

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI "H" BENCH : MUMBAI

BEFORE SHRI VIKRAM SINGH YADAV, ACCOUNTANT MEMBER  
AND  
SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

| ITA No.       | A.Y.    | Appellant  | Respondent  |
|---------------|---------|--|---|
| 7326/Mum/2017 | 2013-14 | Schindler India Private Limited,<br>B-401, Delphi,<br>Hiranandani<br>Business Park,<br>Powai,<br>Mumbai -400076<br>[PAN: AAECs1548J] | Deputy Commissioner of<br>Income Tax,<br>Circle-15(3)(2),<br>Room No. 473,<br>Aayakar Bhavan,<br>New Marine Lines,<br>Mumbai-400020 |
| 7311/Mum/2018 | 2014-15 |  |   |

Assessee by : Ms. Chandani Shah  
Ms. Nidhi Agarwal

Revenue by : Shri Ajay Chandra, CIT-DR

Date of Hearing : 08-04-2025

Date of Pronouncement : 06-06-2025

**ORDER**

**PER VIKRAM SINGH YADAV, A.M :**

These two appeals are filed by the assessee against the order of the Assessing Officer (AO) u/s. 143(3) r.w.s. 144C(13) of the Income Tax Act, 1961 [‘the Act’], consequent to the directions given by the Dispute Resolution Panel [DRP]-2, Mumbai, pertaining to Assessment Years (AYs) 2013-14 and 2014-15. Both the appeals were heard together and decided by this common order.

2. In ITA No. 7326/Mum/2017 (AY. 2013-14), the assessee has taken the following grounds of appeal:

Ground No. 1:

*On the facts and in the circumstances of the case and in law, the Transfer Pricing Officer (TPO)/Dispute Resolution Panel ('DRP') erred in determining the Arm's Length Price (ALP) of transaction pertaining to payment of royalty to Inventio AG as Nil instead of INR 20,49,44.986 by:*

- a. ignoring the transfer pricing documentation prepared by the Appellant;*
- b. exceeding his jurisdiction in questioning the commercial expediency of the Appellant for payment of royalty,*
- c. exceeding his jurisdiction in applying the benefit test to the payment of royalty and holding that the Appellant had not received any benefit from payment of royalty;*
- d. not taking into cognizance the commercial/business rationale justifying the payment of royalty, documents demonstrating availing of technology/tradename/trademark, intercompany agreement and the benefit test documentation submitted by the Appellant;*
- e. holding that the Appellant had not been provided with a single new technology from the AE during the year, for which the royalty payment was necessary, and*
- f. holding that payment of royalty should not be made by the Appellant as the Schindler Group had certain obligations towards the Appellant as shareholder activity.*

*The Appellant prays that the addition of INR 20,49,44,986 be deleted.*

Ground. No. 2:

*On the facts and in the circumstances of the case and in law, the TPO/DRP erred in determining the ALP of transaction pertaining to payment of management charges by the Appellant to Schindler Management Limited ('SML') as 'Nil' instead of INR 7,67.63,480 by*

- a. ignoring the transfer pricing documentation prepared by the Appellant;*
- b. not providing an opportunity to the Appellant to explain the receipt of services from an ALP perspective;*
- c. exceeding his jurisdiction in questioning the commercial expediency of the Appellant for payment of management charges;*

*d. exceeding his jurisdiction in applying the benefit test to the payment of management charges and holding that the Appellant has not received any benefit from payment of management charges;*

*e ignoring the robust documentation and evidences in support of the services received by the Appellant from SML;*

*f. rejecting the allocation methodology of the Appellant without providing any cogent reasons and rejecting the certificate from an independent consultant in Switzerland certifying the management cost allocation methodology to avail of such services from the AE;*

*g. holding that certain services rendered by SML are duplicative in nature without providing any cogent reason for the same; and*

*h. holding that the payment of management charges are towards shareholder activities.*

