

आयकर अपीलीय अधिकरण, हैदराबाद पीठ में
**IN THE INCOME TAX APPELLATE TRIBUNAL
HYDERABAD BENCHES "B", HYDERABAD**

BEFORE

**SHRI VIJAY PAL RAO, HON'BLE VICE PRESIDENT
AND
SHRI MADHUSUDAN SAWDIA, HON'BLE ACCOUNTANT
MEMBER**

ITA-TP-No.76/Hyd/2022		
Assessment Year: 2017-18		
Hammond Power Solutions Private Limited, Hyderabad. PAN : AABCP2097C.	Vs.	Deputy Commissioner of Income Tax, Circle-2(1), Hyderabad.
(Appellant)		(Respondent)
Assessee by:	Shri P.V.S.S. Prasad, C.A.	
Revenue by:	Ms. M. Narmada, CIT-DR	
Date of hearing:	05/02/2025	
Date of pronouncement:	09/04/2025	

ORDER

PER MADHUSUDAN SAWDIA, A.M.:

This appeal is filed by Hammond Power Solutions Private Limited ("the assessee"), feeling aggrieved with the final assessment order of Learned Assessing Officer, Hyderabad ("Ld. AO") passed under Section 143(3) r.w.s. 144C(13) r.w.s. 144B of the Income Tax Act, 1961 ("the Act"), as per the direction of

Learned Dispute Resolution Panel ("Ld. DRP") dated 24.01.2022 for the A.Y. 2017-18.

2. The assessee has raised the following grounds of appeal :

"1. The Learned (Ld) Assessing Officer (AO)/Ld Dispute Resolution Panel (DRP) are erroneous in law and on the facts of the case.

2. The Ld. DRP/AO is not justified in making an adjustment u/s 92CA of Rs. 1,32,90,250/-

3. The Ld. DRP/Ld. AO erred in disregarding the transfer pricing study report and the information, documents and the clarifications provided by the Assessee to evidence the arm's length nature of technical and stewardship services i.e., management services (intra group services) and thereby erred in determining the ALP for the following international transactions as Nil:

- Technical Services Rs. 25,12,410*
- Stewardship services Rs. 1,07,77,840*

4. The Approach adopted by the Ld. DRP/AO of using other method as Most Appropriate method is not justified, since reimbursement of legitimately incurred cost by AE in rendering services had been disallowed treating it as Nil.

5. The Ld. DRP/AO erred in considering the ALP of stewardship services i.e., management services (intra group services) and technical services as Nil by questioning the commercial expediency of the transaction and ignoring the fact that, what is paid to AE in cost-to-cost reimbursement without any mark up.

6. Any other ground that may be urged at the time of hearing with the prior approval of the Hon'ble Tribunal."

3. The brief facts of the case are that the assessee is a company engaged in the business of manufacturing and sale of electrical distribution and power transformers, including

maintenance and installation services. Assessee filed its return of income for A.Y. 2017-18 on 30.11.2017 declaring a total income of Rs.97,15,600/-. In view of the international transactions involved during the year under consideration, for determination of Arms Length Price ("ALP"), the case was referred to Learned Transfer Pricing Officer ("Ld. TPO"). The Ld. TPO vide his order dt.30.01.2021 suggested upward adjustment of Rs.25,12,410/- on account of Technical Services and Rs.1,07,77,840/- on account of Stewardship Services. Accordingly, the Ld. AO passed draft assessment order on 30.03.2021. Aggrieved with the draft assessment order passed by the Ld. AO, the assessee preferred objections before the Ld. DRP. In pursuance to the directions of Ld. DRP dated 28.12.2021, the Ld. AO finalized the assessment on 24.01.2022 by making total addition of Rs.1,32,90,250/- on account of upward adjustment of ALP.

4. Aggrieved with the final assessment order of Ld. AO, the assessee is in appeal before us.

5. Before us, the Learned Authorized Representative ("Ld. AR") submitted that the solitary issue in the grounds of appeal is

on account of adjustment made by the Ld. AO/TPO for Rs.25,12,410/- on account of Technical Services and Rs.1,07,77,840/- on account of Stewardship Services contending that no evidence was furnished for by the assessee regarding actual rendering of services or economic benefit derived. Accordingly, the Ld. AO/TPO determined the ALP of both the services as Rs. Nil. The ld.AR invited our attention to the Service Agreement placed at Pg.No.426 and 427 of the Paper Book and submitted that both the services were rendered under a valid inter-company Service Agreement dt.13.04.2012 between the assessee and it's Associated Enterprise ("A.E."). The ld.AR further invited our attention to e-mail correspondence dt.27.07.2021, 28.07.2021 and 20.03.2017 placed at Pg Nos.690 and 699 of the Paper Book. It was argued that the e-mails show the co-ordination and services delivered by A.E. to the assessee. In support of their submission, the ld.AR also invited our attention to ledger account of Technical Services placed at page No.445, ledger account of Stewardship Services placed at page No.446 and details of employees visited to India placed at page No.644 of the Paper Book and submitted that, there were actual rendering of services from A.E. to the assessee. The persons

visited India demonstrate that, the services have been rendered to the assessee. The ld.AR also invited out attention to Pg Nos.692, 701, 706, 707, 710, 711, 712, 715, 716, 719, 723, 728, 731, 733, 735, 743 and 746, containing copies of power point presentation in view of provision of services and submitted that the documents also demonstrate that the actual services have been rendered to the assessee. The ld.AR further argued that the Ld. AO/TPO should not question the commercial expediency of intra group arrangement where services were received, and payments were made accordingly. In support of their submission, the ld.AR relied on the following decisions :

