

आयकर अपीलीय अधिकरण "सी" न्यायपीठ पुणे में ।  
IN THE INCOME TAX APPELLATE TRIBUNAL "C" BENCH, PUNE

BEFORE SHRI R.S.SYAL, VP AND  
SHRI PARTHA SARATHI CHAUDHURY, JM

आयकर अपील सं. / ITA No.1366/PUN/2016

निर्धारण वर्ष / Assessment Year : 2006-07

Yazaki India Private Limited  
(Formerly known as Tata Yazaki  
Autocomp Limited)  
Attn. Mr. Sanjay Vamburkar,  
ONYX Tower, 5<sup>th</sup> Floor, North  
Main Road, Near Westin Hotel,  
Koregaon Park,  
Pune-411 001.  
PAN: AAAC5570F

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Deputy Commissioner of Income Tax,  
Circle-7, Pune.

.....प्रत्यर्थी / Respondent

आयकर अपील सं. / ITA No. 1513/PUN/2016

निर्धारण वर्ष / Assessment Year : 2006-07

The Deputy Commissioner of Income Tax,  
Circle-12, Pune.

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Yazaki India Private Limited  
(Formerly known as Tata Yazaki  
Autocomp Limited)  
ONYX Tower, 5<sup>th</sup> Floor, North  
Main Road, Near Westin Hotel,  
Koregaon Park,  
Pune-411 001.  
PAN: AAAC5570F

.....प्रत्यर्थी / Respondent

**आयकर अपील सं. / ITA No. 1367/PUN/2016**

**निर्धारण वर्ष / Assessment Year : 2007-08**

Yazaki India Private Limited  
(Formerly known as Tata Yazaki  
Autocomp Limited)  
Attn. Mr. Sanjay Vamburkar,  
ONYX Tower, 5<sup>th</sup> Floor, North  
Main Road, Near Westin Hotel,  
Koregaon Park,  
Pune-411 001.  
PAN: AACT5570F

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Deputy Commissioner of Income Tax,  
Circle-7, Pune.

.....प्रत्यर्थी / Respondent

**आयकर अपील सं. / ITA No.1514/PUN/2016**

**निर्धारण वर्ष / Assessment Year : 2007-08**

The Deputy Commissioner of Income Tax,  
Circle-12, Pune.

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Yazaki India Private Limited  
(Formerly known as Tata Yazaki  
Autocomp Limited)  
ONYX Tower, 5<sup>th</sup> Floor, North  
Main Road, Near Westin Hotel,  
Koregaon Park,  
Pune-411 001.  
PAN: AACT5570F

.....प्रत्यर्थी / Respondent

**आयकर अपील सं. / ITA No. 325/PUN/2015**

**निर्धारण वर्ष / Assessment Year : 2010-11**

Yazaki India Private Limited  
(Formerly known as Yazaki  
India Limited)  
ONYX Tower, 5<sup>th</sup> Floor, North  
Main Road, Near Westin Hotel,  
Koregaon Park,  
Pune-411 001.  
PAN: AAAC5570F

.....अपीलार्थी / Appellant

**बनाम / V/s.**

The Deputy Commissioner of Income Tax,  
Circle-12, Pune.

.....प्रत्यर्थी / Respondent

**आयकर अपील सं. / ITA No.551/PUN/2015**

**निर्धारण वर्ष / Assessment Year : 2010-11**

The Deputy Commissioner of Income Tax,  
Circle-12, Pune.

.....अपीलार्थी / Appellant

**बनाम / V/s.**

M/s. Tata Yazaki Autocomp Ltd.  
Gate No. 93, S. No.166, High Cliff  
Industrial Estate, Wagholi- Rahu Road,  
Kesnand, Pune-411 016.  
PAN: AAAC5570F

.....प्रत्यर्थी / Respondent

**आयकर अपील सं. / ITA No. 424/PUN/2017**

**निर्धारण वर्ष / Assessment Year : 2011-12**

The Assistant Commissioner of Income Tax,  
Circle-12, Pune.

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Yazaki India Private Limited  
ONYX Tower, 5<sup>th</sup> Floor, North  
Main Road, Near Westin Hotel,  
Koregaon Park,  
Pune-411 001.  
PAN: AACT5570F

.....प्रत्यर्थी / Respondent

**आयकर अपील सं. / ITA No. 2562/PUN/2017**

**निर्धारण वर्ष / Assessment Year : 2012-13**

The Assistant Commissioner of Income Tax,  
Circle-12, Pune.

