

आयकर अपीलिय अधिकरण, 'डी' न्यायपीठ, चेन्नई
**IN THE INCOME TAX APPELLATE TRIBUNAL
'D' BENCH, CHENNAI**
श्री जॉर्ज जॉर्ज के, उपाध्यक्ष एवं श्री एस.आर.रघुनाथा, लेखा सदस्य के समक्ष
**BEFORE SHRI GEORGE GEORGE K, VICE PRESIDENT AND
SHRI S. R. RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA Nos.: 2754, 2755, 2756 & 2757/Cnny/2024
निर्धारण वर्ष / Assessment Year: 2015-16, 2016-17, 2017-18, 2018-19,
&

SA 22/Chny/2025
[In ITA 2757/Chny/2024]
निर्धारण वर्ष / Assessment Year: 2018-19

Schneider Electric Systems India Private Limited, SP PLOT, 16-20 & 20A, Tamarai Tech Park, Inner Ring Road, Thiru Vi Ka Industrial Estate, Guindy, Chennai – 600 032.	vs.	ACIT Corporate Circle 3(1) Chennai.
[PAN: AABCS-8027-M] (अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)

आयकर अपील सं./ITA Nos.: 2958 and 2959/Chny/2024
निर्धारण वर्ष / Assessment Year: 2015-16, 2016-17

ACIT Corporate Circle 3(1) Chennai.	vs.	Schneider Electric Systems India Private Limited, SP PLOT, 16-20 & 20A, Tamarai Tech Park, Inner Ring Road, Thiru Vi Ka Industrial Estate, Guindy, Chennai – 600 032.
(अपीलार्थी/Appellant)		[PAN: AABCS-8027-M] (प्रत्यर्थी/Respondent)

निर्धारिती की ओर से/Assessee by : Shri. Rohit Tiwari, Advocate &
Ms. Tanya, Advocate (Virtual)
राजस्व की ओर से /Revenue by : Shri. ARV Sreenivasan, CIT.

सुनवाई की तारीख/Date of Hearing : 09.07.2025
घोषणा की तारीख/Date of Pronouncement : 11.09.2025

आदेश / O R D E R

PER BENCH

These appeals filed by the assessee and the revenue are directed against the appellate orders dated 03.09.2024; 04.09.2024; 03.09.2024; and 30.07.2021 passed by the Learned Commissioner of Income-tax (Appeals), u/s.250 of the Income Tax Act, 1961 (hereinafter the 'Act') for the assessment years 2015-16, 2106-17, 2017-18 & 2018-19 respectively.

2. The brief facts of the case are that the assessee M/s.Schneider Electric Systems India Limited ("the assessee") was incorporated on 1996, as Invensys India Private Limited as a 100% subsidiary of Invensys Plc., UK. In July 2013, the French Group Schneider Electric announced its takeover of the Invensys Group globally. The takeover was completed in January 2014. Pursuant to the same, in February 2016, the name of the Assessee was changed from 'Invensys India Private Limited' to 'Schneider Electric Systems Private Limited'. The assessee is primarily engaged in the business of execution of contracts for the manufacture and supply of Distribution Control Systems (DCS), Emergency Shutdown Systems (ESS) & related equipments (including temperature control and process control equipment). Further, it is also engaged in assembly and sale of panels for DCS. The division under which these activities are undertaken is commonly nomenclated as Invensys Process Systems (IPS) division and operates out of Chennai and Mumbai. In the IPS segment, the assessee also provides Engineering Estimation Services to its AE as a captive unit. The assessee filed its return of income ('ROI') for the above Assessment Years ('AY'), which was processed u/s.143(1) of the Act and was selected for scrutiny assessment.

3. During the scrutiny assessment proceedings, the Transfer Pricing Officer ('TPO') and the Assessing Officer ('AO') made certain adjustments / disallowances to the assessee's income. Against the draft assessment order of the AO, the assessee requested for issuance of final assessment order to enable it to file an appeal before Id.CIT(A). Accordingly, the AO passed final assessment order for the above AY's. The Id.CIT(A) vide its order dated 03.09.2024 decided the appeal by providing partial relief and upheld the certain adjustments and disallowances proposed by the AO/TPO.

