IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'I' NEW DELHI

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

ITA Nos.3695/Del/2015 & 2781/Ahd/2012
Assessment Years: 2007-08 & 2008-09

M/s. GE India Industrial Pvt. Ltd., Building No. 74, 4th Floor, DLF Cyber City, DLF Phase-III, Sector 25A, Gurgaon, Haryana-122002	**Vs.**	DCIT, Circle-10(1), New Delhi
PAN: AAACG4901D		
(Appellant)		**(Respondent)**

Assessee by	Sh. Sachit Jolly, Sr. Adv. Ms. Sherry Goyal, Adv. Ms. Viyushti Rawat, Adv.
Department by	Sh. Mahesh Kumar, CIT(DR)

Date of hearing	09.09.2026
Date of pronouncement	09.09.2026

ORDER

PER SATBEER SINGH GODARA, JM

These assessee's twin appeals ITA Nos.3695/Del/2015 and 2781/Ahd/2012 for assessment years 2007-08 and 2008-09 arise against the learned Dy. CIT, Circle-10(1), New Delhi's and the Asst. CIT Kheda's, Circle Nadiad's as many assessment orders dated 27.03.2015 and 31.10.2012, involving proceedings under section

143(3) r.w.s. 144C(13) and 143(3)/144C(11)/254 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'); respectively.

Heard both the parties. Case file perused. We proceed assessment year-wise for the sake of convenience and brevity.

ITA No.3695/Del/2015
AY: 2007-08

2. The assessee pleads the following substantive grounds in the instant appeal:

"The grounds mentioned herein are without prejudice to one another.

These grounds represent the grievances of the Appellant against the order dated 27 March 2015 passed by the leamed Assessing Officer ('Ld. AO') under section 143(3) read with section 144C and section 254 of the Income-tax Act, 1961 ("Act") in pursuance of the order dated 08 August 2013 passed by the Hon'ble Income-tax Appellate Tribunal, Ahmedabad and the directions dated 25 March 2015 issued by the learned Dispute Resolution ("Ld. DRP") in respect of matter stated in enclosed grounds of appeal.

1. *That the order of the Ld. AO, pursuant to the directions dated 25 March 2015 issued by the Ld. DRP, to the extent detrimental to the Appellant, is perverse, erroneous on facts and bad in law and has been passed in violation of the principles of natural justice.*

Grounds on Transfer Pricing issues:

General Grounds

2. *That the order of the learned Additional Commissioner of Income-tax Transfer Pricing-1. Ahmedabad (hereinafter referred to as the learned Transfer Pricing Officer, "TPO") passed under section 92CA of the Act, the subsequent directions of the Honourable Dispute Resolution Panel (hereinafter referred to as 'Hon'ble DRP') passed after restoring matter back to it by Income Tax Appellate Tribunal and subsequent final assessment order passed by Assessing Officer (hereinafter referred to as the "Learned Assessing Officer", "AO") on transfer pricing issues, is*

bad in law and arbitrary, contrary to facts, law and circumstances of the case and liable to be quashed.

3. *That on facts and in law, the Learned AO/TPO did not discharge his/her statutory onus by establishing that the conditions specified in clause (a) to (d) of Section 92C (3) of the Act have been satisfied before disregarding the arm's length price determined by the Appellant and proceeding to determine the arm's length price himself and the Hon'ble DRP erred by largely concurring with the views of the Learned AO/TPO on the same.*
4. *That the Ld. TPO/Ld. AO/Hon'ble DRP erred in law and on facts and circumstances of the case in disregarding application of latest single year available data as used by the Appellant in the TP documentation and holding that only current year (i.e. Financial Year 2006-07) data for comparable companies should be used.*
5. *That the Ld. TPO/Ld. AO/Hon'ble DRP erred in rejecting the alternate economic analysis with fresh search for comparable companies provided by the Assessee during the assessment proceedings and in upholding the TP adjustment.*
6. *That the Ld. TPO/Ld. AO/Hon'ble DRP, while making transfer pricing adjustment to the various divisions of the Assessee, erred in law and on facts and circumstances of the case in rejecting the turnover filter applied by the Assessee in the TP documentation and applying the lower fumover threshold limit of 50% less than the turnover of the respective divisions of the Assessee to reject companies as comparables and the Hon'ble DRP has merely reproduced the directions of the Hon'ble DRP in the preceding Assessment Year 2006-07 wherein tumover filter for 50% less and 50% more was applied.*
7. *That the Ld. TPO/Ld. AO /Hon'ble DRP erred in law and on facts and circumstances of the case in not allowing the benefit of +/- 5% as provided in proviso to Section 92C(2) of the Act.*

