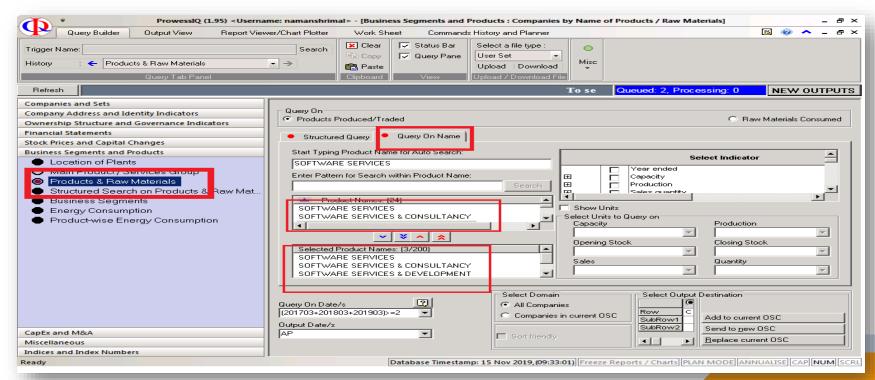
## **QUERY**

# Query by Products & Raw material – Products Produced and traded Structured Query – Software services



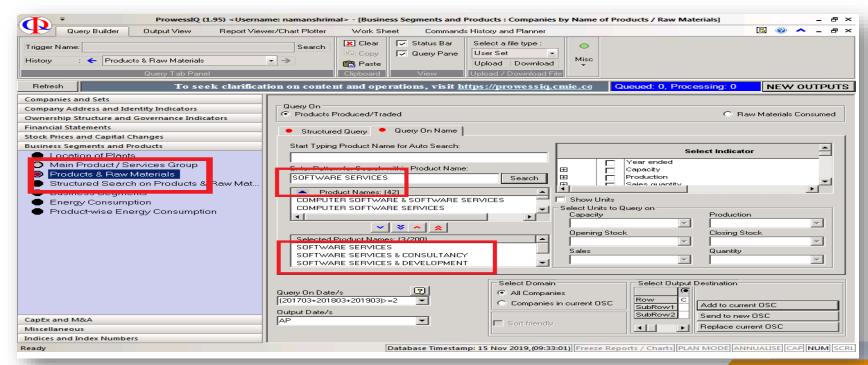
## <u>QUERY</u>

# Query by Products & Raw material – Products Produced and traded Query On Name – Software services ( Auto Search)



### **QUERY**

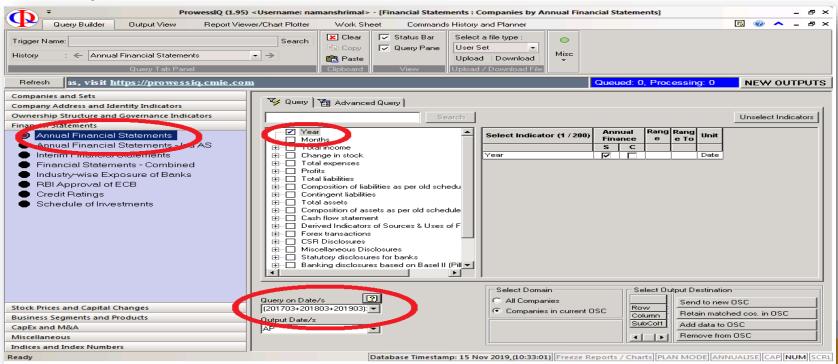
# Query by Products & Raw material – Products Produced and traded Structured Query – Software services (Pattern search)



#### **Quantitative Screening:**

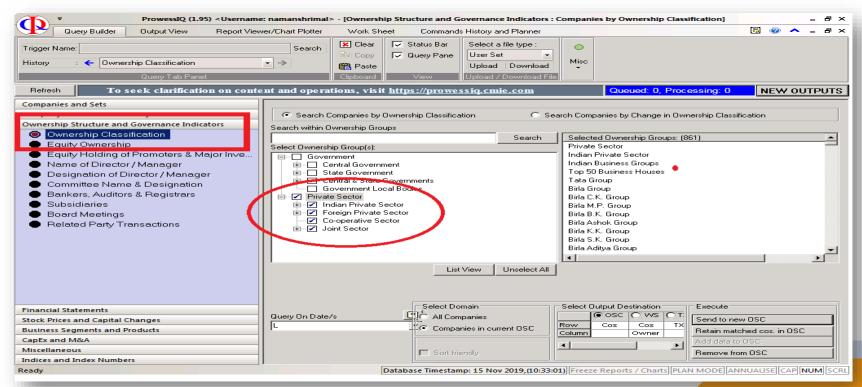
#### **Analysis of Total Income**

Companies whose data is available for more than or equal to 2 years out of the relevant previous 3 years 523 companies were retained.