.....अपीलार्थी / Appellant

**बनाम / V/s.**

Yazaki India Private Limited  
ONYX Tower, 5<sup>th</sup> Floor, North  
Main Road, Near Westin Hotel,  
Koregaon Park,  
Pune-411 001.  
PAN: AACT5570F

.....प्रत्यर्थी / Respondent

Assessee by : Shri Danesh Bafna

Revenue by : Shri Aasif Karmali

सुनवाई की तारीख / Date of Hearing : 06.12.2019

घोषणा की तारीख / Date of Pronouncement : 09.12.2019

### **आदेश / ORDER**

#### **PER BENCH :**

This bunch of appeals preferred by both, the assessee as well as the Revenue emanates from the respective orders/directions of the Ld.CIT(Appeals)/Ld. Dispute Resolution Panel (DRP) for the assessment years 2006-07, 2007-08, 2010-11, 2011-12 and 2012-13 as per the grounds of appeal on record.

2. Both the parties have agreed that facts and issues raised for all these cases are similar and therefore, these cases were heard together. Since facts common and issues are similar, these cases are being disposed of vide this consolidated order.

First, we would adjudicate the issues raised in appeal for assessment year 2006-07.

#### **ITA No.1513/PUN/2016 (By Revenue)** **A.Y.2006-07**

3. It is brought to our notice by the Ld. Counsel for the assessee that so far as the Revenue's appeal is concerned, tax effect involved in the appeal is Rs.31,64,399/- i.e. below Rs.50 Lakhs. The Ld. AR of the assessee further submitted that the appeal of Revenue are liable to be dismissed on account of

low tax effect in terms of recent CBDT Circular No.17/2019 [F No.279/Mise.142/2007-ITJ (Pt)], dated 08.08.2019 read with Circular No.3 of 2018 dated 11.07.2018 revising the upward monetary limits for filing of appeals in Income Tax Cases before various Appellate Forums. The earlier CBDT Circular No.03/2019 dated 11.07.2018 fixed monetary limit for filing of appeals before the Tribunal at Rs.20 Lakhs. Such limit has been enhanced in the recent CBDT Circular dated 08.08.2019 from Rs.20 lakhs to Rs. 50 Lakhs. Thus, the tax effect on the addition is less than Rs.50 Lakhs.

4. The Ld. DR fairly admitted that in the present appeal by the Department tax effect is less than Rs.50 Lakhs.

5. Both sides heard. Undisputedly, the tax effect involved in this appeal is less than the monetary limit prescribed by the recent CBDT Circular No.17/2019 [F No.279/Mise.142/2007-ITJ (Pt)] dated 08-08-2019 read with Circular No.3 of 2018 dated 11.07.2018 for filing of appeals before the Tribunal by the Department. The CBDT vide circular dated 08.08.2019 (supra.) has amended Para 3 of Circular No.3 of 2018 dated 11.07.2018 thereby enhancing monetary limit of tax effect from Rs.20 Lakhs to Rs.50 Lakhs for filing appeals by the Department before the Tribunal. Thus, without going into merit of the issues raised in the appeal, in view of the CBDT Circular (supra), we dismiss the appeal filed by the Revenue.

6. Before parting, we clarify here that the Revenue shall be at liberty to approach the Tribunal for restoration of appeal, with the requisite material to

show that the appeal is protected by the exceptions prescribed in Para 10 of the Circular dated 11-07-2018 and its amendment dated 20-08-2018.

7. In the result, **the appeal of the Revenue in ITA No.1513/PUN/2016 is dismissed.**

**ITA No.1366/PUN/2016 (By Assessee)**  
**A.Y.2006-07**

8. The Ld. Counsel for the assessee at the very outset submitted that they are not pressing the assessee's appeal due to smallness of amount. Considering the submissions of the Ld. Counsel for the assessee, the appeal of the assessee is dismissed being '**not pressed**'.

9. In the result, **appeal of the assessee in ITA No.1366/PUN/2016 is dismissed as 'not pressed'.**

**ITA No.1514/PUN/2016 (By Revenue)**  
**A.Y.2007-08**

10. In this Revenue's appeal, the only issue is with regard to allowability of ASA charges paid to TACO u/s.40A(2)(b) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act), payment amounting to 0.99% of the Net sales.

11. The Ld. Counsel for the assessee submitted that this issue is covered by the decision of Pune Bench of the Tribunal in assessee's own case for the assessment year 2009-10 in the case of Yazaki India Pvt. Ltd. Vs. DCIT, ITA

No.621/PUN/2014 and the issue is discussed at Para 2 to 8 of the Tribunal's order and it is in favour of the assessee.