4. Below is the summary of the adjustments made during the A.Ys. 2015-16; 2016-17; 2017-18 and 2018-19:

Assessee's Appeal

Name of adjustment	AY 2015-16	AY 2016-17	AY 2017-18	AY 2018-19
Downward adjustment towards Support Services	Rs.1,70,95,208	Rs.5,60,54,518	Rs.10,50,86,994	Rs.16,96,29,706
Disallowance of provision for contract losses	Rs.34,95,868	Rs.6,38,76,884	NA	NA

Department's Appeal

Name of adjustment	AY 2015-16	AY 2016-17
Downward adjustment to IPS segment - Inclusion of Aditya Industech & Coronet Engineers	Rs.4,14,56,758	NA
Adjustment towards slump sale	Rs.13,05,71,185	NA
Upward adjustment towards mark-up on recovery of expenses	Rs. 49,30,595	Rs.38,01,766
Reversal of Provision for contract losses	Rs.50,85,99,256	Rs.54,26,08,938

The issues in the appeals are covered individually in the ensuing sections.

Assessee's Appeal

Transfer Pricing (TP) - Downward adjustment towards Support Services

AY 2015-16 - ITA 2754/CHNY/2024: Ground 2

AY 2016-17 - ITA 2755/CHNY/2024: Ground 2

AY 2017-18 - ITA 2756/CHNY/2024: Ground 2

AY 2018-19 - ITA 2757/CHNY/2024: Ground 2

5. The Assessee has reimbursed its AE on cost to cost basis in relation to Support Services received from its AE during all above referred AY's. However, the TPO during the course of assessment, has called upon the Assessee to furnish evidence to substantiate the receipt of support services. The Assessee seem to have not furnished the required evidence and therefore the TPO has disregarded TNMM and adopt hypothetical CUP under "Other method" and held that ALP of Support Services as "nil". Before the Ld.CIT(A) also the Assessee did not seem to have furnished evidence and hence the adjustment came to be sustained/upheld by the Id.CIT(A).

6. Before us the Ld. AR of the Assessee has filed additional evidence to substantiate the receipt of Support services and contended that "other method" with hypothetical CUP cannot be considered as most appropriate method to benchmark the transaction. The Ld. AR relied on multiple decisions to support his contention that for benchmarking Support Services which if established that it is closely connected with core business operations the same should be aggregated with other international transactions and benchmarked under TNMM.

7. The Id. DR opposed request of the assessee for consideration of the additional evidence. However, he submitted that in case it is allowed the matter should be set aside to the file of the TPO / AO with this specific direction that while entertaining these additional evidence on the issue of transfer pricing adjustment.

8. The Tribunal accedes to assessee's plea for accepting these additional evidence and remanding the matter to the authorities below for fresh adjudication. We find that in the present case the assessee has also collated additional evidence to corroborate the benefit received in adherence to the principles and contentions made before the authorities below. We thus in the interest of justice set aside the matter to the file of the AO to first ascertain the benefit derived by the assessee by verifying the additional evidence. Further, as the Id.CIT(A) has already confirmed that the TPO has accepted TNMM adopted by Assessee, we direct the TPO to verify the additional evidence submitted before us by the Assessee in support of the service fees paid to AE at Singapore and France and this decide the claim in accordance with law by adopting TNMM. It is needless to mention over here that while deciding the issue afresh the AO will afford opportunity of being heard to the assessee.

Accordingly, this ground of appeal is allowed for statistical purposes.

Corporate tax - Disallowance of provision for contract losses:

AY 2015-16 - ITA 2754/CHNY/2024: Ground 3

AY 2016-17 - ITA 2755/CHNY/2024: Ground 3

9. The Assessee has claimed deduction for provision for contract losses. The AO has disallowed the provision for want of details. The Id.CIT(A) has upheld the disallowance by following the Tribunal decision in Assessee's own case in A.Y.2014-15 in ITA.No.48/Chny/2021 dated 17.06.2022. We find that the Tribunal has already decided the issue and relevant findings are as under:

"4. Ground No.8 [8.1 to 8.4]: Disallowance of provision for contract losses amounting to Rs.102,70,19,053/-. The Assessee made a project J3 and in anticipation of losses in finances, created a provision for such losses to the extent of Rs.102.7 crore. The learned Assessing Officer after examining held that it is an ad-hoc provision and not an ascertainable liability. Accordingly, the Assessing officer relied on the order of M/s. EDAC Engineering Limited Vs. DCIT reported in 141 ITD 231 wherein it is held that it is a cardinal principle that only the expenses incurred or losses suffered could be allowed and future loss / cost could not be allowed. The Assessee before the learned DRP has not provided any details of the

losses for ascertaining the same and accordingly the provision of loss was rejected. On the other hand, the Assessee argued that the Assessee's income is under the head of 'business' and Section 145 of the Act will be applicable and that the Assessee company is following the "AS-7" accounting standards, anticipating of the losses the provision was made.