*The Appellant prays that the addition of INR 7,67,63,480 be deleted.*

*Ground No. 3:*

*On the facts and in the circumstances of the case and in law, the Ld. AO/DRP have erred in increasing the book profit by the amount of provision of bad and doubtful debts of Rs. 1,09,72,163/- under clause (i) of the Explanation to section 115JB of the Income-tax Act, 1961 (the Act).*

*The Appellant prays that the addition of Rs. 1,09,72,163/- made under clause (i) of the Explanation to section 115JB of the Act be deleted.*

*Ground No. 4:*

*On the facts and in the circumstances of the case and in law, the Ld. AO/DRP erred in disallowing the payment towards employees' contribution to Provident Fund (PF) aggregating to Rs. 64,426 without appreciating that the amount was paid before the due date of filing the return of income.*

*The Appellant prays that the disallowance of payment of Rs. 64,426/- to PF under section 36(1)(va) of the Act be deleted.*

*Ground No. 5:*

*On the facts and in circumstances of the case and in law, the Ld. AO has granted TDS credit of Rs. 11,53,59,382 as against TDS credit of Rs. 11,79,95,590 appearing in Form 26AS, thereby resulting in a short credit of Rs. 26,36,208 to the Appellant.*

*The Appellant prays that the Ld. AO be directed to allow additional TDS credit of Rs. 26,36,208.*

Ground No. 6:

*On the facts and circumstances of the case and in law, the Ld. AO has erred in not granting MAT credit of Rs. 1,87,30,304 under section 115 JAA of the Act.*

*The Appellant prays that the Ld. AO be directed to allow the MAT credit of Rs. 1,87,30,304 as per section 115JAA of the Act.*

Ground No. 7:

*On the facts and circumstances of the case and in law, the Ld. AO has computed interest (consequential) of Rs. 5,69,46,890 under section 234B of the Act.*

*The Appellant prays that the Ld. AO be directed to re-compute interest under section 234B of the Act.*

Ground No. 8:

*On the facts and in the circumstances of the case and in law, the Ld. AO has erred in computing interest of Rs. 22,61,164 under section 234C of the Act.*

*The Appellant prays that the Ld. AO be directed to re-compute interest under section 234C of the Act on the basis of the returned income of the Appellant.*

Ground No. 9:

*On the facts and in the circumstances of the case and in law, the Ld. AO erred in initiating penalty proceeding under section 271(1)(c) of the Act.*

*The Appellant prays that the Ld. AO be directed that to drop the penalty proceedings initiated under section 271(1)(c) of the Act.”*

3. In Ground No. 1, the assessee has challenged the Transfer Pricing (TP) adjustment on account of payment of Royalty to Inventio AG. In this regard, during the course of hearing, the Ld.AR submitted that the assessee and the Central Board of Direct Taxes (CBDT) have entered into a Unilateral Advanced Pricing Agreement (APA) on 15-10-2024 for the period starting from FY. 2015-16 to FY. 2019-20 and also covering the period of FY. 2011-12 to FY. 2014-15 under the Rollback provisions for certain transactions between the assessee and its Associated Enterprises (AEs). It

was submitted that the impugned transaction of payment of Royalty to Inventio AG stands covered under the said APA and hence, the assessee wishes to withdraw the Ground No.1 pertaining to the said TP adjustment. It was submitted that in this regard, the assessee had already submitted a letter dt. 31-01-2025 with the Registry and our reference was drawn to the said letter during the course of hearing.

4. In Ground No. 2, the assessee has challenged the TP adjustment on account of payment of management charges to Schindler Management Limited (SML). It was submitted that even the said transaction stands covered under the aforesaid APA and assessee, therefore, wishes to withdraw the Ground No. 2 relating to the said TP adjustment and the assessee has already submitted a written request to withdraw the said ground as part of its letter filed on 31-01-2025.