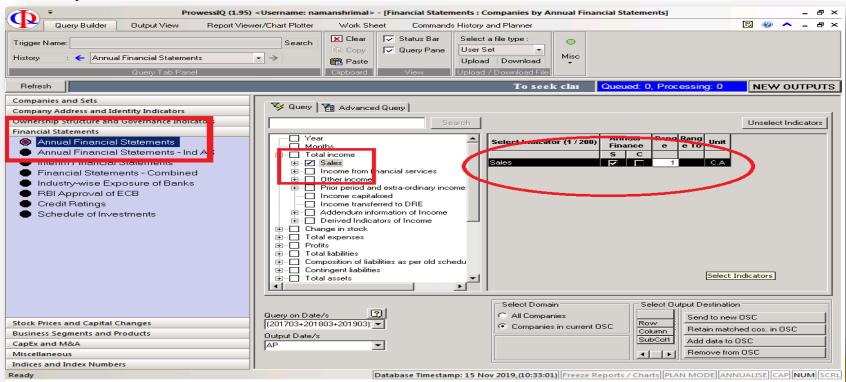
#### **Analysis of Government companies**

Companies having Government ownership are removed. 519 companies were retained



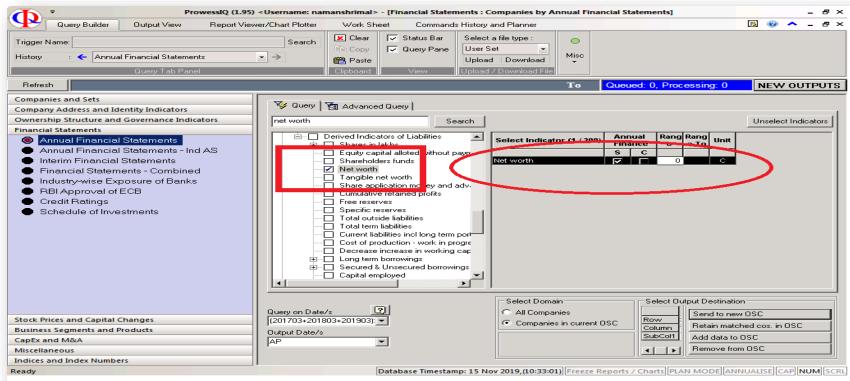
#### **Analysis of sales:**

Companies whose sales is greater than 1 Crore for more than or equal to 2 years out of 3 years. No. of companies retained: 412



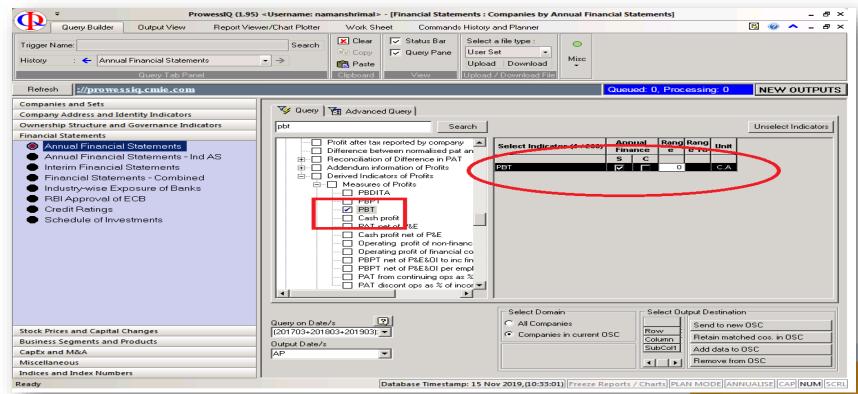
#### **Analysis of Net worth:**

Companies whose net worth is positive for more than or equal to 2 years out of 3 years. No. of companies retained: 395