Division Specific Grounds

8. ***Lighting Division-Distribution Segment***

That the Ld. TPO /Ld. AO/Hon'ble DRP erred in law and on facts and circumstances of the case, in determining the adjustment of INR 29,509,744 in the Lighting division (Distribution segment) of the Appellant on the basis of following

8.1. Erred in making an adjustment to the complete segment which also includes transactions with external parties and not restricting the adjustments proportionate to international transactions.

*9. **Power Controls Division (Manufacturing segment)***

That the Ld. TPO/Ld. AO/Hon'ble DRP erred in law and on facts and circumstances of the case, in determining the adjustment of INR 1,68,97,082 in the Power Controls Division (Manufacturing Segment) of the Appellant on the basis of following:

9.1. Erred in applying modified turnover filter, considering the data of only FY 2006-07 only and selecting only 5 comparables from the set of comparable identified by the assessee.

9.2. The Hon'ble DRP has erred in rejecting alternate economic analysis carried out by the. Assessee by considering associated enterprises as the tested party and not considering the transfer pricing followed by the group.

9.3. Erred in making an adjustment to the complete power segment which also includes transactions with unrelated parties and not restricting the adjustments proportionate to international transactions.

10. Wind Division-Distribution function

That the Ld. TPO/Ld. AO/Hon'ble DRP erred in law and in facts and circumstances of the case, in determining the adjustment of INR 23,484,807 in the Wind Division-distribution function of the Appellant on the basis of the following:

10.1. Erred in not excluding certain extraordinary expenses incurred by the company relating to amortization of goodwill, amount in dispute written-off and extraordinary legal. expenses, thereby consequently modifying the operating margin of the wind division;

10.2. Disregarding the additional submission made by the assessee that amount in dispute written-off had been disallowed in tax return and offered to tax, thus treating it as operating would lead to double taxation.

10.3. Erred in not appreciating that the proposed addition is 85% of the transfer price, i.e. practically entire international transaction of purchase is being disallowed leading to a highly unreasonable adjustment to transfer price, which is not warranted

*11. **Transportation Division - Distribution of signaling products***

That the Ld. TPO /Ld. AO/Hon'ble DRP erred in law and in facts and circumstances of the case in making an upward adjustment of INR

4,065,821 to the transfer prices of the distribution activity of the Transportation division on the basis of following:

11.1. erred in not providing capacity adjustment on account of unutilised capacity of the employees

11.2. erred in not providing an adjustment on account of higher import content;

*12. **<u>Inspection Division</u>***

That the Ld. TPO / Ld. AO/ Hon'ble DRP erred in law and in facts and circumstances of the case making an upward adjustment of INR 4,92,379 to the Inspection division.

<u>Grounds other than Transfer Pricing issues:</u>

13.1 That, on the facts and circumstances of the case and in law, the Ld. AO erred in disallowing the expenditure booked under the head 'warranty and replacement expenses of Rs. 1,73,53,932.

13.2 That, on the facts and circumstances of the case and in law, the Ld. AO erred in holding that the expenditure booked under the head 'warranty and replacement expenses' was made without any basis and without any technical evaluation or past experience.