4.1 We considered the documents available on records. The provision of future losses is not at all accepted and the provision which had been created by the Assessee is liable to be rejected. Accordingly, this Ground of the Assessee is dismissed."

In the present facts and circumstances of the case, by respectfully following the above order, we uphold the disallowance of provision for contract losses. Accordingly, this ground of appeal is dismissed.

Departmental Appeals

Transfer Pricing – Adjustment to margin in IPS division

ITA No.2958/Chny/2024 – Ground No.2

10. The Assessee is engaged in the business of execution of contracts for manufacturer, supply and erection of distributed control systems, emergency shutdown systems and related equipment for the subject assessment year. The Assessee has benchmarked the international transaction with its AE by adopting Transaction Net Margin Method and adopting a PLI of OP/Sales. The Assessee has considered 5 comparable companies with average margin of 4.05% and working capital adjusted margins of -0.22% vis a vis Assessee's margin of 6.45%. The TPO tweaked the margin of the Assessee and has brought it down to 4.37% as against 6.45% reported in the TP documentation. Further, the TPO rejected search conducted by the Assessee and undertook a fresh search and finally identified 7 comparable companies with margin in the range of 5.26% to 7.72%. Since the revised margin of the Assessee was not within the range, TP adjustment of Rs.4,14,56,758/- was proposed. Before the Id.CIT(A), the Assessee pleaded for inclusion of two comparable viz., Aditya Industech Pvt. Ltd. and Coronet Engineers Pvt. Ltd. and exclusion of Kaycee Industries Limited, Tricolite Industries Pvt. Ltd. and Shri Ram Switchgear Ltd. The Id.CIT(A) partly allowed this ground of appeal by directing the TPO to exclude Tricolite Industries Pvt. Ltd. and include Aditya Industech Pvt. Ltd. and

Coronet Engineers Pvt. Ltd. Presently, the Department has raised grounds of appeal objecting to inclusion of two comparable Aditya Industech Pvt. Ltd. and Coronet Engineers Pvt. Ltd.

11. The Ld. DR contended that these comparable companies did not appear in the search undertaken by the TPO and therefore they were not included in the final list of comparable. Further, the Ld. DR contended that the financial data of these two comparable companies were not available in the public domain and that is the main reason for not selecting these comparable companies and accordingly, the Ld. DR pleaded that these two comparable companies should be rejected.

12. The Ld.AR contended that comparable viz., Aditya Industech Pvt. Ltd. and Coronet Engineers Pvt. Ltd. were selected in the TP documentation. However, these comparable companies did not appear in TPO's fresh search. Before the Id.CIT(A), the Assessee pleaded for inclusion and exclusion of comparable companies. The Id.CIT(A) after consideration of submissions of the assessee has directed the TPO to include Aditya Industech Pvt. Ltd. and Coronet Engineers Pvt. Ltd. in the final list of comparable companies. Before us the Ld.AR contended that 'functionally comparable' as both these companies are engaged in the provision of industrial machine & process automation solutions.

13. We have perused the relevant documents and material on record and find that the financial of these two comparable companies are available and furnished by the Assessee. Further, we find that these comparable companies are functionally similar to the business carried on by the Assessee and therefore we uphold the order of the Id.CIT(A) in this regard.

Accordingly, we dismiss this ground of appeal No.2 raised by the Revenue.

ITA No.2958/Chny/2024**Transfer Pricing – Slump sale – Ground No.3**

14. The Assessee had acquired Appliance Control Division ('ACD') from Voltas Limited in 1998. The ACD segment is engaged in the manufacture of components for use in refrigeration and air conditioning units by various OEMs. As part of the global acquisition of the ACD division, Invensys PLC entered into a Stock and Asset Purchase Agreement ('SAPA') with FOX Holdings S.A.R.L ('Fox Group') for transfer of certain assets and liabilities corresponding to ACD unit. Pursuant to the SAPA, during the year under consideration, the Assessee entered into a Business Sale Agreement ('BSA') with Fox Appliance Manufacturers Private Limited ('Fox India') for the sale of ACD unit of SESIPL for a consideration of Rs.22.30 crores.

15. The Ld. AR submitted that though the sale was part of a global acquisition, the pricing and terms of the sale in India was determined independently, with due consideration to the fair value of assets, ascertained using the Discounted Cash Flow ('DCF') value.

