

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई  
**IN THE INCOME TAX APPELLATE TRIBUNAL , 'D' BENCH, CHENNAI**  
श्री एन.आर.एस. गणेशन, न्यायिक सदस्य एवं ए. मोहन अलंकामणी, लेखा सदस्य के समक्ष  
**BEFORE SHRI N.R.S. GANESAN, JUDICIAL MEMBER AND**  
**SHRI A.MOHAN ALANKAMONY, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A.No.1924/CHNY/2017  
(निर्धारण वर्ष / Assessment Year: 2013-14)

M/s. L G Balakrishnan & Bros Limited, No.6/16, 13, Krishnarayapuram Road, Ganapathy, Coimbatore – 641 006. PAN : AAACL3740P	Vs	The Deputy Commissioner of Income Tax, Corporate Circle – 1, Coimbatore 641 018.
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

अपीलार्थी की ओर से /Appellant by	:	Shri B. Ramakrishnan, CA
प्रत्यर्थी की ओर से /Respondent by	:	Shri Srinivasa Rao, CIT

सुनवाई की तारीख /Date of hearing	:	12.12.2018
घोषणा की तारीख /Date of Pronouncement	:	17.12.2018

**आदेश / ORDER**

**Per A. Mohan Alankamony, AM:-**

This appeal by the assessee is arising out of the directions of the learned Dispute Resolution Panel dated 26.04.2017 in File No.262/DRP-2/BNG/2016-17 and the assessment order passed by the learned DCIT dated 28.06.2017 U/s. 143(3) r.w.s. 144C(13) of the Act, for the assessment year 2013-14.

2. The assessee has raised several grounds in its appeal however the lone ground argued by the Ld.AR before us is that:-

*“The Ld.TPO as well as the Ld.Members of the DRP had erred, in rejecting the prayer of the assessee that there is cost saving to the extent of 4.52%, with respect to power cost, repairs and maintenance cost and employee cost, by stating that the assessee has not substantiated the same by primary documentation, when the same was made available before them.”*

3. The brief facts of the case are that the assessee is a public limited company engaged in the business of manufacturing auto parts, filed its return of income for the assessment year 2013-14 on 28.11.2013 admitting total income of Rs.21,49,68,580/- under normal rates and Rs.42,14,74,047/- U/s.115JB of the Act. The case was selected for scrutiny and notice U/s.143(2) of the Act was issued. Thereafter the case was referred to the Ld.TPO who passed order U/s. 92A(3) of the Act on 28.10.2016 followed by draft assessment order on 05.12.2016. Subsequently the Ld.Members of the DRP issued directions on 26.04.2017 wherein they confirmed the order of the Ld.TPO who had made downward adjustment in the case of the assessee. Thereafter assessment was completed on 28.06.2017.

4. At the outset, the Ld.AR submitted before us that the assessee had furnished the factors that were attribute for earning higher margin of profit generated by Pant Nagar plant as detailed herein below:

<i>S.No.</i>	<i>Particulars</i>	<i>Direct Turnover</i>	<i>% of cost Reduction / Excise Benefit</i>	<i>Amount of addl. Profit (Rs. In Lakhs)</i>
1	<i>Power Cost</i>	25,177.35	1.49	375.14
2	<i>Repairs &amp; Maintenance Cost</i>	25,177.35	0.88	221.56
3	<i>Employee Cost</i>	25,177.35	2.15	541.31
4	<i>Excise Benefit</i>	25,177.35	5.19	1307.80
<i>Total</i>			9.71%	2445.81

The Ld.AR further submitted that the assessee had produced before the Ld.Revenue Authorities the entire documentation to justify their stand. However the Ld.TPO without verifying the documentation and by stating that the assessee had not filed the documentation held that power cost, repair & maintenance cost and employee cost cannot be considered as factors attributable for generating higher margin of profit by the Pant Nagar plant of the assessee and thereafter downward adjustment was computed to the tune of Rs.28,06,15,138/- by comparing with the comparable margins. The Ld.AR also undertook to produce any further documentation required and pleaded that the matter may be remitted back to the file of Ld.TPO for fresh consideration. The Ld.DR though vehemently argued against

the submission of the Ld.AR, did not seriously oppose for remitting the matter back to the file Ld.TPO for de-nova consideration.

5. We have heard the rival submissions and carefully perused the materials on record. Since the assessee has claimed that it has furnished the entire documentation before the Ld.Revenue Authorities and has also undertaken to produce any further materials required for facilitating the assessment proceedings, in the interest of justice, we hereby remit the matter back to the file of Ld.TPO for de-nova consideration. We further caution the assessee to co-operate with the Revenue Authorities in their proceedings, failing which the Ld.Revenue Authorities shall be at liberty to pass appropriate order in accordance with merit and law based on the materials on record.

6. In the result, the appeal of the assessee is allowed for statistical purpose.

Order pronounced on the 17<sup>th</sup> December, 2018 at Chennai.

Sd/-

(एन.आर.एस. गणेशन)  
(N.R.S. Ganesan)

न्यायिक सदस्य/Judicial Member

Sd/-

(ए. मोहन अलंकामणी)  
(A. Mohan Alankamony)

लेखा सदस्य/Accountant Member

चेन्नई/Chennai,  
दिनांक/Dated 17<sup>th</sup> December, 2018

**RSR**

आदेश की प्रतिलिपि अग्रेषित/Copy to:

- |                        |                          |                              |
|------------------------|--------------------------|------------------------------|
| 1. अपीलार्थी/Appellant | 2. प्रत्यर्थी/Respondent | 3. आयकर आयुक्त (अपील)/CIT(A) |
| 4. आयकर आयुक्त/CIT     | 5. विभागीय प्रतिनिधि/DR  | 6. गार्ड फाईल/GF             |