13.3 Without prejudice to grounds 13.1 and 13.2 above, the Ld. AO erred in restricting the allowance of warranty provision utilized to the extent of provision for warranty made during the year.

14.1 That, on the facts and circumstances of the case and in law, the Ld. AO erred in making disallowance of Rs. 71,82,595 on account of utilisation of provision for foreseeable losses which was disallowed in earlier years.

14.2 That, on the facts and circumstances of the case and in law, the Ld. A.O. erred in ignoring established facts of the case and not following the direction of Hon'ble ITAT, Ahmedabad in respect of the claim of utilisation of provision for foreseeable losses.

15. That, on the facts and circumstances of the case and in law, the Ld. AO erred in disallowing the claim of bad debts of Rs. 2,31,09,143 written off from the profit & loss account.

16. That, on the facts and circumstances of the case and in law, the Ld. AO erred in disallowing the claim of expenditure of Rs.

11,16,49,202 incurred for purchase of business rights as revenue expenditure under section 37(1) of the Act.

17. That, on the facts and circumstances of the case and in law, the Ld. AO erred in not allowing the deduction with regard to Appellant's claim for doubtful advances of Rs. 16,93,926 which was written off against the provision for doubtful loans and advances account.

18. That, on the facts and circumstances of the case and in law, the Ld. AO erred in not allowing deduction with regard to the Appellant's claim for write back of provision for customs duty of Rs. 7,76,673 under section 43B of the Act.

19. That, on the facts and circumstances of the case and in law, the Ld. AO erred in not allowing deduction with regard to the Appellant's claim for write back of provision for leave encashment of Rs. 5,67,853 under section 438 of the Act.

20. That, on the facts and circumstances of the case and in law, the Ld. AO erred in not allowing depreciation @ 60% on the written down value of software expenditure which was considered as capital expenditure in the assessment for Assessment Year 2005-06.

21. That, on the facts and circumstances of the case and in law, the Ld. AO erred in initiating penalty under section 271(1)(c) of the Act.

22. That, on the facts and circumstances of the case and in law, the Ld. AO erred in levying interest under sections 234B, 234C and 234D of the Act.

23. That, on the facts and circumstances of the case and in law, the Ld. AO erred in not granting credit of refund for AY 2006-07 that was adjusted against the demand for AY 2007-08.

24. That, on the facts and circumstances of the case and in law, the Ld. AO erred in not granting interest under section 244A of the Act.

The Appellant respectfully submits that the above grounds are independent and without prejudice to one another. The Appellant craves leave to add, amend, vary, omit or substitute, any or all of the above grounds of appeal, at any time before or during the hearing of the appeal.

The Appellant prays for appropriate relief based on the said grounds of appeal and the facts and circumstances of the case."

3. Leaned senior counsel next submits very fairly that the assessee's above extracted 1st to 5th and 7th substantive grounds are general consequential in nature. Rejected accordingly subject all just exceptions.

4. Next comes the first and foremost issue between the parties in light of the assessee's 6th substantive ground that both the learned lower authorities have erred in law and on facts in rejecting its turnover filter thereby applying the turnover threshold limit of 50% less than the turnover(s) of the respective divisions, namely, is lighting, power control and wind divisions involving varying sums. We are taken to the learned Dispute Resolution Panel "DRP" directions dated 25.03.2015 deciding the issue in the department's favour as under:

"2.4 Directions of DRP
The assessee has objected to the action of the TPO in applying the filter of manufacturing turnover of 50% of assessee's turnover for the manufacturing function of the Power Control division. According to the assessee, the turnover filter is of no relevance in the case of an entrepreneur being compared to an entrepreneur, as there may be varying business strategies and policies that cannot be evaluated.