5. The Ld.CIT/DR was heard, who has not raised any objection to the withdrawal request so made by the assessee.

6. After hearing both the parties and considering the request made by the assessee vide its letter dt. 31-01-2025 as well as the submissions made by the Ld.AR, both these grounds of appeal are dismissed as withdrawn.

7. In Ground No. 3, the assessee has challenged the action of the AO as confirmed by the DRP in terms of addition of provision of bad and doubtful debts to the books profits computed u/s. 115JB of the Act.

8. In this regard, during the course of hearing the Ld.AR submitted that the assessee has claimed a deduction for provision for bad and doubtful debts amounting to Rs. 1,09,72,163/- while computing the total income under the normal provisions of the Act. It was submitted that the AO has taken note of the said fact in the assessment order that the

impugned amount of provision was reduced from the debtors balance appearing in the Balance Sheet and accordingly constituted an actual write off and the assessee's claim under the normal provisions of the Act was allowed by the AO. At the same time, it was submitted that while computing the book profits, the AO has made an addition of the said amount under clause (i) of the Explanation to Section 115JB of the Act.

9. It was submitted that a similar issue had arisen in assessee's own case for the AY. 2008-09 and the same has been decided by the Co-ordinate Bench of the Tribunal in assessee's favour in M.A. No. 89/Mum/2022, following the decision of the Hon'ble Bombay High Court in case of CIT vs. Tainwala Chemicals and Plastics India Ltd. 215 Taxman 153 and the Hon'ble Karnataka High Court decision in case of CIT vs. Yokogawa India Ltd. 204 Taxman 305.

10. It was further submitted that the assessee also wishes to place reliance on the decision of the Hon'ble Karnataka High Court in case of CIT vs. Kirloskar Systems Ltd. 220 Taxman 1 (Kar) and the larger Bench decision of the Hon'ble Gujarat High Court in case of CIT vs. Vodafone Essar Gujarat Ltd. 397 ITR 55 (Guj), wherein the Hon'ble High Court taking into consideration the ratio laid down by the Hon'ble Supreme Court in case of Vijaya Bank vs. CIT 323 ITR 166 (SC) and its implication on the interpretation of clause (i) of the Explanation to section 115JB of the Act held that the provisions for bad and doubtful debts which amounts to an actual write off would not be hit by clause (i) of the Explanation to section 115JB of the Act and, therefore, cannot be added while computing the book profits. Further, the assessee wishes to place reliance on the decision in the case of Narmada Chematur Petrochemicals Ltd. 439 ITR 761 (Guj.). It was accordingly submitted that in view of the aforesaid settled position, the provision for bad and doubtful debts in the instant case

amounts to an actual write off and the same cannot be added under clause (i) of the Explanation to section 115JB of the Act and accordingly, the impugned addition so made by the AO amounting to Rs. 1,09,72,163/- be directed to be deleted.

11. Per contra, the Ld.CIT/DR has relied on the order of the AO as well as that of the DRP and our reference was drawn to the relevant findings of the AO which reads as under:

“6. Provision for doubtful debts and Advances: Rs.1,09,72,163/-

*The assessee company had debited a sum of Rs.1,09,72,163/- as Provision for Doubtful Debts and advances. The same has not been disallowed in the computation of income under consideration. The assessee company asked vide show case dated 04.11.2016 to as to why the Provision for Doubtful Debts and advances of Rs. 1,09,72,163/-should not be disallowed.*