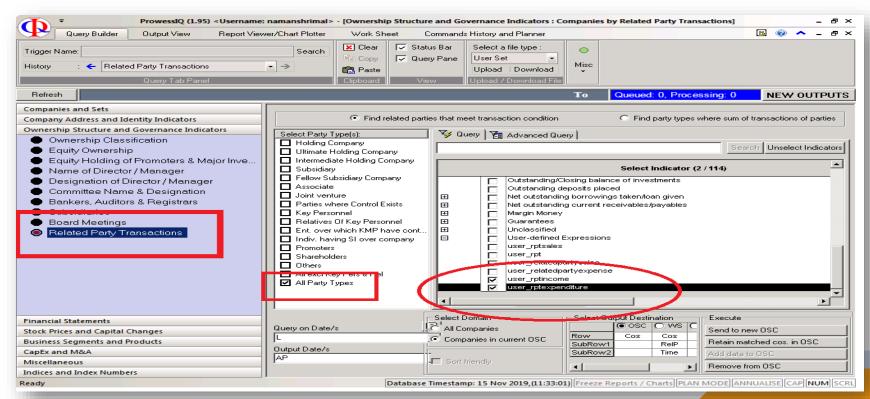
#### **Profitability analysis**

Companies whose profitability is positive for more than or equal to 2 years out of 3 years. No. of companies retained: 339



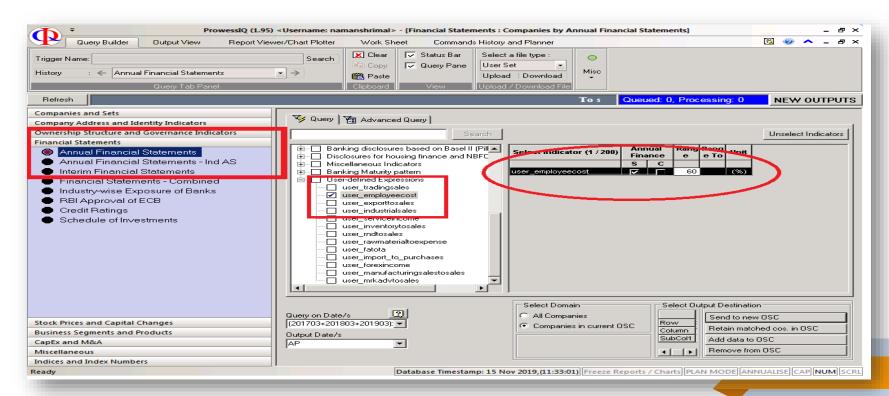
#### **Related party transactions**

Companies whose related party transactions are less than 25%. No. of companies retained: 125



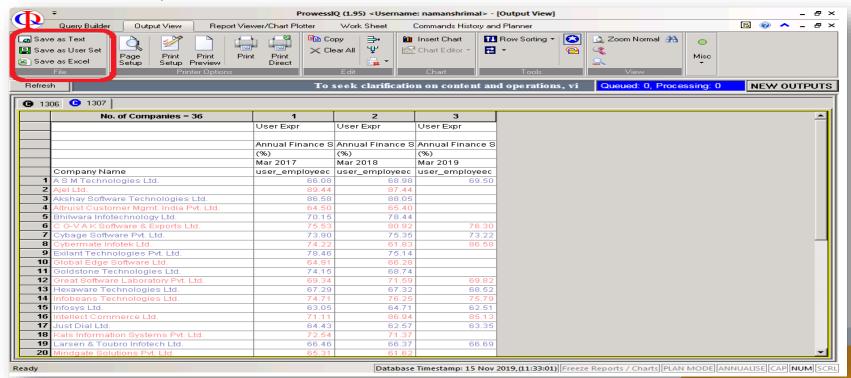
#### **Analysis of Employee cost (Specific Filter)**

Companies whose Employee cost is greater than 60% for more than or equal to 2 years out of 3 years. No. of companies retained: 36