The assessee has selected all companies having manufacturing turnover above Rs.10 crores without any satisfactory basis or reason for selecting the said benchmark. The selection of the aforesaid benchmark by the assessee has resulted into selection of certain *companies whose turnover is not at all comparable with the turnover of the assessee company. The TPO has only fine tuned the criteria selected to bring such companies as comparable which have a proximity of "Assets' to give turnover nearer to the turnover of the assessee to give a meaning to the FAR analysis. It is not in dispute that the TPO had also chosen companies which are functionally similar to the assessee except that with the application of more rationale filter of 50%, the comparison of asset has become more meaningful. The assessee has not given any basis for applying turnover filter of less than Rs. 10 crores except stating that it was done to eliminate low scale of operation and select wider set of comparables. The turnover filter of 50% less has only excluded lower end companies as compared to the assessee. We agree with the observation of the TPO that the economy of scale is important economic indicator while comparing companies carrying out similar functions, as it takes into account spread of fixed overhead costs, manufacturing efficiencies etc. Therefore, the TPO has adopted a more rationale comparability in this regard by taking only those companies which are having manufacturing turnover of 50% less to 50% more of the assessee's manufacturing turnover of this division. This Panel is of the view that the reliability of the financial data for companies with low levels of sales/operating income can be significantly reduced because the same persons are often both major shareholders and also the key employees, thereby obliterating the economic distinction between profits and salaries. Also the companies having very small turnover are to be excluded because the margins earned by these companies fluctuate to extremes because of the narrow base. Such companies lack competitive strength, lack operational efficiencies and also lack human resources and so give skewed results. Further, because of smaller size, these companies tend to escape the eyes of the regulators and also are managed personally by promoters instead of being professionally managed, therefore they are also not true representative of industry and their results do not have economic significance. Turnover similarity improves comparability. If by applying turnover filter, lesser number of more comparable uncontrolled companies is found out, then we should not have any grudge against application of turnover filter. A small number of more comparable companies are better than a big number of uncontrolled companies which are less comparable. Turnover filter, especially in manufacturing unit is considered necessary in view of the concept of economies of scale. As a unit gets bigger and bigger, which may be identified on the basis of turnover the profit margin goes up compared to smaller companies because of economies of scale which comes into play. In view of the above discussion this DRP has no hesitation in upholding this turnover filter"*

5. It is in this factual backdrop that the assessee quotes (2015) 376 ITR 183 (Delhi) Chryscapital Investment Advisors (India) Pvt. Ltd. v. Deputy Commissioner of Income Tax that an entity could not be simply directed to be excluded for its turnover volume or abnormal profits in such an instance of applicability of the Transactional Net Margin Method "TNMM" as the right approach to accurate adjustments going by Rule 10B(2)(e) r.w. clause (ii) & (iii) thereof, reading as under:

> *"**30**. The reasoning adopted in various judgments noticed above, shows that functional analysis seeks to identify and compare the economically significant activities and responsibilities undertaken, assets used and risks assumed by the parties to the transaction. Quantitative and qualitative filters/criteria have been used in different cases to include or exclude comparables. The intuitive logic for excluding big companies from the list of comparables while undertaking the FAR analysis of a smaller company is attractive, given that such big companies provide services to diverse clientele, perform multifarious functions, often assume risks and employ intangible assets which are specially designed, unlike in the case of smaller companies. The bigger companies have an established reputation in the segment, are well known and employ economies of scale to a telling end. On the other hand, these obvious - and apparent features should not blind the TPO from the obligation to carry out the transfer pricing exercise within the strict mandate of Section 92 C and Rules 10-A to 10-E.*
> ***31**. Arm's length price determination, in respect of an international transaction has necessarily to confirm to the mandate of Rule 10B. In this case, the method followed for determining the arm's length price of the international transaction adopted by the assessee and the revenue is the TNMM. The comparability of an international transaction with an uncontrolled transaction has, in such cases, to be seen with reference to the functions performed, taking into account the assets employed or to be employed and the risks assumed by the respective parties to the transaction as per rule 10B(2)(b). The specific characteristics of the property transferred or services provided (contemplated by Rule 10B(2)(a)) in either transactions may be*