*6.1 During the course of assessment proceedings, the assessee vide written submissions dated 10.11.2016 stated that the provision for Bad & Doubtful Debts is debited to Profit & Loss Account under the head Provision for doubtful debts and in the balance sheet, sundry debtors have been reflected net of provision for Doubtful Debts. Where besides debiting the profit and loss account and creating a provision for bad and doubtful debt we have simultaneouslyobliterated the said provision from its accounts by reducing corresponding amount from loans and advances/debtors on the assets side of the balance-sheet, there is an actual write off of debtors by us and hence, the conditions of section 36(1)(vii) are satisfied. Assessee also placed reliance on the recent ruling of Hon'ble Mumbai Tribunal decision in the case of KEC International Ltd Vs. DCIT (33 taxmann.com 243) which was passed by relying on the decision of the Hon'ble Supreme Court in the case of Vijaya Bank reported in 323 ITR 166 and therefore, requested that their claim of provision for bad and doubtful debts be allowed. The assessee company also relied upon the judgement in the case of Arrow Coated Products Ltd vs ACIT (136 ITR 315) (The ITAT, Mumbai)*

*6.2 The facts of these cases do not match to that of the assessee's case. The submissions of the representative have been duly considered with regard to the computation of income under normal provisions in view of several case laws. However, the aforesaid ruling does not provide any directions with regard to the computation of book profits as per the provisions of u/s.115JB of IT Act.*

6.3 In the instant case, the amount of Rs. 1,09,72,163/- representing provision for doubtful debts has been held to constitute a write off as the same has been reduced from the debtors appearing in the balance sheet. Therefore, by virtue of such treatment, the debtors balance gets reduced from the balance sheet by the same amount resulting in the diminution to the value of sundry debtors balances. This diminution is not allowable as per the provisions of section 115JB of IT Act, as introduced vide Finance (No.2) Act, 2009 clause (i) in Explanation 1 under section 115JB(2), which states that if any provision for diminution in the value of any asset has been debited to the profit and loss account, the same shall be added to the net profit as shown in the profit and loss account for the purpose of computation of book profit. The amendment to section 115JB has been made effective retrospectively from assessment year 2001-02.

6.4 Therefore, the assessee company ought to have added the aforesaid amount of Rs. 1,09,72,163/- to the book profits while determining MAT u/s.115JB of IT Act which it has not done so. This position has also been upheld by the Hon'ble Mumbai Tribunal very recently in the case of Shakti Insulated Wires P.Ltd. in ITA No. 5814/Mum/2011 dated 14 February, 2014 wherein they have held that the decision rendered by Hon'ble Supreme Court in the case of Vijaya Bank (supra) under the normal provisions of Income Tax Act, cannot be applied to the provisions of sec. 115JB of the Act. This position was also reiterated by the Hon'ble Cochin Tribunal in the case of Cochin International Airport in L.T.A. No. 245/Coch/2010 vide order dated 27 April, 2012 wherein the Hon'ble ITAT has categorically held that the Hon'ble Supreme Court in the case of Vijaya Bank (cited supra) had only decided the limited issue as to whether the methodology adopted by the assessee would satisfy the condition of "Actual write off, prescribed under sec. 36(1)(vii) of the Act or not and that it is not permissible to logically extend the ratio of the decision of Hon'ble Supreme Court for the purpose of interpreting sec. 115JB of the Act too. The Tribunal explained at length as to why the ratio of the decision of the Hon'ble Supreme Court cited supra cannot be extended for the purpose of interpreting S.115JB as under:

"..... Under the provisions of sec. 115JB of the Act, the assessee is required to prepare the Profit and Loss account for the purposes of sec. 115JB in accordance with the provisions of Parts II and III of Schedule VI to the Companies Act, 1956. When the Profit and Loss account is prepared in accordance with the Companies Act, in our view, the meaning of the terms "amount or amounts set aside as provision for diminution in the value of any asset has to be understood only in accordance with the Companies Act. The term "Provision" has been defined in Part III to Schedule VI as under:

"7. (1) For the purposes of Parts I and II of this Schedule, unless the context otherwise requires:-



*(a) The expression "Provision" shall, subject to sub-clause (2) of this clause, mean any amount written off or retained by way of providing for depreciation, renewals or diminution in value of assets, or retained by way of providing for any known liability of which the amount cannot be determined with substantial accuracy"*

