

आयकर अपीलीय अधिकरण, 'डी' न्यायपीठ, चेन्नई।  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**'D' BENCH: CHENNAI**

श्री यस यस विश्वनेत्र रवि, न्यायिक सदस्य एवं श्री जगदीश, लेखक सदस्य के समक्ष  
**BEFORE SHRI SS VISWANETHRA RAVI, JUDICIAL MEMBER AND**  
**SHRI JAGADISH, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.493/Chny/2017  
निर्धारण वर्ष /Assessment Year: 2012-13

M/s. Leitwind Shriram The Dy. Commissioner of  
Manufacturing Ltd., Income Tax,  
C/o. Sreedhar, Suresh & Vs. Corporate Circle-4(1),  
Rajagopalan, Chennai.  
Chartered Accountants,  
3-G, Green Haven, New No.26,  
Third Main Road, Gandhi Nagar,  
Adyar, Chennai – 600 020.  
[PAN: AABCL 2825N]

(अपीलार्थी/**Appellant**)

(प्रत्यर्थी/**Respondent**)

अपीलार्थी की ओर से/ Appellant by  
प्रत्यर्थी की ओर से /Respondent by

: None  
: Shri A. Sasikumar, CIT

सुनवाई की तारीख/Date of Hearing

: 24.09.2024

घोषणा की तारीख /Date of Pronouncement

: 13.12.2024

**आदेश / ORDER**

**PER JAGADISH, A.M :**

Aforesaid fours appeal filed by the assessee for Assessment Year (AY) 2012-13 arises out of final assessment order dated 31.12.2016 passed by Dy. Commissioner of Income Tax, Corporate Circle-4(1), Chennai, u/s.143(3) r.w.s 144C(13) of the Income-tax Act, 1961 (hereinafter "the Act") pursuant to the directions of Ld. Dispute

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Resolution Panel-2, Bengaluru u/s 143(3) r.w.s 144C(1) of the Act dated 07.11.2016.

2. The grounds of appeal raised by the assessee are as under:

*"1. The learned TPO and the Dispute Resolution Panel erred in rejecting M/s.RRB Energy Limited as a comparable company, despite being functionally comparable to the assessee.*

*2. The learned TPO and the Dispute Resolution Panel erred on facts and circumstances in proposing an adjustment on account of lower margins, without appreciating the commercial/extraordinary parameters influencing the business of the Assessee.*

*3. The learned TPO and the Dispute Resolution Panel erred on facts and circumstances in not appreciating that the Assessee had adopted the same price for imports, for current year and previous year and also ignoring the transfer pricing of the Assessee, violating the principles of consistency.*

*4. The learned TPO and the Dispute Resolution Panel erred in law and on facts in not considering appropriate adjustments under Rule10B of the Income Tax Rules, 1962 (The Rules) to account for the economic differences between the Assessee and the comparable companies.*

*5. For the above grounds and for any other grounds that may be adduced at the time of hearing, the appellant prays to the Hon'ble Income Tax Appellate Tribunal to grant appropriate relief as it deems fit."*

3. Grounds No.1 to 4 are relating to rejecting M/s. RRB Energy Ltd. as a comparable company and making adjustment on AE purchases on account of lower margin and without considering commercial/extraordinary parameters influencing the business of the assessee for lower margin.

4. The brief facts of the case are that the assessee is a joint venture, between Windfin BV (51%) and Shriram EPC (49%) engaged in the business of manufacturing MW-class wind turbine generators (WTC). During the year, the assessee-company has made purchase and sales to Associated Enterprises (AE) and third party in India. The Transfer Pricing Officer (hereinafter "TPO") found the revenue pertaining to AE segment quite significant while comparing to the total revenue and margin low. The TPO accordingly made downward adjustment on the AE purchase of Rs.2,01,49,026/- taking comparable margins at 4.33%. The A.O issued draft assessment order to the assessee including the TP adjustment suggested by the TPO. The assessee filed objection before DRP rejecting M/s. RRB Energy Ltd. as a comparable company while arriving at profit margin of comparable company to 4.33%. The Ld. DRP has rejected the assessee's objection after examining the annual report of M/s. RRB Energy Ltd. as this company has its project only in Tamil Nadu, whereas the assessee has its presence in more than one state. The Hon'ble DRP has also noted that the comparable company has re-located the manufacturing facility as well as corporate office during the year consequently negative profit margin due to more than normal expenses. The assessee has also objected order of TPO in not

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granting adjustment on account of commercial and extraordinary parameter enhancing the business losses like delay in approval of electricity board, abnormal rise in the cost of permanent magnet, and adverse movement of foreign exchange and the custom duty adjustment. The Hon'ble DRP has rejected assessee's objection as these are common issues across the industry and the TPO has analyze the issue in clear and cogent manner and all these factors have been factored in while determining the profit margin and comparables. The Hon'ble DRP relied on the order of co-ordinate Bench of this Tribunal in the case of Mobis India Ltd. vs. Dy. CIT [2013] 38 taxmann.com 231 (Chennai-Trib.) and rejected the objection of the assessee. The A.O has passed final order as per directions of the Hon'ble DRP. Aggrieved, the assessee is in appeal against the above order.

5. Notices were issued to the assessee on 27.06.2024, 10.07.2024, 30.07.2024, 09.08.2024, 20.08.2024 and 23.09.2024, but none appeared on behalf of the assessee. Therefore, the case is decided with the assistance of Ld. Departmental Representative, Mr. A. Sasikumar, CIT.

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6. We have gone through the materials available on record. The assessee has challenged TPO adjustment of Rs. 2,01,49,026/- as a downward adjustment on the AE purchases. The A.O has taken two comparables i.e., Bellis India Ltd. @ 5.08% and Indo Wind Energy Ltd. (Segmental) @ 3.58% and arrived at average of net profit margin of 4.33% of comparables. The A.O has rejected the comparable of M/s. RRB Energy Ltd. taken by the assessee on the ground that the company is showing huge negative margin and the major portion of income is from services and there is a fluctuation in margin showing abnormal year of operation. The A.O computed the segmental margin of the assessee at 1.79% and compared with comparable margin of 4.33% and made adjustment of AE purchases at Rs. 2,01,49,026/-.

7. The assessee has objected exclusion of M/s. RRB Energy Ltd. from the comparable company and had sought proper adjustment under Rule 10B to account for the economic difference between the assessee and comparable companies. The TPO and the Ld. DRP have dealt both the issues in their order and they have given reason for exclusion of M/s. RRB Energy Ltd. as a comparable company. The TPO and Ld. DRP have also given reason for not giving custom duty adjustment. The Ld. DRP has also relied on the order of ITAT,

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Chennai in the case of Mobis India Ltd., supra. In view of the above, we do not find any infirmity in the order of A.O and therefore the grounds of appeal raised by the assessee are rejected.

8. In the result, the appeal filed by the assessee is dismissed.

*Order pronounced on 13<sup>th</sup> December, 2024.*

**Sd/-**  
**(यस यस विश्वनेत्र रवि)**  
**(SS Viswanethra Ravi)**  
**न्यायिक सदस्य / Judicial Member**

**Sd/-**  
**(जगदीश)**  
**(Jagadish)**  
**लेखा सदस्य / Accountant Member**

चेन्नई/Chennai, दिनांक/Dated: 13<sup>th</sup> December, 2024.

EDN/-

आदेश की प्रतिलिपि अग्रेषित/**Copy to:**

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai
4. विभागीय प्रतिनिधि/DR
5. गार्ड फाईल/GF