secondary, for judging comparability of an international transaction in the TNMM, because the price charged or paid for property transferred or services provided and the direct and indirect cost of production incurred by the enterprise in respect of property transferred or services provided go into reckoning comparability analysis in the transaction methods, i.e the comparable uncontrolled price, resale price and cost plus whereas the profit based method such as transactional net margin method takes into account, the net margin realised. In TNMM, comparability of an international transaction with an uncontrolled transaction is to be seen with reference to functions performed as provided in sub-rule (2)(b) of rule 10B read with sub-rule (1)(e) of that rule after taking into account assets employed or to be employed and the risks assumed by the respective parties to the transaction. As noticed earlier, Rule 10B(3) mandates that a given or select uncontrolled transaction selected in terms of Rule 10B(2) "shall be comparable to an international transaction" if none of the differences, if any, between the compared transactions, or between enterprises entering into such transactions "are likely to materially affect the price or cost charged or paid or the profit arising from such transaction in the open market or reasonably accurate adjustment can be made to eliminate the effects of such difference."

***32**. Now, the sequitur of Rule 10B (2) and (3) is that if the comparable entity or entity's transactions broadly conform to the assessee's functioning, it has to enter into the matrix and be appropriately considered. The crucial expression giving insight into what was intended by the provision can be seen by the use of the expression: "none of the differences, if any, between the transactions being compared, or between the enterprises entering into such transactions are likely to materially affect the price or cost charged or paid in, .. such transactions in the open market". The other exercise which the TPO has to necessarily perform is that if there are some differences, an attempt to "adjust" them to "eliminate the material effects" should be made:*

"(ii) reasonably accurate adjustments can be made to eliminate the material effects of such differences."

***33**. Such being the case, it is clear that exclusion of some companies whose functions are broadly similar and whose profile - in respect of the activity in question can be viewed independently from other activities-cannot be subject to a per se standard of loss making company or an "abnormal" profit making concern or huge or "mega" turnover company. As explained earlier, Rule 10B (2) guides the six methods outlined in clauses (a) to (f) of Rule 10B(1), while judging comparability. Rule 10B (3) on the other hand, indicates the approach to be adopted where differences and dissimilarities are apparent. Therefore, the mere circumstance of a company - otherwise conforming to the stipulations in Rule 10B (2) in all details, presenting a peculiar feature - such as a huge profit or a huge turnover, ipso facto*

> *does not lead to its exclusion. The TPO, first, has to be satisfied that such differences do not "materially affect the price...or cost"; secondly, an attempt to make reasonable adjustment to eliminate the material effect of such differences has to be made."*

6. We have given our thoughtful consideration to the assessee's and the Revenue's respective vehement submissions. We are of the considered view that the learned lower authorities, more particularly, the DRP has been more guided by a general opinion than being the aforesaid statutory provisions envisaging in suitable adjustments in the Rules. We thus reject the Revenue's vehement contentions supporting the impugned turnover filter of 50% or less so as to exclude lower-end entity as compared to the assessee and direct the Transfer Pricing Officer "TPO" to finalize his afresh arm's length price "ALP" computation as per law preferably within three effective opportunities of hearing. The assessee's corresponding substantive grounds no. 6, 8, 9 and 10 to this effect succeed in very terms therefore.

7. Learned senior counsel at this stage seeks to buttress the point that such an "ALP" computation ought to be limited to the assessee's international transactions with the Associated Enterprises "AE" than taken in all the relevant segments. His further case is that that the assessee deserves arithmetic mean

margin benefit as well. Case law Commissioner of Income Tax v. Keihin Panalfa Ltd. (2016) 381 ITR 407(Del) is also quoted in support that we ought to restrict the impugned adjustments only qua those international transactions which had been executed with the AEs. We find merit in the assessee's foregoing submissions and direct the learned TPO to finalize his consequential computation as per law in very terms.