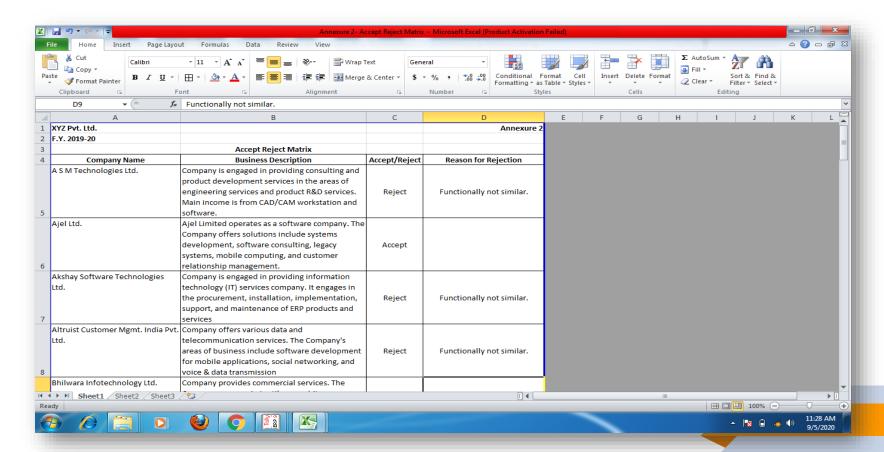


#### **Export / Copy / Save data**

- The final data can then be exported/copied to excel worksheet for quantitative analysis
- The final comparable data can be saved as a "userset" for future use and reference



#### **Accept/Reject Matrix**



## **Summary**

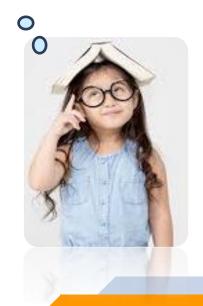
Process Steps			
Steps	Particulars Particulars	Total Count	Companies Removed
Step 1	No of companies resulted by keywords-	1422	-
Α	Companies in pre-defined sets	985	
В	Main Products	1400	
С	Products & Raw Material (Structured Query)	1415	
D	Products & Raw Material (Query on Name- Auto Search)	1420	
Е	Products & Raw Material (Query on Name- Pattern Search)	1422	
Step 2	Companies other than Government Companies	1414	8
Step 3	Companies whose data is available for two or more years	568	846
Step 4	Companies whose sales turnover is greater than 1 crore	453	115
Step 5	Companies whose net worth is positive	434	19
Step 6	Companies whose profit is positive	369	65
Step 7	Companies whose related party transactions are less than 25%	146	223
Step 6	Companies whose employee cost are greater than 60 %.	40	106
Step 7	Qualitative Analysis	8	32

## **Margin of comparable companies**

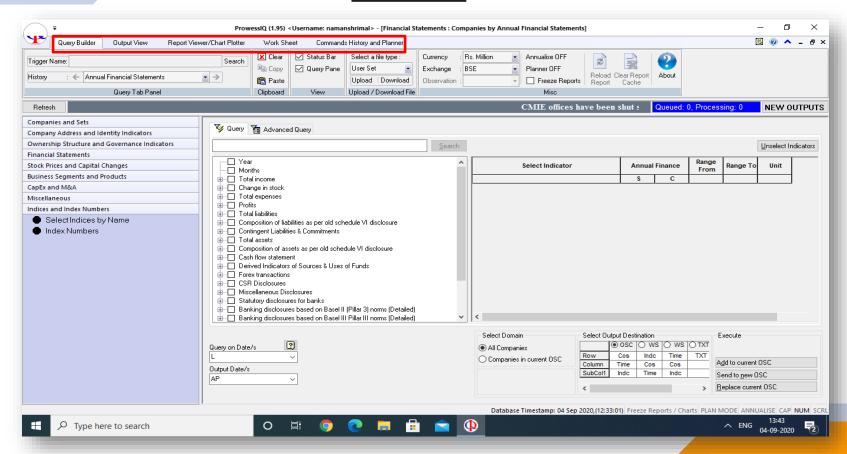
Company Name	2016	2017	2018	Weighted Average	
Kals Information Systems Pvt. Ltd.	3.61	-27.2	0	-8.48	
Rheal Software Pvt. Ltd.	2.63	-11.7	NA	4.42	
Inteq Software Pvt. Ltd.	6.89	-15.1	12.5	1.5	
C G-V A K Software & Exports Ltd	17.6	12.71	11.8	13.7	
Mindtree Ltd.	18.4	12.54	13.2	14.5	
Larsen & Toubro Infotech Ltd.	17.5	19.08	17.6	18.1	
Exilant Technologies Pvt. Ltd.	24	18.11	NA	21	
Sagarsoft (India) Ltd.	10.6	8.45	33.1	21.3	
Lower Percentile				1.5	
Higher Percentile				18.1	
Median				14.065	