*Thus, it may be noted that, according to the definition of the term "Provision" given in Schedule VI of the Companies Act, even the "amount written off is treated as "Provision". Hence the contention of the assessee that the Actual er writing off" changes the character of "Provision" does not hold good under the Companies Act. Since the Profit and Loss Account is prepared u/s.115JB of the Act in accordance with Schedule VI of the Companies Act, the "Provision created for doubtful debts" debited too the Profit and Loss account shall remain as "Provision" only even if it is reduced from the "Sundry debtors A/c in the asset side of the Balance Sheet "(emphasis supplied).*

*6.5 The representatives also placed reliance on the decision of KEC International Ltd vs. DCIT (58 SOT 18) of the Hon'ble Mumbai Tribunal on the same issue which on perusal is found to be misplaced and out of context as the facts are distinguishable and no reference to computation of profits u/s.115JB was made or considered therein.*

*6.6 In view of the detailed discussion as above, the sum of Rs. 1,09,72,163/- was considered for addition to the book profits while determining MAT u/s 115JB of IT Act."*

12. We have heard the rival contentions and perused the material available on record. In case of CIT V. Tainwala Chemicals & Plastics India Ltd.(*Supra*), the issue for consideration before the Hon'ble Bombay High Court was whether the Tribunal was justified in deleting the addition of Rs. 1,90,51,000/- being provision for bad debts on account of loan to its group concern even though the debt did not qualify for deduction u/s. 36(1)(vii) r.w.s 36(2) and the said debt has been depicted as a provision in the accounts of the assessee. Another related issue which was raised before the Hon'ble Bombay High Court was whether the Tribunal was justified in upholding the decision of the Ld. CIT(A) in deleting the addition on account of provision for doubtful debts to the books profit u/s. 115JB of the Act without appreciating that the disallowance/addition on account of diminution in the value of asset is mandatory in view of explanation (I) to 115JB of the Act. The Hon'ble Bombay High Court referring to

the decision of Hon'ble Supreme Court in case of Vijaya Bank has held that the debt qualified for deduction u/s. 36(1)(vii) r.w.s 36(ii) of the Act and the relevant finding reads as under:

*“5. In so far as question (c) is concerned, the Tribunal by the impugned order has followed the decision of the Apex court in the matter of Vijaya Bank Ltd. v. CIT [2010] 323 ITR 166/190 Taxman 257, wherein it has been held that once the provision of doubtful debt has been debited to the profit and loss account and corresponding provision has been credited or reduced from the debtors account in the balance-sheet, then, this would amount to writing off. In the present case, the Tribunal recorded a finding of fact that the respondent-assessee has debited the provision of doubtful debt to the profit and loss account and correspondingly reduced the assets by reducing the amount of unsecured loans. On the aforesaid facts, the Tribunal held that this would amount to writing off of the debt. Thus, on examination of facts it concluded that the respondent-assessee has written off the loan and would be entitled to the claim of bad debts. The Tribunal by the impugned order also recorded a finding of fact that once the respondent-assessee has lent surplus money and offered the interest to tax as business income, then the activity of the respondent-assessee of lending money is a business activity. Therefore, the debt qualifies for deduction under Section 36(1)(vii) read with Section 36(2) of the Income Tax Act, 1961. In view of the finding of fact recorded by the Tribunal that the provision has been written off and reliance placed on the decision of the Apex Court in the matter of Vijaya Bank (supra), we see no reason to entertain question (c)”*

13. Further, referring to the second related issue, the Hon'ble Bombay High Court held that for the purposes of computing book profits u/s. 115JB, in view of its decision in the context of u/s. 36(1)(vii), issue of adding back the provision for the purposes of computing book profit doesn't survive. It was held by the Hon'ble Bombay High Court that this

is particularly so in view of fact that the Tribunal has recorded a finding of fact that the provision has been written off.

