

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES : C : NEW DELHI

BEFORE SHRI R.S. SYAL, ACCOUNTANT MEMBER
AND

MS SUCHITRA KAMBLE, JUDICIAL MEMBER

<u>ITA No.(s)</u>	<u>Assessment Year (s)</u>	<u>Appellant</u>		<u>Respondent</u>
672-676/Del/2011, 5740/Del/2010 &	2002-03, 2003-04, 2004-05, 2005- 06,2006-07, 2007-08	GE Energy Parts Inc, AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	ADIT, Circle 1(2), International Taxation, New Delhi.
5540/Del/2011	2008-09	Nuvo Pignone S.PA Building No.7A, 6 th Floor, DLF Cyber City, Phase- III, Gurgaon.	Vs.	-do -
593-598/Del/2011, 5738/Del/2010 &	2001-02, 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08	GE Engine Services Distribution LLC AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
5545/Del/2011	2008-09	GE Engine Services Distribution LLC Building No.7A, 6 th Floor, DLF Cyber City, Phase- III, Gurgaon.	Vs.	-do -
725-728/Del/2011	2001-02,2002-03, 2005-06 & 2006-07	GE Japan Ltd. AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-

ITA No.672/Del/2011
(GE Energy Parts Inc. vs. ADIT)
& 137 appeals of GE Group companies

703-708/Del/2011, 5741/Del/2010 &	2001-02, 2002-03, 2003-04, 2004-05, 2005-06,2006-07, 2007-08	Nuvo Pignone S.PA AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
5542/Del/2011	2008-09	Nuvo Pignone S.PA Building No.7A, 6 th Floor, DLF Cyber City, Phase- III, Gurgaon.	Vs.	-do-
5728/Del/2010	2007-08	GE Engine Services Mcallen LP AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
5729/Del/2010	2006-07	GE Visa S/A AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
5730/Del/2010	2007-08	GE Engine Services Malaysia SDN BHD AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
5731/Del/2010	2007-08	GE Caledonian Ltd. AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
5732/Del/2010	2007-08	GE Energy (USA) LLC AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-

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5733/Del/2010	2007-08	GE Aircraft Engine Services Ltd. AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
5734/Del/2010	2007-08	GE Aviation Materials LP AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
5735/Del/2010	2007-08	GE Engine Services Inc. AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
5736/Del/2010	2007-08	GE Aviation Service Operation LLP AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
5737/Del/2010	2007-08	GE Transportation Parts LLC AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
5739/Del/2010	2007-08	GE Jenbacher GmbH & Co. OHG AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
5742/Del/2010	2007-08	GE Packaged Power Inc. AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-

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5743 to 5746/Del/2010	2004-05 to 2007-08	GE Canada Company AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
5748 to 5752/Del/2010	2002-03 to 2006-07	GE Multilin AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
5753 to 5757/Del/2010	2002-03 to 2006-07	GE Pacific Pte Ltd. AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
5877 to 5881/Del/2010	2002-03 to 2006-07	GE Engine Services – Tri Remanufacturing Inc. AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
587 to 592/DEL-2011	2001-02	G.E. Engine Services Mcallen LP AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
611 & 612/DEL/2011	2001-02 & 2002-03	GE Accessory Services- Grand Prairie Inc., AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
613 to 618/DEL-2011	2001-02 to 2006-07	G.E. Aviation Materials LP AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-

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619 to 624/DEL/2011	2001-02 to 2006-07	G.E. Engine Services Inc. AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
625 to 630/DEL/2011	2001-02 to 2006-07	G.E. Packaged Power Inc. AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
631 to 635/DEL/2011	2001-02 & 2003-04 to 2006-07	GE Transportation Parts LLC AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
641 to 644/DEL/2011	2001-02, 2002-03, 2003-04 & 2006-07	G.E. Caledonian Ltd. AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
645/DEL-2011	2001-02	G.E. Engine Services- Tri Remanufacturing Inc. AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
646/DEL-2011	2001-02	MRA System Inc. AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
697 to 702/DEL/2011	2001-02 to 2006-07	G.E. Aviation Service Operation LLP AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-