## Basics of Prowess IQ (Common for other software)

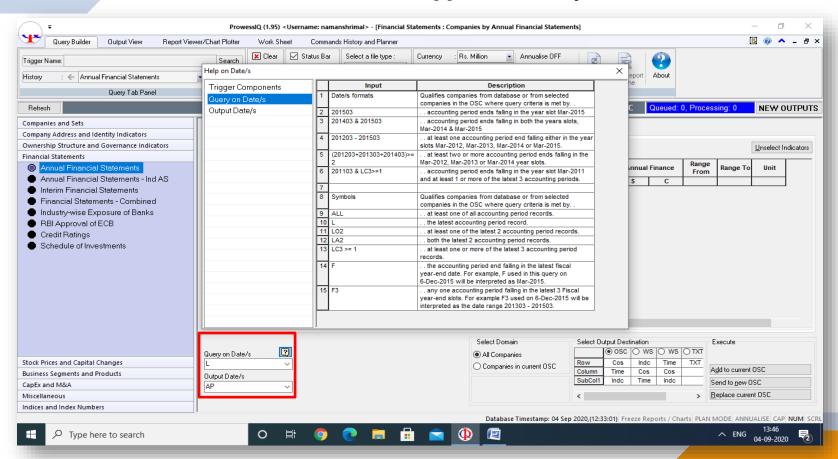
- ❖ Panel 5
- Query Trigger 80
- L vs Number of Years
- Formula Creation
- All Companies vs Companies in OSC
- OSC vs WS
- Current OSC
- Usersets
- ❖ Add to OSC/Replace OSC/New OSC/Retain Match
- Click vs Ctrl +Click



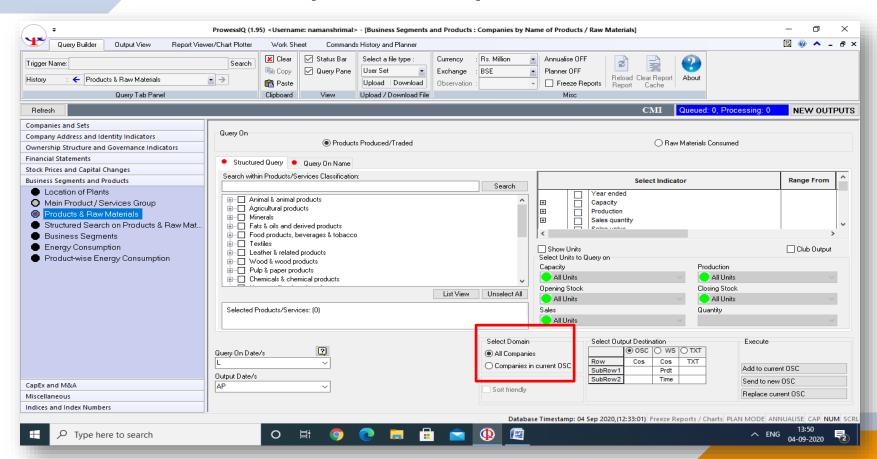
#### Panel - 5



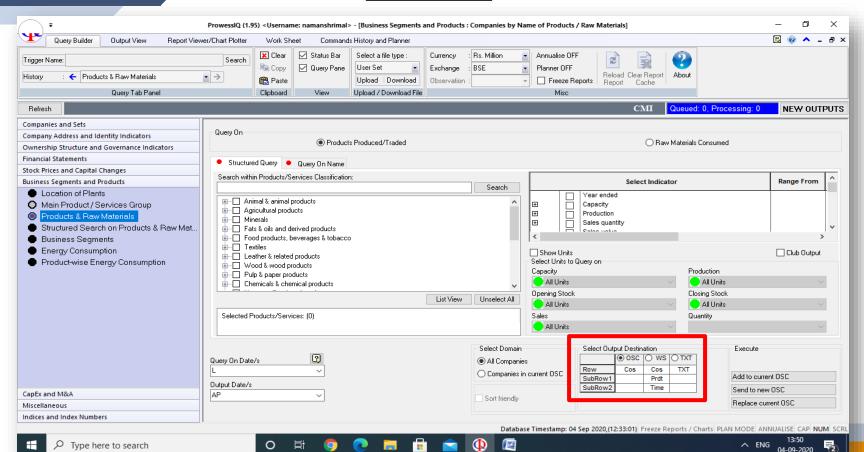
#### **Choose between application of years**