14. The Full Bench of the Hon'ble Gujarat High Court in case of Vodafone Essar Gujarat Limited (*Supra*) considered the issue with regard to clause (i) to explanation (I) to section 115JB of the Act and after considering the decision of the Hon'ble Supreme Court in case of Southern Technologies Limited and Vijaya Bank, has held as under:

*“20. Above decisions of the Supreme Court in case of Southern Technologies and Vijaya Bank thus bring out a clear distinction between a case where the assessee may make a provision for doubtful debts and a case where the assessee after creating such a provision for bad and doubtful debts by debiting in profit/loss account also simultaneously removes such provision from its account by reducing the corresponding amount from the loans and advances on the asset side of the balance sheet. The later would an instance of write off and not a mere provision.”*

*“23. By way of culmination of above judicial pronouncements and statutory provisions, the situation that arises is that prior to the introduction of clause(i) to the explanation to section 115JB, as held by the Supreme Court in case of HCL Comnet Systems & Services Ltd. (supra), the then existing clause (c) did not cover a case where the assessee made a provision for bad or doubtful debt. With insertion of clause (i) to the explanation with retrospective effect, any amount or amounts set aside for provision for diminution in the value of the asset made by the assessee, would be added back for computation of book profit under section 115JB of the Act. However, if this was not a mere provision made by the assessee by merely debiting the Profit and Loss Account and crediting the provision for bad and doubtful debt, but by simultaneously obliterating such provision from its accounts by reducing the corresponding amount from the loans and advances on the asset side of the balance sheet and consequently, at the end of the year showing the loans and advances on the asset side of the balance sheet as*

*net of the provision for bad debt, it would amount to a write off and such actual write off would not be hit by clause (i) of the explanation to section 115JB. The judgment in case of Deepak Nitrite Ltd. (supra) fell in the former category whereas from the brief discussion available in the judgment it appears that case of Indian Petrochemicals Corp. Ltd. (supra), fell in the later category”*

15. In the instant case, during the course of hearing, the Ld. AR has taken us through the audited financial statements of the assessee company for the year ended 31.03.2013 wherein in Schedule 20 (other expenses), the assessee has debited a sum of Rs. 1,09,72,163/- towards provision for doubtful debts and advances in the profit and loss account. Further, our reference was drawn to Schedule 11.1 (Trade receivable) forming part of the balance sheet wherein the opening balance for provision for doubtful debts receivable has been shown at Rs. 21,10,44,951/- and the closing balance at Rs. 22,20,17,114/- resulting in additional provision of Rs. 1,09,72,163/- which has been reduced from the gross trade receivable of Rs 50,21,39,062/- and only the net trade receivable of Rs 28,01,21,948/- has been shown in the balance sheet.

16. Further, as evident from the assessment order, the AO (in para 6.3) has stated that the amount of Rs. 1,09,72,163/- representing provision for doubtful debts has been held to constitute a write off as the same have been reduced from the debtors appearing from the balance sheet and therefore by virtue of such treatment, the debtor balances get reduced from the balance sheet by the same amount and has held that the same will result in diminution in the value of sundry debtors balances.

17. We therefore find that the assessee has not merely created a provision and debited the amount in the profit and loss account and credited the provision for doubtful debts but at the same time, such

provision for doubtful debts has been reduced by the corresponding amount from the gross trade receivables on the asset side of the balance sheet and at the end of the year, the trade receivable have been shown as net of the provision for doubtful debts and the same will therefore clearly amount to a write off and such actual write off would not be hit by clause (i) of the explanation (I) to Section 115JB of the Act and the decisions of the Hon'ble Bombay High Court as well as that of the Hon'ble Gujarat High Court supports the case of the assessee. In light of the same, the ground of the appeal so taken by the assessee is allowed.

18. Ground No. 4 relates to disallowance u/s. 36(1)(va) of the Act amounting to Rs. 64,426/-. The said ground was not pressed during the course of hearing. Hence, the same is dismissed as not pressed.