12. Per contra, the Ld. DR submitted that in assessee's own case for assessment year 2009-10 (supra.) on which the Ld. Counsel for the assessee has referred to, therein, the issue was decided in favour of the assessee but after analyzing of entire evidences therein for rendition of the administrative support services and the entire discussion has been made at Para 5 of the said order of the Tribunal whereas for the present year, the Ld. Counsel for the assessee has not brought any evidences regarding rendition of services. Therefore, it cannot be said that the issue is squarely covered in favour of the assessee by the earlier order of the Tribunal as referred to by the Ld. Counsel of the assessee.

13. We have perused the case records and heard the rival contentions. We have also analyzed the facts and circumstances in this case. The issue herein is with regard to the disallowance made by the Assessing Officer u/s.40A(2)(b) of the Act with regard to payment of administrative support service charge. The case of the Assessing Officer is that the assessee could not furnish any evidences of receipt of services for which the instant payment has been made. It is the contention of the Ld. Counsel for the assessee that this issue is covered by the decision of Pune Bench of the Tribunal in assessee's own case for the assessment year 2009-10 (supra.). When we peruse the said order at Para 5 as per the submissions of the Ld. DR, we find that entire trail of evidences which were furnished by the assessee during that year demonstrating the rendition of such administrative support services were

placed on record therein. It can be perused from Page 5, Para 5 of the order which is reproduced as under:

*“5. Consideration has been set out in para 2.2 of the same Article as an amount equal to 5% of Net Processing Fees of all products processed, assembled and manufactured. The term “Net Processing Fees” has been defined under Article 1 to mean the: ‘Company’s invoiced prices for the Products less material and components, less packing and warehouse charges, taxes and duties to the extent set forth on the invoice.’ On going through Article 2 of the ASA, it is borne out that TACO agreed to provide support services to the assessee in various fields, such as, Administration, Financing, Legal, HRD, Marketing and Distribution, Liaison with Government authorities and Vendor development etc. Our attention has been drawn towards e-mail correspondence between TACO and assessee, copies of which have been placed at page 305 onwards of the paper book. Page 305 is an e-mail from Sh. G.K. Ramesh of TACO to Sh. Sudheendra Mudikeri of the assessee company in respect of certain corrective actions to be taken for NC’s. It has further been warned that: ‘If the activities are not completed, we may lose the EMS certificate’. Page 306 is an e-mail of R.S. Thakur of TACO to Sh. Prashanth Nayak of the assessee company on Audit report. In this e-mail also, certain concerns have been raised about material consumption variance. Page 312 of the paper book is an e-mail under which scope of internal audit of the assessee company has been approved by the audit committee. It has been emphasized that the same needs to be started as soon as possible. In the same fashion, such e-mails of correspondence between the assessee and TACO are going on from pages 305 to page 422 of the paper book. Pages 423 to 429 are copies of extracts of the Minutes of the Board of Directors’ meetings held on 08-07-2008 and 30-09-2008 substantiating receipt of Administrative Support services. On page 424 of the paper book, the Board of Directors in their meeting held on 08-07-2008 discussed about framing of Copper Hedging policy on the basis of initial trials and discussion with the TACO. Page 425 records minutes of meeting of Board of Directors held on 30-09-2008 discussing status of action points in which there is reference to the help received from TACO. Item at sr. no.15 of the Minutes of the Board meeting is that: “The Board was informed that the company management had received directives from TACO to be followed while deciding the prices of new models with the customers” so on and so forth. As against the AO’s recording that the assessee did not furnish any evidence of services, we find that the assessee did furnish such details to the AO, which is fortified by the assessee’s letter dated 19-02-2013 addressed to the AO, whose copy has been placed at page 299 onwards of the paper book. In this letter, it has been mentioned that the assessee submitted several documents in respect of receipt of services from TACO, such as copies of e-mail communications, copies of invoices, extracts of the minutes of meetings of Board of Directors held on 08-07-2008 and 30-09-2008. In view of the aforesaid factual panorama, it is manifest that TACO did provide administrative support services to the assessee, for which there is ample evidence. The impugned order is overturned to this extent.”*

