

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH 'C': NEW DELHI  
BEFORE  
BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER  
AND  
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER  
ITA No. 6234/Del/2018 (A.Y 2015-16)**

Addl. CIT(A), Special Range-4 New Delhi	Vs.	Infres Methodex Pvt. Ltd. Block B-1, Plot No. D-7, Mohan Co-operative Industrial Estate, Mathura Road, New Delhi <b>PAN No:AABCI1964R</b>
<b>(Appellant)</b>		<b>(Respondent)</b>

Appellant by	Sh. Somil Agarwal, Adv & Sh. Deepesh Garg, Adv
Respondent by	Sh. Dayainder Singh Sidhu, CIT(DR)

Date of Hearing	11/12/2024
Date of Pronouncement	16/12/2024

**ORDER**

**PER YOGESH KUMAR U.S.:**

The present appeal is filed by the Revenue against the order of Ld. Commissioner of Income Tax (Appeals)-35, New Delhi [(‘Ld. CIT(A)’ for short)], dated 30/07/2018 for the Assessment Year 2015-16.

2. The Grounds of Appeal are as under: -

*“1. Whether on the facts and in circumstances of the case, the Ld. CIT(A) has erred in deleting the addition of Rs.20,42,39,863/- made by the Assessing Officer on account of disallowance of Provision for Post-Sales Customer Support and warranties, ignoring the settled principles of law that Warranty Provisions can be allowed only if they are proved to be computed on a scientific basis and their quantification is demonstrably robust, based on historical trends & experience.*

*1.a) Whether, the Ld. CIT(A) has erred in deleting the addition on account of disallowance of provision for Post-Sales Support and Warranties, ignoring the findings recorded by the AO that given the wide fluctuations in the amount of provisions made by the assessee from year to year, the quantification of provisions was neither scientifically robust nor reliable.*

*1.b) Whether the Ld CIT(A) has erred in deleting the addition made on account of disallowance Provision for Post-Sales Support and Warranties, not appreciating that the explanation furnished by the assessee during the appellate proceedings attributing the inconsistency in the quantum of Provision & Warranties to the varied tenure of the Warranties was completely ad hoc and unsubstantiated as neither any working nor any details in support of the explanation has been provided.*

*2. The appellate crave leave to add, amend, modify, vary, omit or substitute any of the aforesaid grounds of appeal at any time before or at the time of hearing of the appeal.”*

3. Brief facts of the case are that, the Assessee filed return of income declaring an income of Rs. 42,07,36,130/-. The case of the Assessee was selected for scrutiny and statutory notices have been issued and served on the Assessee. An assessment order came to be passed u/s 143(3) of the Act on 21/12/2017 by disallowing an amount of Rs. 20,42,39,863/- on the ground that the estimates made by the Assessee for making provisions are neither on a scientific basis nor reliable. The Assessee preferred an appeal before the Ld. CIT(A) challenging the assessment order dated 21/12/2017. The Ld. CIT(A) vide order dated 30/07/2018, allowed the Appeal of the Assessee by deleting the addition made by the A.O. Aggrieved by the order of the Ld. CIT(A) dated 30/07/2018, the Department of Revenue preferred the present Appeal on the grounds mentioned above.

4. The Ld. Departmental Representative vehemently submitted that the similar addition have been made by the A.O. for Assessment Year 2014-15 which has been deleted by the Ld. CIT(A) and the Department has challenged the order of the Ld. CIT(A) for Assessment Year 2014-15 before the Tribunal and the Tribunal in ITA No. 1126/Del/2018 vide order dated 30/09/2021, remanded the very same issued to the file of the Ld. CIT(A) for fresh adjudication, thus, sought for allowing the present Appeal and remanding the same to the file of Ld. CIT(A) by following the principles of consistency.

5. Per contra, the Ld. Assessee's Representative submitted that as against the order of the Tribunal in ITA No. 1126/Del/2018 dated 30/09/2021, the Assessee has preferred a Miscellaneous Application before the Tribunal, therefore, submitted that the present Appeal may be kept in abeyance. Further submitted that the Assessee is having very good case on merit which has not been considered by the Tribunal for the Assessment Year 2014-15.