16. The TPO made an adjustment to the transaction of sale of ACD segment by itemizing assets for determination of arm's length price. Further, the TPO seem to have disregarded the DCF method and the certified valuation report furnished by Assessee. The TPO has accepted the book value of all assets except land and building. The TPO considered the guideline value as the benchmark for land and building alone and proposed an adjustment to the extent of the difference between such value and the book value, at Rs.13.05 crores.

17. The Id.CIT(A) has allowed this ground of appeal on the reasoning that there cannot be any itemization of assets in case of slump sale. Further, it has been held that the characterization of the transaction has been verified and accepted by the AO, and the assessee has duly complied with the other

provisions / requirements as per Section 50B. Thus, Id.CIT(A) held that the arm's length price determination has to be undertaken for the business as a whole and cannot be itemized. The Id.CIT(A) has also held that TPO does not have jurisdiction to invoke Section 50C of the Act and ultimately held that the division was sold as a going concern and since the sale value is higher than the value determined under DCF and NAV method, the TPO cannot make any adjustment.

18. The Ld. DR contended that since the division was incurring continuous losses, the valuation as per DCF method should not be accepted. Further, the Ld.DR also contended that the transaction has been declared as a deemed international transaction because the present transaction was a fall out global arrangement and therefore the TPO's redetermination of value cannot be faulted.

19. The Ld.AR for the Assessee contended that the TPO cannot be allowed to apply Section 50C of the Act in respect of land and building. Further, the Assessee has adopted one of the accepted methods of valuation i.e. DCF method and the TPO did not point out any specific mistake in the methodology adopted instead the TPO has attempted to replace the value of land and building with that guideline value, which is impermissible.

20. We have heard the rival contentions and material on record. Ergo, we are of the view that the TPO shall only compute the arm's length price of the transaction in accordance with the provisions of Section 92C of the Act, read with Rule 10B and Rule 10C of the Rules and the jurisdiction of the TPO is restricted to the powers conferred under Section 92CA of the Act. Accordingly, the jurisdiction of the TPO shall be limited to computing the arm's length price in accordance with the provisions of Section 92C(3) and cannot be extended to the other sections of the Act.

21. The Ld. AR placed reliance in the case of M/s.Topcon Singapore Positioning (P.) Ltd in ITA No. 2&5030/Del/2017, wherein it was held as follows

"Para 6. In our considered view, as the scheme of Section 92CA is, all that is required to be done by the Transfer Pricing Officer is to determine the arm's length price, which essentially refers to the consideration for which, on a conceptual note, a set of independent enterprise should have entered into similar of transaction as the international transaction, of the international transaction referred to him or of such other international transaction as may come to his notice during the course of proceedings before him.

.... The role of the TPO must remain confined within these parameters. It is not open to the TPO to go beyond this role of determining the ALP and intrude in the exclusive domain of the Assessing Officer to determine the income taxable in the hands of the Assessee."

22. The TPO thus failed to follow the principles laid under and exceeded the jurisdiction in following the methodology u/s.50C of the Act.

Further, the transaction, being in the nature of slump sale has not been challenged by the TPO during the course of assessment.

As per the section 2(42C),

"Slump sale" means the transfer of one or more undertakings as a result of the sale for a lump sum consideration without values being assigned to the individual assets and liabilities in such sales.

Further, as per the Explanation 2 to the section,

Explanation 2.—For the removal of doubts, it is hereby declared that the determination of the value of an asset or liability for the sole purpose of payment of stamp duty, registration fees or other similar taxes or fees shall not be regarded as assignment of values to individual assets or liabilities;

23. The Section does not permit identification / value attribution to individual assets in case of a slump sale. Further, even where a valuation has been made for stamp duty and registration charges, the same shall not be regarded as assignment of values to individual assets.

24. Accordingly, we hold that the TPO's approach to identify the ALP for the freehold land is in contravention to the provisions of the Act. Accordingly, we hold that valuation as per DCF method has to be accepted and as such the report of the Accountant in Form 3CEA, certifying the fair value, under the provisions of section 50B of the Act ought to be accepted to be at arms length.