However, for this relevant assessment year except the contention that the issue is covered in favour of the assessee by the decision of the Pune Bench of the Tribunal in earlier year, no direct evidence has been brought on record by the Ld. Counsel for the assessee to demonstrate actual rendition of administrative support services. The Ld. AR submitted that though such evidence has not been placed on record but the same is available. In the interest of justice, we deem it fit and proper to remit this issue back to the file of the Assessing Officer/TPO to adjudicate the matter in the light of the decision given in assessee's own case in assessment year 2009-10 and in this background analyzing all the evidences regarding rendition of administrative support services during that year. The assessee is directed to furnish all such relevant documents/evidences before the Assessing Officer/TPO in order to substantiate the administrative support service charges. Needless to say, the Assessing Officer shall follow the principle of natural justice while adjudicating this issue. We therefore, set aside the order of the Ld. CIT(A) on this issue and remit the matter back to the file of Assessing Officer/ TPO as indicated above.

14. In the result, **appeal of the Revenue in ITA No.1514/PUN/2016 is allowed for statistical purposes.**

**ITA No.1367/PUN/2016 (By Assessee)**  
**A.Y.2007-08**

15. The Ld. Counsel for the assessee at the very outset submitted that they are not pressing the assessee's appeal due to smallness of amount.

Considering the submissions of the Ld. Counsel for the assessee, the appeal of the assessee is dismissed being '**not pressed**'.

16. In the result, **appeal of the assessee in ITA No.1367/PUN/2016 is dismissed as 'not pressed'**.

**ITA No.551/PUN/2015 (By Revenue)**  
**A.Y.2010-11**

17. It is brought to our notice by the Ld. Counsel for the assessee that so far as the Revenue's appeal is concerned, tax effect involved in the appeal is Rs.28,17,342/- i.e. below Rs.50 Lakhs. The Ld. AR of the assessee further submitted that the appeal of Revenue are liable to be dismissed on account of low tax effect in terms of recent CBDT Circular No.17/2019 [F No.279/Mise.142/2007-ITJ (Pt)], dated 08.08.2019 read with Circular No.3 of 2018 dated 11.07.2018 revising the upward monetary limits for filing of appeals in Income Tax Cases before various Appellate Forums. The earlier CBDT Circular No.03/2019 dated 11.07.2018 fixed monetary limit for filing of appeals before the Tribunal at Rs.20 Lakhs. Such limit has been enhanced in the recent CBDT Circular dated 08.08.2019 from Rs.20 lakhs to Rs. 50 Lakhs. Thus, the tax effect on the addition is less than Rs.50 Lakhs.

18. The Ld. DR fairly admitted that in the present appeal by the Department tax effect is less than Rs.50 Lakhs.

19. Both sides heard. Undisputedly, the tax effect involved in this appeal is less than the monetary limit prescribed by the recent CBDT Circular No.17/2019 [F No.279/Mise.142/2007-ITJ (Pt)] dated 08-08-2019 read with Circular No.3 of 2018 dated 11.07.2018 for filing of appeals before the Tribunal by the Department. The CBDT vide circular dated 08.08.2019 (supra.) has amended Para 3 of Circular No.3 of 2018 dated 11.07.2018 thereby enhancing monetary limit of tax effect from Rs.20 Lakhs to Rs.50 Lakhs for filing appeals by the Department before the Tribunal. Thus, without going into merit of the issues raised in the appeal, in view of the CBDT Circular (supra), we dismiss the appeal filed by the Revenue.

20. Before parting, we clarify here that the Revenue shall be at liberty to approach the Tribunal for restoration of appeal, with the requisite material to show that the appeal is protected by the exceptions prescribed in Para 10 of the Circular dated 11-07-2018 and its amendment dated 20-08-2018.

21. In the result, **the appeal of the Revenue in ITA No.551/PUN/2015 is dismissed.**

**ITA No.325/PUN/2015 (By Assessee)**  
**A.Y.2010-11**

22. In this assessee's appeal, the only issue is with regard to allowability of ASA charges paid to TACO u/s.40A(2)(b) of the Act, payment amounting to 1.22% of the Net sales.

23. Both the parties herein agreed that this issue is similar to the issue raised in Revenue's appeal in ITA No.1514/PUN/2016 for assessment year 2007-08 and that facts and circumstances are also similar. After hearing the submissions of both the parties, since facts common and issues are similar, our decision rendered in ITA No.1514/PUN/2016 for assessment year 2007-08 **shall mutatis-mutandis apply** in ITA No.325/PUN/2015 for assessment year 2010-11. Therefore, in this appeal also, we set aside the directions of the Ld. DRP on this issue and remit the matter back to the file of Assessing Officer/ TPO as per directions mentioned in ITA No.1514/PUN/2016.