- 1) AVO Carbon India (P.) Ltd. v. Assistant Commissioner of Income-tax, Circle -10(1) 135 taxmann.com 328 (Chennai - Trib.)
- 2) Renishaw Metrology Systems Ltd. v. DCIT 139 taxmann.com 287 (Pune-Trib.)
- 3) Aurobindo Pharma Ltd. v. Deputy Commissioner of Income-tax. 143 taxmann.com 143 (Hyderabad-Trib.)
- 4) Henkel Chembond Surface Technologies Ltd. v. Assistant Commissioner of Income-tax, Circle-7(1)(2), Mumbai. 125 taxmann.com 65 (Mumbai - Trib.)
- 5) GBT India (P.) Ltd. v. Assistant Commissioner of Income-tax. 117 taxmann.com 357 (Delhi - Trib.)
- 6) PPG Coatings India (P.) Ltd. v. Deputy Commissioner of Income-tax. 139 taxmann.com 165 (Mumbai - Trib.)
- 7) Metalsa India (P.) Ltd. v. Deputy Commissioner of Income-tax. 134 taxmann.com 160 (Delhi-Trib.)
- 8) CIT V. EKL Appliances Ltd 24 taxmann.com 199 (Delhi - HC.)

Finally, the ld.AR submitted before the Bench to delete the addition made by the Ld. AO /TPO.

6. Per contra, relying on the order of Ld. AO /TPO, the Ld.DR invited our attention to the Service Agreement placed at page No.426 and details of persons visited India placed at page No.644 of the Paper Book and argued that there is no co-relation between the services listed in the Service Agreement and the actual designation and role of the persons visited India. All the personnel, who had visited India were of supervisory or managerial rank. No engineers or technical personnel responsible for actual delivery of services never visited India. Further, inviting our attention to emails dt.27.07.2021, 28.07.2021 placed at page No.699 and 690, respectively, of the Paper book, Ld.DR submitted that these mails pertain to a request for upgradation of work for F.Y. 2016-17, which is after a lapse of 4 years and hence, not contemporaneous.

7. The Ld.DR further submitted that the only relevant email for F.Y. 2016-17 dt.20.03.2017 placed at page No.699 of Paper Book, does not contain any concrete reference to rendering of services. Further, the visit of persons to India are for very short duration that ranges from 4 to 14 days, suggests oversight by

the holding company and not actual service delivery. The Ld.DR also pointed out that no cost allocation working, benefit analysis or evidence of services output was filed, only filing of copy of power point presentation and vague summary do not constitute proof of services.

8. We have heard the rival contentions and also gone through the record in light of submissions made by either side. The primary issue in dispute is the adjustment made by the Ld.AO / TPO on account of Technical Services and Stewardship Services, wherein the Ld.AO / TPO has determined the ALP for these services as Nil, citing lack of sufficient evidence regarding actual service rendered or economic benefit derived by the assessee. At the outset, we have examined the relevant portion of the Service Agreement placed at Page No.426 of the paper book, which is to the following effect :

“HPS will provide PETE with general management, engineering corporate accounting, materials support and any other relevant service as requested by PETE.”

9. On perusal of the above clause, we find that the agreement merely provides a broad framework for services

without outlining specific deliverables, cost allocation methodology, performance benchmarks, or validation mechanisms to assess the actual services rendered. The absence of these critical aspects raises concerns regarding the assessee's ability to substantiate the rendering of services. The assessee has sought to substantiate the receipt of services by relying on email correspondences dated 27.07.2021, 28.07.2021 and 20.03.2017 (Page Nos. 690 and 699 of the Paper Book). However, as rightly pointed out by the Ld. DR, the first two emails pertain to follow up made after a lapse of four years from the relevant financial year and, therefore, cannot be considered contemporaneous evidence of service delivery. The only email within the relevant financial year, dated 20.03.2017, is general in nature and does not provide any substantial reference to specific services rendered or their economic benefit to the assessee.