#### All Companies v/s Companies in Current OSC



#### OSC v/s WC



#### OSC v/s WC

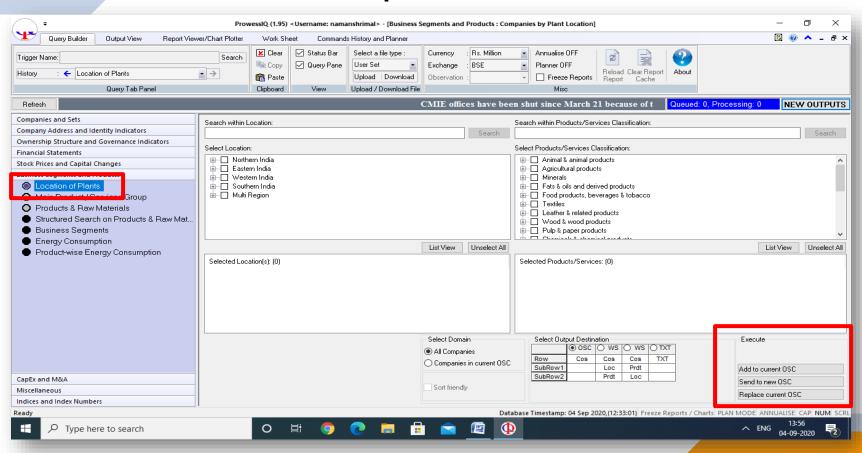
<u>OSC</u>

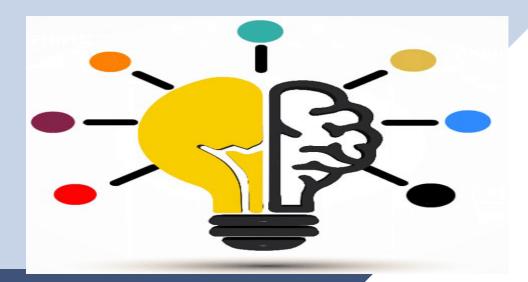
#### 2038 No. of Companies = 518 Company Name A B Duplex Pvt. Ltd. A D M Agro Inds. Latur & Vizag Pvt. Ltd. A N S Inds. Ltd. 4 ARC Logistics Pvt. Ltd. AVI Agri Business Ltd. A W Travel & Logistic Services Ltd. Abellon Agrisciences Ltd. Abhishek Global Ventures Ltd. [Merged] Abistar Worldwide Shipping & Logistics Pvt. Ltd. 10 Act Infraport Ltd. 11 Adani Ennore Container Terminal Pvt. Ltd. 12 Adani Harbour Services Pvt. Ltd. 13 Adani Hazira Port Pvt. Ltd. 14 Adani International Container Terminal Pvt. Ltd. 15 Adani Kandla Bulk Terminal Pvt. Ltd. 16 Adani Kattupalli Port Pvt. Ltd. 17 Adani Murmugao Port Terminal Pvt. Ltd. 18 Adani Petronet (Dahej) Port Pvt. Ltd. 19 Adani Port Ltd. Adani Ports & Special Economic Zone Ltd. 21 Adani Vizag Coal Terminal Pvt. Ltd.

#### <u>WS</u>

₩ ws-	₩ WS-Sheeti ₩ WS-Sheeti					
	A	В	С	D	Е	
1						
2	Output source file name: W22					
3	Structured Search on Products & Raw Materials					
4						
5	Company Name	Product/Raw Material name	Slot Date	Date	Sales value	
6					Rs. Million	
7	A B Duplex Pvt. Ltd.	AGRICULTURE INCOME	L	31/03/2007	0.20	
8	A D M Agro Inds. Latur & Vizag Pvt. Ltd.	LACITHIN	L	31/03/2019	158.30	
9	A N S Inds. Ltd.	AGRICULTURE INCOME	L	31/03/2019	0.80	
10	A V I Agri Business Ltd.	LECITHIN	L	31/03/2019	238.90	
11	Abellon Agrisciences Ltd.	FARMING PRODUCTS	L	30/06/2013	72.70	
12	Abhishek Global Ventures Ltd. [Merged]	AGRICULTURE PRODUCE	L	31/03/2010	1.10	
13	Adiyaman Textiles Ltd.	AGRICULTURE INCOME	L	31/03/2012	0.10	
14	Aishwarya Seeds India Pvt. Ltd.	AGRICULTURAL INCOME	L	31/03/2019	1.90	
15	Akshay Stocks & Credits Ltd.	AGRICULTURAL INCOME	L	31/03/2011	0.80	
16	Alchemist Ltd.	AGRI BUSINESS	L	31/03/2019	112.20	
17	Alfavision Overseas (India) Ltd.	AGRICULTURAL PRODUCE	L	31/03/2019	1.60	
18	Altret Bio-Tech Ltd.	JETHROPHA SEEDS	L	31/03/2011	7.50	
19	Amar Parkash Agro India Ltd.	AGRICULTURAL INCOME	L	31/03/2019	0.40	
20	Amara Raja Infra Pvt. Ltd.	AGRICULTURAL INCOME	L	31/03/2019	1.70	
21	Amaravathi Sri Venkatesa Paper Mills Ltd.	AGRICULTURE INCOME	L	31/03/2014	23.40	
22	Amaravati Agro Ltd.	FARM INCOME	L	31/03/2007	0.10	
23	Anantchaya Agro Processing Producer Co. Ltd.	CROP	L	31/03/2019	9.80	
24	Andhra Sugars Ltd.	INCOME FROM AGRICULTU	L	31/03/2019	2.00	
25	Annamallai Infrastructures Pvt. Ltd.	AGRICULTURE	L	31/03/2012	0.10	
26	Anupam Hoteliers Ltd.	AGRICULTURE INCOME	L	31/03/2012	0.20	

