

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'DB' NEW DELHI**

**BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

ITA No.5543/Del/2018
Assessment Year: 2013-14

DCIT, Circle-1, Haldwani	Vs.	M/s. Delta Power Solution (India) Pvt. Ltd., Plot No. 38, Phase-1, Sector-5, IIE, Pantnagar, Rudrapur, Distt. US Nagar, Udham Singh Nagar, Uttarakhand
PAN: AACCD5896N		
(Appellant)		(Respondent)

With

C.O. No. 38/Del/2019
[Arise out of ITA No.5543/Del/2018]
Assessment Year: 2013-14

Delta Power Solution (India) Pvt. Ltd., Plot No. 38, Phase-1, Sector- 5, IIE, Pantnagar, Rudrapur, Distt. US Nagar, Udham Singh Nagar, Uttarakhand	Vs.	DCIT, Circle-1, Haldwani
PAN: AACCD5896N		
(Appellant)		(Respondent)

With

ITA No.3/DDN/2024
Assessment Year: 2013-14

ACIT, Haldwani	Vs.	Delta Power Solution (India) Pvt. Ltd. (Now, Delta Electronics India Pvt. Ltd.) Plot No. 43, Sector-35, HSIIDC, Gurgaon
PAN: AACCD5896N		
(Appellant)		(Respondent)

Assessee by	Sh. Salil Kapoor, Adv. Sh. Anil Chachra, Adv. Sh. Utkarsa Gupta, Adv. Ms. Ananya Kapoor, Adv. Sh. Tarun Chanana, Adv. Sh. Shivam Yadav, Adv.
Department by	Sh. Amar Pal Singh, Sr. DR

Date of hearing	21.03.2025
Date of pronouncement	02.04.2025

ORDER

PER SATBEER SINGH GODARA, JM

The instant batch of three cases pertains to the single assessee herein, M/s. Delta Power Solutions India Pvt. Ltd. These Revenue's twin appeals ITA Nos.5543/Del/2018 and 3/DDN/2024 (duplicate file) with assessee's cross-objection in the former case C.O. No. 38/Del/2019, arise against the CIT(A), Haldwani's order dated 23.05.2018 passed in case no. 10216/CIT(A)/HLD/2016-17, involving proceedings under section 143(3)/92C(4) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act'), respectively.

2. Heard both the parties. Case files perused.

The Revenue's main appeal ITA No.5543/Del/2018 raises the following grounds:

1. *Whether the Ld. CIT(A) was justified in rejecting the comparable companies selected by the Ld. TPO on the basis of functional differences ignoring the findings of the Ld. TPO.*

2. *Whether the Ld. CIT(A) was justified in rejecting the comparable companies having relatively higher margins.*
3. *Whether the Ld. CIT(A) was justified in rejecting M/s Crompton Greaves Ltd. As a comparable on the basis of existence of an event of amalgamation which cannot be verified, ignoring the findings of this office.*
4. *Whether the Ld. CIT(A) was justified in directing to include M/s Nutech Engineers and Power Systems Ltd. as a comparable irrespective of the fact that the same company was considered to be non-comparable by both assessee and Ld. TPO during the TP proceedings.*
5. *Whether the Ld. CIT(A) was justified in giving contradictory directions by upheld a company as comparable and rejecting another as comparable on the basis of similar products, in spite of the facts that these companies have similar products.*
6. *That the order of the Ld. CIT(A), Haldwani is against the spirit of legislature and the order of the AO is liable to be restore.*
7. *That the appellant craves, leave to add, alter, clarify, amend or withdraw any grounds of appeal as and when the occasion demands.*

3. It is at this stage that the learned counsel representing assessee's status at the bar that there arises the first and foremost issue of inclusion of M/s. Crompton Greaves Ltd. as a comparable whilst determining the arm's length price "ALP" of the respondent/taxpayer's international transactions with its overseas associates enterprises involving manufacturing segment. We are taken to page 57, para 6.2.7 of the lower appellate discussion rejecting M/s. Crompton Greaves Ltd. from the array of valid comparables since having undergone an extraordinary event of amalgamation of a subsidiary, in its books of account in the

relevant previous year. We wish to make it clear that we afforded adequate opportunity to the department to rebut the CIT(A)'s foregoing clinching findings going to the root of the matter. There is no rebuttal thereto coming from the department side to this effect.

4. That being the case and in light of the assessee's foregoing limited prayer, we reject the Revenue's third substantive ground in its instant former appeal ITA No.5543/Del/2018 seeking to include M/s. Crompton Greaves Ltd. in the array of comparables whilst degerming ALP of the assessee's international transactions and leave it upon open for the learned Transfer Pricing Officer (TPO) to finalize his consequential computation in very terms, as per law. All other grounds raised at the Revenue's behest in its instant appeal are accepted for statistical purposes in very terms. Ordered accordingly. This Revenue's appeal ITA Nos. 5543/Del/2018 is partly allowed for statistical purposes.

5. The Revenue's latter appeal 3/DDN/2024 is dismissed as a "duplicate" file subject to all just exceptions.

Learned counsel representing assessee does not wish to press for C.O. No. 38/Del/2019 in above terms. Rejected accordingly.

No other ground or argument has been pressed at this stage.

7. To sum up, the Revenue's former appeal ITA No.5543/Del/2018 is partly allowed for statistical purposes and its latter appeal ITA No. 3/DDN/2024 is dismissed as a "duplicate" file and the assessee's cross objections C.O. No. 38/Del/2019 is dismissed as not pressed, in above terms. A copy of this common order be placed in the respective case files.

Order pronounced in the open court on 02.04.2025

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Sd/-
(SATBEER SINGH GODARA)
JUDICIAL MEMBER

Dated: 02.04.2025

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi