

**IN THE INCOME TAX APPELLATE TRIBUNAL
“B” BENCH: BANGALORE**

**BEFORE SHRI CHANDRA POOJARI, ACCOUNTANT MEMBER
AND
SHRI SOUNDARARAJAN K., JUDICIAL MEMBER**

ITA Nos.313 & 314/Bang/2024
Assessment Year: 2013-14 & 2014-15

MAG India Industrial Automation Systems Private Limited 52, Hitech, Defence and Aerospace Park (IT Sector) Arebinnamangala Jala Hobli Yelahanka 562 149 Karnataka PAN NO : AAECM9067A	Vs.	DCIT Central Circle-2(3) Bangalore
APPELLANT		RESPONDENT

Appellant by	:	Sri Prakash Hegde, A.R.
Respondent by	:	Sri Subramanian S., D.R.

Date of Hearing	:	27.05.2024
Date of Pronouncement	:	04.06.2024

O R D E R

PER SOUNDARARAJAN K., JUDICIAL MEMBER:

These appeals filed by the assessee challenging the orders of CIT(A)-15 Bangalore for the assessment years 2013-14 & 2014-15 both are dated 30.12.2023. Since the issue in these appeals is common, these are clubbed together, heard together and disposed of by this common order for the sake of convenience. Since the grounds of appeals are common except figures, we extract the grounds raised by the assessee in ITA No.313/Bang/2024, which are as follows:

- The order passed by the Hon'ble Commissioner of Income Tax (Appeal)-15, Bengaluru passed under section 250 of the Income Tax Act, 1961 ("the Act") in so far as it is against the Appellant is opposed to law, weight of evidence, probabilities, facts, and circumstances of the Appellants case.*

2. *The Appellant denies itself to be assessed at Rs7,21,15,281/- (Rupees Seven Crores Twenty One Lakhs Fifteen Thousand Two Hundred and Eighty-One Only) as against the returned income of Rs.4,41,08,569/- (Rupees Four Crores Forty-One Lakhs Eight Thousand Five Hundred and Sixty-Nine Only) under the facts and circumstances of the case*
3. *The Ld CIT(A) was not justified in not providing an additional opportunity of hearing on the facts and circumstances of the case.*
4. *The authorities below are not justified in disallowing the provision towards warranty liability of Rs.1,75,81,254/- (Rupees One Crore Seventy-Five Lakhs Eighty-One Lakhs Two Hundred and Fifty Four Only) on the facts and circumstances of the case.*
5. *The Authorities below have failed to appreciate that the provision for warranty has been calculated as per decided case law of Hon'ble Supreme Court in so far as it is applicable on the facts and circumstances of the case.*
6. *The Authorities below were not justified in disallowing the provision for warranty solely on the premise that the provision was made not scientifically even after narrating the facts and circumstances of the case.*
7. *The levy of interest under section 234B and 234C is not warranted on the facts and circumstances of the case.*
8. *The Appellant craves to add, alter, amend, substitute, change and delete any of the grounds of appeal.*
9. *For the above and other grounds that may be urged at the time of hearing of the appeal, the Appellant prays that the appeal may be allowed, and justice rendered.*

2. Subsequently, at the time of hearing, they filed an application to admit revised grounds in both the appeals and we extract the revised grounds raised in ITA No.313/Bang/2024 as follows:

“The Grounds mentioned hereinafter are without prejudice to one another.

1. *That the learned Commissioner of Income Tax (Appeals) ['CIT(A)'] erred on facts and circumstances of the case and in law by upholding the Assessment Order passed by the learned Assessing Officer ('the AO') on the issue pertaining to Provision for Warranty under which the Appellant had claimed allowance for an estimated liability of Rs 1,75,81,254.*
2. *That the learned CIT(A) erred on facts and circumstances of the case and in law by not appreciating the fact that the amount of Provision for Warranty has been partially adjusted against the warranty claims actually made by the customers and partially reversed by the Appellant in the subsequent*

years and therefore, the disallowance made by the AO will lead to double taxation for the Appellant.