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715 to 719/DEL-2011	2001-02 to 2006-07	G.E. Aircraft Engine Services Ltd. AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
720 to 724/DEL/2011	2001-02 to 2005-06	G.E. Engine Services Malaysia SDN BHD AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
677 to 681/DEL/2011	2002-03 to 2006-07	General Electric Canada Company AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
685/DEL-2011	2002-03	GE Transportation Parts LLC AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
688/DEL-2011	2002-03	General Electric Power Systems Inc. AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-
5817 to 5821/DEL-2011	2002-03 to 2006-07	Bently Nevada LLC AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-

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669 & 670/DEL-2011	2005-06 2006-07	G.E. Wind Energy Gmbh Vs. - do- AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.
682 to 684/DEL/2011	2004-05 to 2006-07	G.E. Jenbacher Gmbh & Vs. -do- Co. OHG AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.
686 & 687/DEL-2011	2005-06 & 2006-07	G.E. Energy (USA)- LLC Vs. -do- AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.
5535/Del/2011	2008-09	GE Aviation Materials LP Vs. -do- Building No.7A, 6 th Floor, DLF Cyber City, Phase- III, Gurgaon.
5536/Del/2011	2008-09	GE Aviation Services Vs. -do- Operation LLP Building No.7A, 6 th Floor, DLF Cyber City, Phase- III, Gurgaon.
5537/Del/2011	2008-09	GE Jenbacher GmbH & Vs. -do- Co. Building No.7A, 6 th Floor, DLF Cyber City, Phase- III, Gurgaon.

5538/Del/2011	2008-09	GE Transportation Parts LLC Building No.7A, 6 th Floor, DLF Cyber City, Phase- III, Gurgaon.	Vs.	-do-
5539/Del/2011	2008-09	GE Engine Services Inc. Building No.7A, 6 th Floor, DLF Cyber City, Phase- III, Gurgaon.	Vs.	-do-
5543/Del/2011	2008-09	GE Engine Services Malaysia Building No.7A, 6 th Floor, DLF Cyber City, Phase- III, Gurgaon.	Vs.	-do-
5541/Del/2011	2008-09	GE Caledonian Ltd. Building No.7A, 6 th Floor, DLF Cyber City, Phase- III, Gurgaon.	Vs.	-do-
772/Del/2012	2001-02	General Electric Power Systems Inc. AIFACS Building, 1, Rafi Marg, New Delhi – 110 001.	Vs.	-do-

Assessee By : Shri S. Ganesh, Sr. Advocate,
Shri Sachit Jolly, Shri Rashi Dhir,
Shri Gautam Swarup, Shri Sidhartha
Singh & Shri Rahul Sateerja, Advocates

Department By : Shri Sanjeev Sharma, CIT &
Shri Anuj Arora, CIT, DR

Date of Hearing : 19.01.2017
Date of Pronouncement : 27.01.2017

ORDER

PER BENCH:

These 138 appeals by different but connected assesses of GE group relate to the assessment years 2001-02 to 2008-09.

2. In all, following four issues have been raised in these appeals : -

- i. Challenge to reassessment
- ii. Permanent establishment
- iii. Attribution of income
- iv. Interest u/s 234B.

3. While some of the appeals do not involve the issue of reassessment, but the other three issues are common to all.

4. In fact, there were 139 appeals by the GE group overseas entities before the Bench. The group chose GE Energy Parts Inc. vs. ADIT (ITA No.671/Del/2011- Assessment Year : 2001-02) as the lead case. Extensive arguments were made by both the sides in the case of *GE*

Energy Parts (supra) and it was candidly admitted that the remaining appeals involve *mutatis mutandis* similar issues. The arguments so made in the lead case were adopted by both the sides by submitting that the decision taken in the lead case on all the four issues will apply, to the relevant extent, to these 138 appeals.

5. We have passed a separate order in the lead case today and our decision on the four issues is that :-

- i. Initiation of reassessment is valid.
- ii. Fixed place as well Agency Permanent establishment of all the GE overseas is established in India.
- iii. Attribution of income to the PE should be 2.6% of the sales made by GE overseas entities in India.
- iv. Interest u/s 234B is not chargeable.

6. As the facts and circumstances of these 138 appeals under consideration are similar to the lead case, we apply our above decision to the instant appeals.

In the result, all the appeals are partly allowed.

The order pronounced in the open court on 27.01.2017.

Sd/-

[SUCHITRA KAMBLE]
JUDICIAL MEMBER

Sd/-

[R.S. SYAL]
ACCOUNTANT MEMBER

Dated, 27th January, 2017.

dk

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT (A)
5. DR, ITAT

AR, ITAT, NEW DELHI.