8. Mr. Jolly further invites our attention to the assessee's 10th substantive ground that the learned lower authorities have further erred in law and on facts whilst considering only those receipts/expenses which are part of operating revenue, namely, amortization of goodwill, bad debts and legal expenses. He quotes (2021) 133 taxmann.com 519 (Del-Trib), DHR Holdings India Pvt. Ltd. Vs. JCIT that amortization of goodwill is to be treated as abnormal and non-recurring expenses liable to be excluded. His further case is that bad debts as well as legal expenses herein pertained to the assessee's transactions with M/s. Nuzeevedu Seeds Ltd. which is not its AE. We thus direct the learned TPO to exclude all these three items of amortization of goodwill, bad debts and legal expenses from the assessee's ALP computation in very

terms. These assessee's 6 to 10 substantive grounds are partly accepted.

9. Next comes the assessee's 11th substantive ground directed against the learned lower authorities' action making ALP adjustment of Rs.40,65,821/-, inter alia, after applying turnover filter of 50% which has already been decided in its favour. Mr. Jolly's case before us is that the assessee's further deserves capacity utilization benefit as well as import duty adjustment as well. Learned DRP first of all appears to have rejected its capacity utilization plea for want of details than on legality or on merits, as the case may be. We thus direct the assessee to plead and prove the same before the learned TPO afresh by filing all the relevant details within three effective opportunities; at its own risk and responsibility, in consequential proceedings.

So far as the aforesaid import duty adjustment claim (supra) is concerned, we are taken to earlier learned coordinate order in AY 2011-12 dated 08.10.2020 in its appeal ITA No. 1684/Del/2016 accepting the same at page 7 in para 13 thereof. Allowed in very terms therefore.

10. Mr. Jolly refers to the assessee's 12th substantive ground relating to the transfer pricing adjustment falling under inspection division/technical services wherein the learned lower authorities are stated to have applied sales threshold of 50% less than of its turnover which already stands decided against the department in the preceding paragraphs. We accordingly direct the learned TPO to finalize his consequential computation pertaining to its international transactions with AEs only. This assessee's instant 12th substantive ground is treated as partly allowed therefore.

11. The assessee's 13th substantive ground is directed against both the learned lower authorities' findings disallowing its provision of warranty and replacement expenses. There does not appear to be much a dispute between the parties that it has already succeeded on all the very issue(s) before the tribunal in assessment year 2011-12 (supra). We thus adopt judicial consistency to delete the impugned disallowance(s) therefore.

12. The assessee's 14th substantive ground is directed against the disallowance of provision for unforeseeable losses made in the lower proceedings amounting to Rs.71,82,591/-. Learned senior counsel's case is that the sum represents its reversal which had

been disallowed in AY 2005-06 wherein the issue got settled in the "vivad se vishwas scheme". That being the case, we direct the learned Assessing Officer to finalize his afresh computation after verification of these clinching facts in consequential proceedings at the assessee's risk and responsibility. This 14th substantive ground is allowed for statistical purposes.

13. The assessee's 15th substantive ground raises the next issue of bad debts disallowance of Rs.2,31,09,143/- made in the lower proceedings for the reason that it failed to satisfy the corresponding condition under section 36(i)(vii) and 36(ii) of the Act. We are informed that it has already succeeded on the very issue in AY 2011-12 (supra) in para 68 to 75 thereof. Deleted in very terms therefore.

14. The assessee's 16th substantive ground is that the learned lower authorities have erred in law and on facts in disallowing its revenue expenditure claim of its expenditure incurred on business rights treated for the sole reason that the same deserve to be treated as capital in nature since resulting in long-term benefits. We note in this factual backdrop that hon'ble apex court's landmark decision in Taparia Tools Ltd. v. JCIT, (2015) 372 ITR

605 (SC) had settled the issue against the department that such a claim could not be declined merely because it results in long-term benefits to the assessee's concerned. Deleted accordingly.