24. In the result, **appeal of the assessee in ITA No.325/PUN/2015 is allowed for statistical purposes.**

**ITA No.424/PUN/2017 (By Revenue)**  
**A.Y.2011-12**

25. In this Revenue's appeal, the only issue is with regard to allowability of ASA charges paid to TACO u/s.40A(2)(b) of the Act, payment amounting to 1.38% of the Net sales.

26. Both the parties herein agreed that this issue is similar to the issue raised in Revenue's appeal in ITA No.1514/PUN/2016 for assessment year 2007-08 and that facts and circumstances are also similar. After hearing the submissions of both the parties, since facts common and issues are similar, our decision rendered in ITA No.1514/PUN/2016 for assessment year 2007-08 **shall mutatis-mutandis apply** in ITA No.424/PUN/2017 for assessment year 2011-12. Therefore, in this appeal also, we set aside the order of the Ld.

CIT(A) on this issue and remit the matter back to the file of Assessing Officer/  
TPO as per directions mentioned in ITA No.1514/PUN/2016.

27. In the result, **appeal of the Revenue in ITA No.424/PUN/2017 is allowed for statistical purposes.**

**ITA No.2562/PUN/2017 (By Revenue)**  
**A.Y.2012-13**

28. In this Revenue's appeal, the only issue is with regard to allowability of  
ASA charges paid to TACO u/s.40A(2)(b) of the Act, payment amounting to  
1.23% of the Net sales.

29. Both the parties herein agreed that this issue is similar to the issue  
raised in Revenue's appeal in ITA No.1514/PUN/2016 for assessment year  
2007-08 and that facts and circumstances are also similar. After hearing the  
submissions of both the parties, since facts common and issues are similar,  
our decision rendered in ITA No.1514/PUN/2016 for assessment year 2007-  
08 **shall mutatis-mutandis apply** in ITA No.2562/PUN/2017 for assessment  
year 2012-13. Therefore, in this appeal also, we set aside the order of the Ld.  
CIT(A) on this issue and remit the matter back to the file of Assessing Officer/  
TPO as per directions mentioned in ITA No.1514/PUN/2016.

30. In the result, **appeal of the Revenue in ITA No.2562/PUN/2017 is allowed for statistical purposes.**

31. To sum up,

ITA No.	Remark
1513/PUN/2016	<b>Dismissed</b>
1366/PUN/2016	<b>Dismissed</b>
1514/PUN/2016	<b>Allowed for statistical purposes</b>
1367/PUN/2016	<b>Dismissed.</b>
551/PUN/2015	<b>Dismissed</b>
325/PUN/2015	<b>Allowed for statistical purposes</b>
424/PUN/2017	<b>Allowed for statistical purposes.</b>
2562/PUN/2017	<b>Allowed for statistical purposes</b>

Order pronounced on 09<sup>th</sup> day of December, 2019.

Sd/-  
**R.S.SYAL**  
**VICE PRESIDENT**

Sd/-  
**PARTHA SARATHI CHAUDHURY**  
**JUDICIAL MEMBER**

पुणे / Pune; दिनांक / Dated : 09<sup>th</sup> December, 2019.

SB

**आदेश की प्रतिलिपि अग्रेषित / Copy of the Order forwarded to :**

1. अपीलार्थी / The Appellant.
2. प्रत्यर्थी / The Respondent.
3. The CIT(Appeals)-13, Pune.
4. The Pr. CIT-5, Pune.
5. विभागीय प्रतिनिधि , आयकर अपीलीय अधिकरण, "सी" बेंच,  
पुणे / DR, ITAT, "C" Bench, Pune.
6. गार्ड फ़ाइल / Guard File.

// True Copy //

आदेशानुसार / BY ORDER,

निजी सचिव / Private Secretary  
आयकर अपीलीय अधिकरण, पुणे / ITAT, Pune.

		Date	
1	Draft dictated on	06.12.2019	Sr.PS/PS
2	Draft placed before author	06.12.2019	Sr.PS/PS
3	Draft proposed and placed before the second Member		JM/AM
4	Draft discussed/approved by second Member		AM/JM
5	Approved draft comes to the Sr. PS/PS		Sr.PS/PS
6	Kept for pronouncement on		Sr.PS/PS
7	Date of uploading of order		Sr.PS/PS
8	File sent to Bench Clerk		Sr.PS/PS
9	Date on which the file goes to the Head Clerk		
10	Date on which file goes to the A.R		
11	Date of dispatch of order		