25. Accordingly, we uphold the order of the Ld.CIT(A) and dismiss the Revenue's ground No.2 of the appeal.

ITA No.2958/Chny/2024 – Ground No.4

ITA No.2959/Chny/2024 – Ground No.3

Transfer Pricing – Attribution of Mark-up on recovery of expenses

26. The Assessee incurred certain expenditure in the nature of travel and administration related expenses on behalf of its AE and the same were reimbursed by the AE. The TPO was of the view that since the value of the reimbursement is very high the same is in the nature of services and therefore the Assessee should have recovered a markup in respect of the cost which was reimbursed. Accordingly, the TPO has undertaken a search for comparable companies providing travel solutions and identified 3 comparable companies with an average margin of 3.24 % for A.Y.2015-16 and an average margin of 2.11% for A.Y.2016-17. Before the Id.CIT(A), the Assessee submitted that these are pure cost to cost reimbursements and there is no service element involved and it is only a facilitation which has been done by the Assessee for its AE and therefore it does not entail or require a separate mark-up on top of the cost of pure reimbursement received. The Id.CIT(A) has accepted the contention of the Assessee and has held that these expenses are incidental expenses for which mark-up cannot be charged. Further the Id.CIT(A) has also held that assessee is not a travel company and therefore attribution of mark-up by considering certain travel companies is unwarranted. Accordingly, the adjustment was deleted by the Id.CIT(A).

27. The Ld.DR contended that the magnitude of the expenses is very high and it is higher than the combined payments towards technical fees and support services and therefore the Ld.DR stressed on the point that these expenses rather the facilitation has resulted in an active service for which a mark-up should have been earned by the Assessee and therefore the TPO has rightly attributed the mark-up and prayed for restoration of the mark-up attributed by the TPO.

28. The Ld.AR contended that these are not active service which was performed by the Assessee to its AE. The Ld. AR also contended that these are mere cost to cost reimbursements and incidental expenses incurred by the Assessee on behalf of the AE and there is no service element involved to the AE and therefore the Assessee cannot be expected to receive a mark-up on these reimbursements.

29. We have heard the rival contentions perused the material available on record and gone through the orders of the authorities. We find that the Assessee is into the business of manufacturing and they are not in the business of travel agency and therefore mere facilitation and payment on behalf of the AE for travel and other administration purposes cannot be considered as a service provided by the Assessee to its AE. Further, it is an undisputed fact that the AE is reimbursing on cost to cost basis as there is no service element involved.

30. Therefore, we uphold the order of the Id.CIT(A) and hold that the reimbursement of cost to cost expenses received by the Assessee does not require a separate mark-up and therefore the order of the Id.CIT(A) on this count is sustained and the ground no.3 of the department appeal is accordingly dismissed in both the above referred appeals.

ITA No.2958/Chny/2024 – Ground No.5
ITA No.2959/Chny/2024 – Ground No.2
Corporate tax – reversal of provision

31. The AO disallowed the provision for contract losses. Therefore, during the course of assessment, the assessee has made an alternate claim that the reversal of provision should be allowed as a deduction. The AO did not entertain the claim as it was not made in the return of income. The Id.CIT(A) has adjudicated the issue and held that since the provision for contract losses are disallowed the corresponding reversal of provision should be allowed as a deduction.

32. The Ld.DR contended that since the issue was not raised in the return of income, the deduction ought not to be allowed.

33. We have heard the rival submissions and perused the material on record. We have also herein sustained the disallowance of provision for contract losses by following the earlier order of this Tribunal in Assessee's own case. Since the provision of contract losses is disallowed, we agree in principle that the reversal of the said provision should be allowed as a deduction. However, since the claim was not made in the return of income, the AO did not have the opportunity to verify the same. Accordingly, we hereby direct the AO to verify whether the provision for contract losses was disallowed in the year of creation and also ascertain whether the reversal is in relation to aforesaid provision created in the past and if the answer is in affirmative, the AO should allow the deduction of reversal of provision during the subject A.Y. Accordingly, this ground of appeal is partly allowed.

SA. No.22/Chny/2025 for the A.Y. 2018-19:

34. The Assessee had also filed a Stay Application Petition bearing No.22/Chny/2025 for the Assessment Years 2018-19. As the appeal in IT(TP)A.No.2757/Chny/2024 is adjudicated and disposed of vide this common order, the Stay Application bearing No.22/Chny/2025 is disposed of and is rejected accordingly.

35. In the result all the four appeals of the Assessee and both the appeals of the revenue are partly allowed.

Order pronounced in the court on 11th September, 2025 at Chennai.

Sd/-

(जॉर्ज जॉर्ज के)

(GEORGE GEORGE K)
उपाध्यक्ष /VICE PRESIDENT

Sd/-

(एस. आर. रघुनाथा)

(S. R. RAGHUNATHA)
लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,

दिनांक/Dated, the 11th September, 2025

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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