10. We have also examined the details of personnel, who visited in India, placed at page No.644 of the paper book which is to the following effect :

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Hammond Power Solutions Private Limited
Assessment Year 2017-18

Enclosure C

644

Details of employees who have travelled to Hammond India for rendering stewardship and technical services

Sl. No.	Name of the Employee	Date of travel	Duration of stay	Department / Role	Purpose of travel
Q2 - April - June 2016					
1	Jacqueline Flood	10-May-16		4 Finance controller - International	Business Review
		7-Jun-16		4 Finance controller - International	Business Review
2	John Bolton	17-Apr-16		8 Production Director	Technical & General Management Services
		29-May-16		14 Production Director	Technical & General Management Services
Q3 - July - Sep 2016					
1	Bob Thompson	25-Aug-16		5 Marketing Director	Business Development
2	John Bolton	02-Jul-16		11 Production Director	Technical & General Management Services
3	Jacqueline Flood	27-Aug-16		4 Finance controller - International	Business Review
Q4 - Oct - Dec 2016					
1	John Boltón	02-Oct-16		5 Production Director	Technical & General Management Services
		04-Dec-16		6 Production Director	Technical & General Management Services
2	Jacqueline Flood	02-Dec-16		7 Finance controller - International	Business Review
Q1 - Jan - Mar 2017					
1	John Bolton	03-Feb-17		6 Production Director	Technical & General Management Services
		12-Mar-17		8 Production Director	Technical & General Management Services
2	Jacqueline Flood	03-Feb-17		2 Finance controller - International	Business Review
		17-Mar-17		4 Finance controller - International	Business Review
3	Matt Holmes	19-Mar-17		13 System Administrator	IT support and technical related issues
4	Paul Gaynor	24-Mar-17		13 Information Technology Director	IT support and technical related issues



11. On perusal of the above, we found that the persons visited India are Finance Controller - International, Production Director, Marketing Director, System Administrator and Information Technology Director. These individuals primarily hold managerial and supervisory roles, with no engineers, technical staff, or project specific professionals identified as having visited India. Further, the duration of the visit was also very short and no documentation of meetings, training or derivable were also filed before us. With regards to the short duration of visit persons to India, the ld.AR also submitted that, the rendering of services was done through out the year, however, the visit of persons were on important occasion only. The assessee, however, can not substantiate with adequate evidence, how the services was rendered throughout the year from the foreign A.E. to the assessee in India. We have also gone through Page Nos.692, 701, 706, 707, 710, 711, 712, 715, 716, 719, 723, 728, 731, 733, 735, 743 and 746 of paper book and found that most of the documents are power point slides and meeting notes without substantiating evidence qua actual rendering of services.

12. The assessee has relied on various judicial precedents, including **AVO Carbon India (P.) Ltd. Vs. ACIT, Renishaw Metrology Systems Ltd. Vs. DCIT, Aurobindo Pharma Ltd. Vs. DCIT**, among others, to support its contention that intra-group services should not be questioned on the ground of commercial expediency and that reimbursement of costs should not be treated as Nil. While we acknowledge the legal principles laid down in these judgments, it is well settled that the onus lies on the assessee to demonstrate with substantive evidence that the services were actually rendered. In the present case, the assessee has not been able to discharge this burden satisfactorily. On the other hand, the Ld. DR has correctly pointed out that the absence of cost allocation workings, performance reports, meeting records, or documented deliverables weakens the assessee's case. While intra-group services cannot be outrightly disregarded, a mere contractual arrangement without any significant supporting evidences is insufficient to establish the rendering of services. The failure to provide contemporaneous and verifiable evidence justifies the approach adopted by the Ld. AO/TPO in determining the ALP of these services as Nil.

13. In view of the above discussion, we find no infirmity in the adjustment made by the Ld. AO/TPO. The appeal of the assessee is devoid of merit and is accordingly dismissed.

14. In the result, the appeal of the assessee is dismissed.

9th अप्रैल, 2025 को खुली अदालत में सुनाया गया आदेश।

Order pronounced in the Open Court on 9th April, 2025.

Sd/- (VIJAY PAL RAO) VICE PRESIDENT	Sd/- (MADHUSUDAN SAWDIA) ACCOUNTANT MEMBER
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Hyderabad, dated 09.04.2025.

****#TYNM/sps**

आदेशकी प्रतिलिपि अग्रेषित/ Copy of the order forwarded to:-

1.	निर्धारिती/The Assessee	:	Hammod Power Solutions Private Limited, Hyderabad. C/o.Prasad and Prasad, Chartered Accountants, Flat No.301, M.J. Towers, H.No.8-2-698, Road No.12, Banjara Hills, Hyderabad.
2.	राजस्व/ The Revenue	:	The Deputy Commissioner of Income Tax, Circle 2(1), Hyderabad.
3.	The Principal Commissioner of Income Tax (Central), Hyderabad.		
4.	Dispute Resolution Panel (DRP), Bangalore		
5.	Director of Income Tax (IT & TP), Hyderabad.		
6.	विभागीयप्रतिनिधि, आयकर अपीलीय अधिकरण, हैदराबाद / DR, ITAT, Hyderabad		
7.	गार्डफ़ाईल / Guard file		

आदेशानुसार / BY ORDER

Sr. Private Secretary
ITAT, Hyderabad