That the Appellant craves leave to add to and/or to alter, amend, rescind, modify, the grounds herein above or produce further documents before or at the time of the hearing of this appeal.”

3. At the time of hearing, the Id. A.R. had submitted that except the revised ground No.2 they have not pressed the other grounds.

4. The brief facts of the case are that the Id. AO has disallowed the provision towards warranty liability provision for the reason that there is no scientific method for arriving the warranty expenses but mechanically the provision was made at a percentage basis and not based on the past experience. In this regard, the Id. AO relied on the judgement of Hon'ble Supreme Court in the case of Rotork Controls India (P) Ltd. Vs. CIT reported in (2009) 314 ITR 62 (SC).

4.1 The assessee filed an appeal before the Id. CIT(A), Bangalore and contended that the provision for the warranty expenses were made after consultation with Industry experts, advice from group companies and after considering the various factors. The Id. CIT(A) had not accepted the argument of the assessee and dismissed the appeal. Aggrieved, the assessee is now challenging the Id. CIT(A)'s order before this Tribunal.

4.2 The Id. A.R. at the time of hearing had submitted that except the revised ground No.2 they have not pressed the other grounds. The Id. A.R. further submitted that the provision made for warranty has been partially adjusted during the year and partially reversed by the assessee in the subsequent years and therefore, the disallowance made by the Id. AO will lead to double taxation and prayed to consider this fact and grant sufficient relief on the partial reversal of the warranty provision made in the subsequent years. The Id AR also filed paper books enclosing the financial statements of the company, statement of warranty provision and statement of warranty

expenditure to show that the assessee's contention is correct and therefore sought for an indulgence from this court.

5. The ld. D.R. relied on the orders of the lower authorities and prayed to dismiss the appeal on the ground that the revised ground No.2 was raised for the first time before this Tribunal.

6. We have heard the rival submissions and perused the materials available on record. First, we will consider the objection raised by the ld. DR about the maintainability of the revised grounds filed by the assessee for the first time. We have gone through the revised grounds and found that the same are only an alternative ground and no fresh dispute has been raised by the assessee and therefore we rejected the objections raised by the ld. DR and accepted the revised grounds of appeal filed by the assessee.

6.1 Now the only issue to be decided in this appeal is whether the disallowance of the provision for warranty expenses is correct when the assessee had reversed the unutilized provision of the warranty expenses in the later years. In this connection we have gone through the paper books filed by the assessee and noticed that the provision for warranty has been partially adjusted against the warranty claim made by the customers during the year and the balance provision was reversed in the subsequent years. Therefore, the unutilized portion was offered to tax subsequently. This fact was not brought to the notice of any of the authorities. Even before this Tribunal the assessee has taken the plea only as a revised ground and therefore there is no opportunity to the lower authorities to consider the claim. Hence this aspect should be verified by the ld. AO by looking into the financial statements and other documents filed by the assessee and if the AO is able to find out that the submission of the assessee is correct then the relief should be granted in respect of the provisional amounts which were reversed in the later years, otherwise it would amount to double taxation. We also made it clear that while doing this exercise, if necessary, the ld. AO is directed to reopen or rectify

the later years assessment orders and grant the relief to avoid the double taxation.

6.2 We, therefore, inclined to set aside the orders of the ld. AO as well as ld. CIT(A) in respect of both the years and restore the matters to the file of ld. AO to decide the issue afresh in accordance with law and after giving an opportunity of hearing to the assessee.

7. In the result, appeals of the assessee are partly allowed for statistical purposes.

Order pronounced in the open court on 4th June, 2024

Sd/-
(Waseem Ahmed)
Accountant Member

Sd/-
(Soundararajan K.)
Judicial Member

Bangalore,
Dated 4th June, 2024.
VG/SPS

Copy to:

1. The Applicant
2. The Respondent
3. The CIT
4. The DR, ITAT, Bangalore.
5. Guard file

By order

**Asst. Registrar,
ITAT, Bangalore.**