6. We have heard both the parties and perused the material available on record. It is not in dispute that the similar issue has been considered by the Tribunal and remanded to the file of the Ld. CIT(A) for fresh consideration in Assessment Year 2014-15 on the ground that the estimates made by the Assessee for making provision are neither on a scientific basis nor reliable in following manners:-

*“5.0 We have heard rival submissions and have also perused the records. As far as the issue of disallowance of provision for warranty is concerned, it is seen that the Assessing Officer has made the addition after observing that the estimates made by the assessee for making the impugned provisions were neither on a scientific basis nor were reliable. The Assessing Officer, while making the disallowance, has placed reliance on the judgment of the Hon’ble Apex Court in Rotork Controls India Pvt. Ltd. reported in 314 ITR 62(SC) on the ground that the assessee company did not fulfill the following conditions:-*

- (i) An obligation to incur expenses should have been arisen;*
- (ii) The estimate should be on scientific basis; and*
- (iii) The estimate should be on reliable based on experience and historical trend.*

*5.1 It was the assessee’s submissions before the Lower Authorities that the provision created as a percentage of sales were different in Financial Years 2011-12, 2012-13 and 2013-14 for the reason that the warranty period ranged between one year to three years depending on the model of the machine and, therefore, the provision made for the machine whose warranty extended for 2 to 3 years is to be carried forward and is to be added to the provision of the current year and, therefore, because of this reason, the provision to sales ratio was not consistent and that it was not because of any change in the basis of principles on which the provision is made. It was also submitted before the Lower Authorities that the assessee company provided free replacement of parts against the manufacturing defects and also provided preventive maintenance checks for the equipment sold during the period ranging from 1 to 3 years and, accordingly, provision was made for the costs likely to be incurred during the warranty period on a consistent basis that is material cost being estimated at 1 to 3% of sale value for each year and labour cost at 75% of the standard labour cost. It was also the assessee submissions before the Lower Authorities that the provision is estimated on past trends and experience and is worked out every year. It was also submitted before the Lower Authorities that if the provision made in earlier year is more or less, difference in the amount is accounted through Profit & Loss Account and that this practice is being followed consistently by the company since the past many years. The assessee had also submitted an illustrative calculation sheet for the provision made along with purchase orders before the Lower Authorities in support of its working and claim.*

*5.2 Although, the Assessing Officer did not find the explanation and submissions of the assessee satisfactory, the Ld. CIT(A) accepted the assessee's submissions and working as being correct and allowed the claim of the assessee. However, a perusal of the order of the Ld. CIT(A) shows that he has accepted the submissions of the assessee without actually examining the weight of the submissions of the assessee. The Ld. CIT(A) has simply accepted the submissions provided by the assessee and after duly reproducing the submissions in the impugned order has noted that in view of the submissions made by the assessee and the case laws cited and in view of the facts and circumstances of the case, the impugned disallowance is deleted. However, while making the deletion, the Ld. CIT(A) has not given any reasoning as to why the submissions of the assessee were found to be satisfactory for the purpose of making provision of warranties. The Ld. CIT(A) has not adjudicated the issue before him by examining the various details and documents submitted by the assessee and has simply accepted the contentions of the assessee without returning a finding on fact. In such a situation, we deem it appropriate to restore this issue to the file of the Ld. CIT(A) for considering the issue afresh and, thereafter, adjudicate on the issue by passing a speaking order after giving proper opportunity to the assessee. Accordingly, the Department succeeds on ground No.1 and the same stands allowed for statistical purpose."*

7. Considering the fact that the similar issue has been remanded to the file of the Ld. CIT(A) for Assessment Year 2014-15 by the Tribunal, by following the principles of consistency, the issue involved in the present Appeal is also deserves to be remanded to the file of the Ld. CIT(A) for fresh consideration. Further, we find no merit in the contention of the Ld. Assessee's Representative that the Assessee has preferred a Miscellaneous Application against the order of the Tribunal in ITA No. 1126/Del/2018 which is pending before the Tribunal for adjudication for Assessment Year 2014-15, therefore, the present Appeal which is for Assessment Year 2015-16 may be kept

pending. Mere pendency of a Miscellaneous Application from past three years before the Tribunal against the order of the Tribunal for the for the earlier year i.e. Assessment Year 2014-15 cannot be ground for deferring the present Appeal. On the other hand, we are bound by the principles of consistency, thus by respectfully following the order of the Tribunal for Assessment Year 2014-15 dated 30/09/2021, we remand the issue involved in the present Appeal to the file of the Ld. CIT(A) for considering the issue afresh and pass speaking order after giving opportunity of being heard to the Assessee. Accordingly, the Appeal of the Revenue is partly allowed for statistical purpose.

Order pronounced in open Court on 16th December, 2024

Sd/-

**(SHAMIM YAHYA)**  
**ACCOUNTANT MEMBER**

Dated: 16/12/2024

*R.N, Sr. PS*

Sd/-

**(YOGESH KUMAR U.S.)**  
**JUDICIAL MEMBER**

Copy forwarded to:

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

ASSISTANT REGISTRAR  
ITAT, NEW DELHI

