

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH: 'I-2' NEW DELHI**

**BEFORE SHRI J.S. REDDY, ACCOUNTANT MEMBER
&
SMT. BEENA A. PILLAI, JUDICIAL MEMBER**

**I.T.A .No. 6199/Del/2012
(ASSESSMENT YEAR-2008-09)**

Doosan Power Systems India Pvt. Ltd., (Formerly known as Doosan Babcock Engineering & Services India P. Ltd.) 16 th Floor, DLF Square, Jacaranda Marg, DLF Phase-II, Gurgaon. AACCD2754M	vs	DCIT, Circle 10(1), New Delhi.
Appellant by	Sh. Manoj Pardasani, CA	
Respondent by	Smt. Mitali Madhusmita, CIT DR	

**I.T.A .No. 1803/Del/2015
(ASSESSMENT YEAR-2010-11)**

Doosan Power Systems India Pvt. Ltd., (Formerly known as Doosan Babcock Engineering & Services India P. Ltd.) 16 th Floor, DLF Square, Jacaranda Marg, DLF Phase-II, Gurgaon. AACCD2754M	vs	DCIT, Circle 10(1), New Delhi.
Appellant by	Sh. Manoj Pardasani, CA	
Respondent by	Smt. Mitali Madhusmita, CIT DR	

Date of Hearing	08.10.2015
Date of Pronouncement	04.12.2015

ORDER**PER BENCH:**

This are appeals filed by the assessee against the assessment order dated 30.01.2015, of ld. DCIT, Circle 10(1) and DCIT Circle 7(2) dated 27.02.2015, u/s 143(3) of I.T. Act, 1961 for A.Y. 2008-09 and 2010-11 respectively.

2. Brief facts as recorded by the Ld.AO are as under;

The assessee is a subsidiary of Doosan Heavy Industries & Construction Limited (hereinafter referred to as “DHIC”), South Korea. DHIC is a major Engineering, Procurement, Construction (“EPC”) contractor, providing services that include engineering design, basic material fabrication, equipment installation, and commissioning and facility construction.

2.1 The Appellant assessee is engaged in provision of engineering drawings, design and consultancy services (engineering design and related services) to its Associated Enterprises (“AEs”) in relation to the thermal, nuclear and hydro power plant projects undertaken by these AEs.

3. After hearing the rival contentions, we find that the assessee has selected different set of comparables for both the assessment years. When questioned by the Bench, as to why the assessee is not consistent with the selection of comparable companies in both the years, though the facts are the same, the ld. Counsel submitted that different auditors were employed for both the years and they

had they had selected different set of comparables for these years. On a further question, we are informed that the TPO for both the assessment years selected different set of comparables

3.1. On examination, we find that neither the assessee, nor the Revenue is consistent in their approach. In fact on a further query, we are informed that, for assessment year 2011-12, which is not before us today, the assessee had yet another auditor, resulting in certain other companies being selected as comparables. The revenue has also taken a different approach than what was done in the previous two assessment years. Thus the assessee as well as Revenue has selected different sets of comparables for these three assessment years.

3.2. The inconsistent approach, both by the assessee as well as the Revenue, cannot be countenanced. Thus we deem it fit and proper to set aside the issue *de novo* to the files of the Id.TPO for fresh adjudication in accordance with law.

The assessee shall file a fresh TPO report for both the assessment years, taking a consistent stand and the TPO shall examine the same afresh.

9. The appeals filed by the assessee in both the assessment years stands statistically allowed.

The order is pronounced in the open court on 04/12/2015

Sd/-
(J.S. REDDY)
ACCOUNTANT MEMBER

Sd/-
(BEENA A. PILLAI)
JUDICIAL MEMBER

Dated: 04/12/2015

**Kavita, P.S.*

Copy forwarded to:

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

ASSISTANT REGISTRAR
ITAT NEW DELHI

		Date
1.	Draft dictated on	24.11.15
2.	Draft placed before author	24.11.15
3.	Draft proposed & placed before the second member	
4.	Draft discussed/approved by Second Member.	
5.	Approved Draft comes to the Sr.PS/PS	09.12.15
6.	Kept for pronouncement on	04.12.15
7.	File sent to the Bench Clerk	09.12.15
8.	Date on which file goes to the AR	
9.	Date on which file goes to the Head Clerk.	
10.	Date of dispatch of Order.	