19. In Ground No. 5, the assessee has sought direction to the AO to allow necessary TDS credit as per Form-26AS. The Ld.CIT/DR did not raise any specific objection and accordingly, the AO is directed to allow the TDS credit after necessary verification. The ground is allowed for statistical purposes.

20. In Ground No. 6, the assessee has sought direction to the AO to allow MAT credit u/s.115JAA of the Act amounting to Rs.1,87,30,304/- claimed by the assessee in its return of income. The Ld. CIT/DR did not raise any specific objection. Hence, the matter is set aside to the file of the AO to allow the necessary credit as per law, after carrying out necessary verification. The ground is allowed for statistical purposes.

21. Grounds No. 7 and 8 relate to interest u/s. 234B and 234C of the Act. The same are consequential in nature and does not require any separate adjudication.

22. Ground No. 9 relates to initiation of penalty proceeding u/s.271(1)(c) of the Act. The same is premature in nature and, therefore, the same is dismissed.

ITA No. 7311/Mum/2018 (AY. 2014-15):

23. In this appeal, the assessee has taken the following grounds of appeal:

Ground No. 1:

*On the facts and in the circumstances of the case and in law, the Transfer Pricing Officer (TPO)/ Dispute Resolution Panel ("DRP") erred in determining the Arm's Length Price (ALP) of transaction pertaining to payment of royalty to Inventio AG as Nil instead of INR 29,78,53,300 by:*

- a. ignoring the transfer pricing documentation prepared by the Appellant;*
- b. exceeding his jurisdiction in questioning the commercial expediency of the Appellant for payment of royalty;*
- c. exceeding his jurisdiction in applying the benefit test to the payment of royalty and holding that the Appellant had not received any benefit from payment of royalty,*
- d. not taking into cognizance the commercial/business rationale justifying the payment of royalty, documents demonstrating availing of technology/tradename/trademark, intercompany agreement and the benefit test documentation submitted by the Appellant;*
- e. holding that the Appellant had not been provided with a single new technology from the AE during the year, for which the royalty payment was necessary, and*
- f. holding that payment of royalty should not be made by the Appellant as the Schindler Group had certain obligations towards the Appellant as shareholder activity.*

*The Appellant prays that the addition of INR 29,78,53,300 be deleted.*

Ground No. 2:

*On the facts and in the circumstances of the case and in law, the TPO/ DRP erred in determining the ALP of transaction pertaining to payment of management charges by the Appellant to Schindler Management Limited ('SML') as 'Nil' instead of INR 8,29,33,988 by:*

- a. ignoring the transfer pricing documentation prepared by the Appellant;*

- b. not providing an opportunity to the Appellant to explain the receipt of services from an ALP perspective;*
- c. exceeding his jurisdiction in questioning the commercial expediency of the Appellant for payment of management charges;*
- d. exceeding his jurisdiction in applying the benefit test to the payment of management charges and holding that the Appellant has not received any benefit from payment of management charges;*
- e. ignoring the robust documentation and evidences in support of the services received by the Appellant from SML;*
- f. rejecting the allocation methodology of the Appellant without providing any cogent reasons and rejecting the certificate from an independent consultant in Switzerland certifying the management cost allocation methodology to avail of such services from the AE;*
- g. holding that certain services rendered by SML are duplicative in nature without providing any cogent reason for the same; and*
- h. holding that the payment of management charges are towards shareholder activities.*

*The Appellant prays that the addition of INR 8,29,33,988 be deleted.*

*Ground No. 3:*

*On the facts and circumstance of the case and in law, the Ld. AO/ DRP erred in levying interest under Section 234A of the Act even though the Appellant had filed its return of income within the prescribed due date.*

*The Appellant prays that the addition of INR 37,77,060 on account of interest under Section 234A of the Act be deleted.*