15. The assessee's 17th substantive ground raises the next issue of provision for doubtful loans and advances amounting to Rs.1,15,63,063/- made in the lower proceedings. The Assessing Officer quotes Goetze (India) Ltd. vs CIT, [2006] 284 ITR 323 (SC) that the same was not claimed either in the original or revised return, as the case may be. That being the case, we are of the considered view that their lordships have made it clear in para 4 of the aforesaid case law that the same nowhere impinges upon the appellate authority's jurisdiction vested under the Act to entertain such an altogether new claim even in absence of a revised return. We are further informed that the assessee's corresponding grounds stand accepted in AY 2011-12 (supra) as well. We thus accept its instant substantive ground in principle subject to the learned Assessing Officer's afresh factual verification and reconciliation in very terms.

16. Learned senior counsel refers to the assessee's 18th and 19th substantive grounds regarding the twin deductions claims of write

back of provision for custom duty and leave encashment; involving varying sums. His case is that the same duly stood offered to tax in the preceding assessment years. We are of the considered view that the learned Assessing Officer requires to finalize his necessary factual verification to this clinching effect at the assessee's risk and responsibility only within three effective opportunities. Allowed for statistical purposes.

17. Learned senior counsel lastly refers to the assessee's 20th substantive ground regarding depreciation @ 60% on written down value of its software expenses treated as capital in nature. Learned coordinate bench's earlier order in AY 2011-12 in paragraphs 81 to 82 appears to have rejected the Revenue's very stand (supra). Allowed accordingly.

18. The assessee's all other remaining grounds nos. 21 to 24 are treated as consequential in nature.

No other ground or argument has been pressed before us.

19. The assessee's instant "lead" appeal ITA No.3695/Del/2015 is partly accepted in the foregoing terms.

ITA No.2781/Ahd/2012
AY: 2008-09

20. It transpires at the outset during the course of hearing that this is the "second" round of proceedings between the parties before the tribunal. We are fairly informed that earlier coordinate bench's order dated 04.12.2018 had partly allowed assessee's instant appeal. It thereafter filed miscellaneous application M.A. No. 161/Del/2019 that its 3rd, 10th to 11th and 15th to 16th substantive grounds remained unadjudicated. Learned coordinate bench's order dated 14.09.2021 accepted the same. We are now dealing with the aforesaid 3rd, 10th to 11th and 15th to 16th substantive grounds only in the instant second round of proceedings therefore.

21. That being the case, the assessee 3rd substantive ground raised herein seeks to reverse the learned lower authorities' action disallowing its warranty and replacement expenses of Rs.5,27,13,406/- which already stand accepted in AY 2011-12 (supra). Allowed accordingly.

22. The assessee's 10 to 11th substantive grounds raise its plea pertaining to power controls, water processed technology division and manufacturing segment under the very division that the impugned transfer pricing adjustments ought to be restricted to

the international transactions carried out with AEs only. We find merit in the assessee's case in light of Commissioner of Income Tax v. Keihin Panalfa Ltd. (supra) and direct the learned TPO to finalize his consequential computation in very terms therefore.

Same order to follow in the assessee's 15th substantive ground as well since raising an identical issue.

23. The assessee's 16th substantive ground seeks to claim working capital adjustment benefit which is hereby restored back to the learned TPO for his afresh factual verification and reconciliation at its own risk and responsibility within three effective opportunities of hearing. The assessee's instant latter appeal ITA No.2781/Ahd./2012 is partly allowed.

24. These assessee's twin appeals ITA Nos. 3695/Del/2015 and 2781/Ahd/2012 are partly allowed. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 9th September, 2026

Sd/-	***Sd/-***
(MANISH AGARWAL)	**(SATBEER SINGH GODARA)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Dated: 09.09.2026.
RK/-
Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(A)

5. DR

Asst. Registrar, ITAT, New Delhi