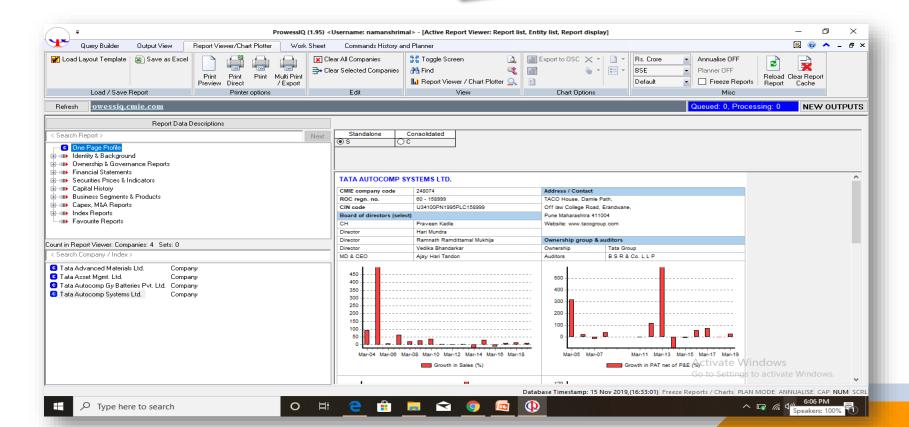
#### Add to OSC/Replace OSC/New OSC/Retain Match