*Ground No. 4:*

*On the facts and circumstances of the case and in law, the Ld. AO/ DRP has computed interest (consequential) of Rs. 7,70,14,1770 under section 234B of the Act.*

*The Appellant prays that the Ld. AO be directed to re-compute interest under section 234B of the Act.*

*Ground No. 5:*

*On the facts and in the circumstances of the case and in law, the Ld. AO/ DRP erred in initiating penalty proceeding under section 271(1)(c) of the Act.*

*The Appellant prays that the Ld. AO be directed that to drop the penalty proceedings initiated under section 271(1)(c) of the Act.”*

24. In Ground No. 1, the assessee has challenged the Transfer Pricing (TP) adjustment on account of payment of Royalty to Inventio AG. In this regard, during the course of hearing, the Ld.AR submitted that the assessee and the Central Board of Direct Taxes (CBDT) have entered into a Unilateral Advanced Pricing Agreement (APA) on 15-10-2024 for the period starting from FY. 2015-16 to FY. 2019-20 and also covering the period of FY. 2011-12 to FY. 2014-15 under the Rollback provisions for certain transactions between the assessee and its Associated Enterprises (AEs). It was submitted that the impugned transaction of payment of Royalty to Inventio AG stands covered under the said APA and hence, the assessee wishes to withdraw the Ground No.1 pertaining to the said TP adjustment. It was submitted that in this regard, the assessee had already submitted a letter dt. 31-01-2025 with the Registry and our reference was drawn to the said letter during the course of hearing.

25. In Ground No. 2, the assessee has challenged the TP adjustment on account of payment of management charges to Schindler Management Limited (SML). It was submitted that even the said transaction stands covered under the aforesaid APA and assessee, therefore, wishes to withdraw the Ground No. 2 relating to the said TP adjustment and the assessee has already submitted a written request to withdraw the said ground as part of its letter filed on 31-01-2025.

26. The Ld. CIT/DR was heard, who has not raised any objection to the withdrawal request so made by the assessee.

27. After hearing both the parties and considering the request made by the assessee vide its letter dt. 31-01-2025 as well as the submissions



made by the Ld.AR, both these grounds of appeal are dismissed as withdrawn.

28. In Ground No. 3, the assessee has challenged the levy of interest u/s. 234A of the Act. In this regard, it was submitted that the assessee has filed its return of income on 27-11-2014 i.e., before the due date of filing of the return of income, which was 30-11-2014 and the said fact is not in dispute and has been recorded by the AO in the assessment order. It was submitted that inspite of any delay in filing the return of income, interest u/s. 234A of the Act has been levied by the AO and hence, the same be directed to be deleted.

29. Per contra, the Ld. CIT/DR is heard, who has relied on the orders of the AO.

30. We have heard the rival contentions and perused the material available on record. On perusal of the assessment order, it is noted that the assessee filed its return of income on 27-11-2014, well before the due date of filing of the return of income i.e., on 30-11-2014. In view of the same, we do not see any legal basis for levy of interest u/s. 234A of the Act and the same is hereby directed to be deleted.

31. In Ground No. 4, the assessee has challenged the levy of interest u/s. 234B of the Act. The same being consequential in nature, does not require any separate adjudication.

32. In Ground No. 5, the assessee has challenged the initiation of penalty proceedings u/s.271(1)(c) of the Act. The same is premature in nature and, therefore, the same is dismissed.

33. In light of aforesaid, both these appeals filed by the assessee are partly allowed.

Order pronounced in the open court on 06-06-2025

Sd/-  
[SANDEEP SINGH KARHAIL]  
JUDICIAL MEMBER

Sd/-  
[VIKRAM SINGH YADAV]  
ACCOUNTANT MEMBER

Mumbai,  
Dated: 06-06-2025

*TNMM*

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT concerned
- 4) The D.R, ITAT, Mumbai
- 5) Guard file

By Order

Dy./Asst. Registrar  
I.T.A.T, Mumbai