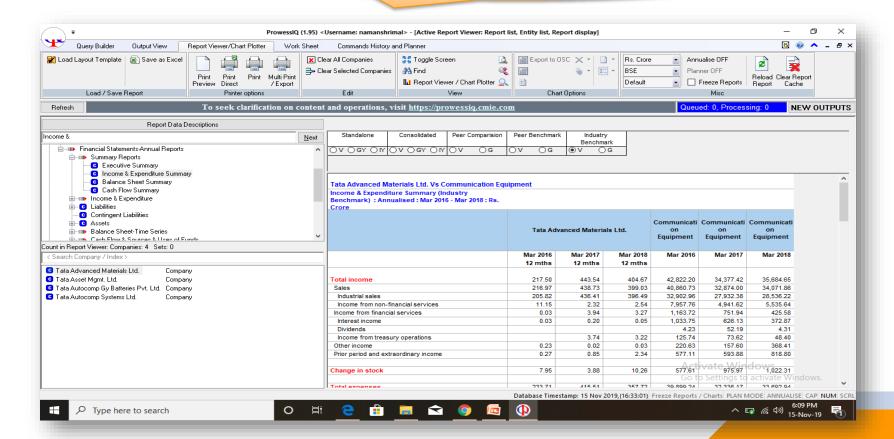


# Other uses of Transfer Pricing Database

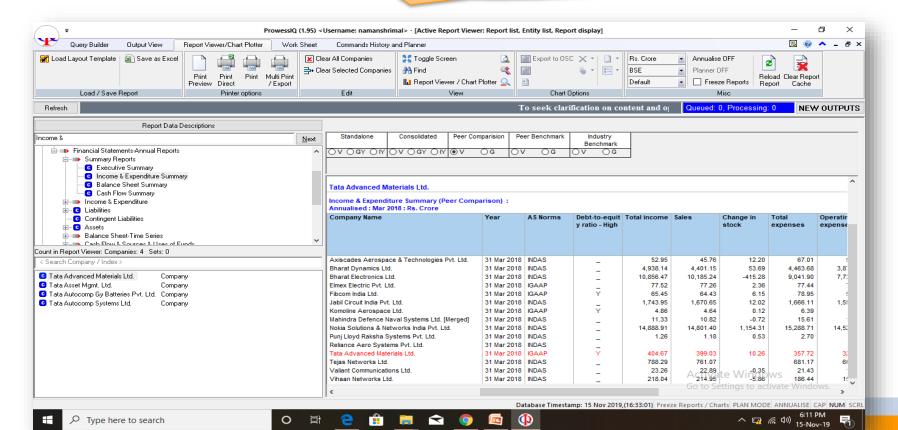
#### **Due diligence**



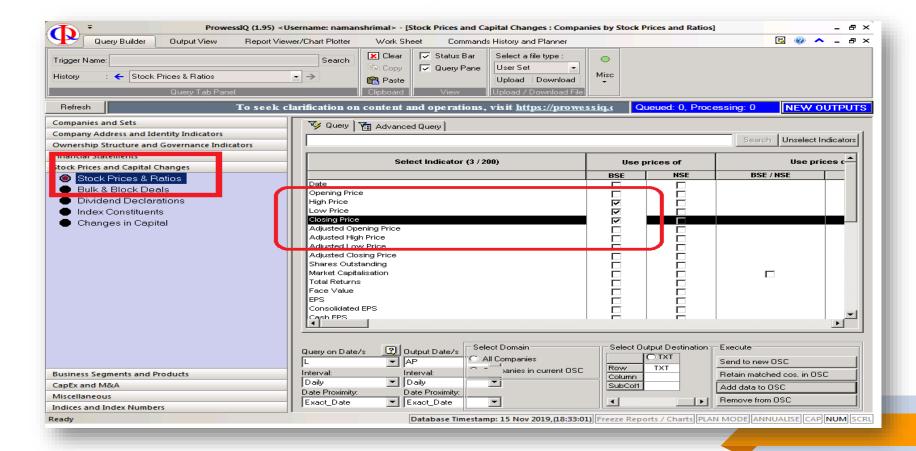
#### **Company V/s industry benchmark**



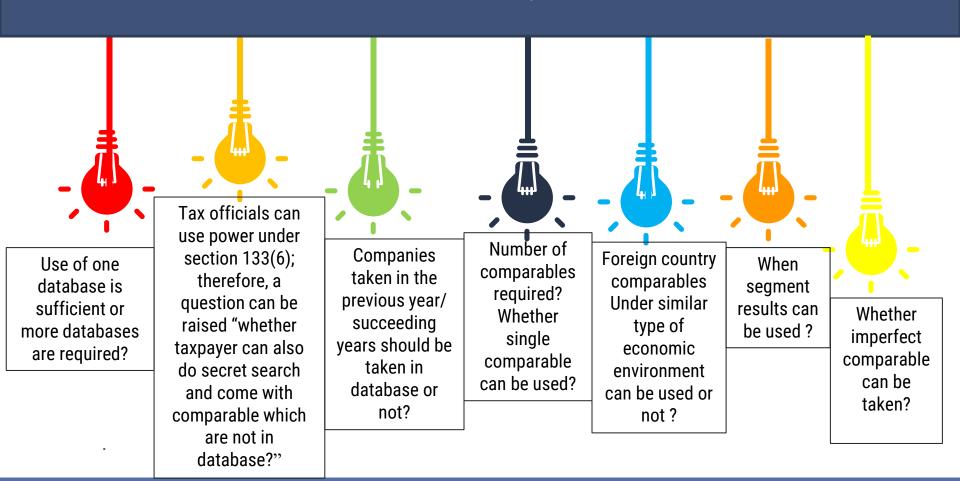
#### **Peer comparison**



#### **Stock Price**



#### **Some common Questions**



#### TIPS FOR TP !!!!

- Be Creative (Do not just Copy Paste )
- Understand the working of databases Use Multiple sources
- Do lot of Trial and Errors
- Stringent Qualitative Analysis
- Discussion with only Client's accountant with not help Understand the Business
  - Step out of the Cabin
- Transaction-wise analysis vs Entity level analysis
- Identify alternative sources of information in public domain
- Make suitable adjustments, well backed by supporting workings and bases
- Analyze implication of market conditions on business of the Assessee
- Avoid cherry picking of comparables
- Document the whole process along with reasons
- ENJOY IT !!!



# Thoughts.... Questions???? Comments!!!

## **THANKS!**

**Let's Stay Connected** 



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