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

माननीय श्री मनु कुमार गिरि, न्यायिक सदस्य एवं
माननीय एस. आर. रघुनाथा, लेखासदस्य के समक्ष
BEFORE HON'BLE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND
SHRI HON'BLE S.R. RAGHUNATHA, ACCOUNTANT MEMBER

आयकर अपील सं./ ITA No.393/Chny/2018
&
आयकर अपील सं./ IT(TP)A No.89/Chny/2018
निर्धारण वर्ष /Assessment Years: 2013-14 & 2014-15

Titan Company Ltd., No.3, SPICOT Industrial Complex, Hosur, Krishnagiri – 635 126. [PAN: AAACT 5131A] **(**अपीलार्थी/**Appellant)**	**Vs.**	The Dy. Commissioner of Income Tax, LTU-2, Chennai. **(**प्रत्यर्थी/**Respondent)**

अपीलार्थी की ओर से/ Assessee by	:	Shri T. Surya Narayana & Ms. Mansha Anantham, Advocates
प्रत्यर्थी की ओर से /Revenue by	:	Shri ARV Sreenivasan, CIT
सुनवाई की तारीख/Date of Hearing	:	23.06.2025
घोषणा की तारीख /Date of Pronouncement	:	19.09.2025

आदेश / **O R D E R**

PER MANU KUMAR GIRI (Judicial Member):

The two captioned appeals by the assessee for Assessment Years (AYs' in short) 2013-14 & 2014-15 arising out of final assessment orders dated 16.11.2017 & 08.10.20218 passed by Assessing Officer, 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

Resolution Panel-2, Bengaluru ('DRP' in short) u/s.143(3) r.w.s 144C(1) of the Act dated 25.09.2017 & 24.09.2018, respectively.

ITA No.393/Chny/2018 for A.Y 2013-14 and ITA No.89/Chny/2018 for A.Y 2014-15

2. Since the assessee carried out certain international transactions with its Associated Enterprises ('AEs' in short), the same have been referred to Transfer Pricing Officer ('TPO' in short) DC/ACIT(TP)-3(2), Chennai for determination of Arm's Length Price ('ALP' in short). The TPO passed an order u/s.92CA(3) on 31.10.2016 proposing certain Transfer Pricing (TP) adjustment. Incorporating the same, Draft assessment order was passed on 28.12.2017 which was further subjected to Assessee's objections before DRP. Pursuant to the directions of DRP dated 25.09.2017, final assessment order has been passed on 16.11.2017.

3. Aggrieved by the order of the AO the assessee is in appeal before us.

4. During the course of appellate proceedings, the Ld. Counsel for the assessee has restricted arguments to three specific issues: (i) provision for consumer loyalty, (ii) disallowance under section 14A, and (iii) transfer pricing (TP) adjustment related to the claim u/s. 80IC

of the Act. For the first two issues, the assessee placed reliance on the order of the Co-ordinate Bench of the Tribunal in the Assessee's own case for earlier assessment years, vide ITA Nos. 518, 505–507/2018 dated 29.05.2024 which held as under:

> *3.4 We have heard rival contentions and gone through facts and circumstances of the case. We noted that the assessee has given comparative figures i.e., opening balance of provisions, provision created for the year under consideration, less utilization / redemption of the points and finally closing balance of the provisions. Thereby, net provision was also adopted. These figures were clear from the above chart reproduced in the argument of the ld.counsel for the assessee in above para 3.4. We noted that the provision is created based on estimated percentage of redemption after analyzing the trend of redemption cycle of the customers in the preceding four quarters on the total outstanding points available at the year end. This system adopted by the assessee is based on scientific method as propounded by the Hon'ble Supreme Court in the case of Rotork Controls India Pvt. Ltd., supra, wherein the Hon'ble Supreme Court has observed as under:-*
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> > *"17. At this stage, we once again reiterate that a liability is a present obligation arising from past events, the settlement of which is expected to result in an outflow of resources and in respect of which a reliable estimate is possible of the amount of obligation. As stated above, the case of Indian Molasses Co. (supra) is different from the present case. As stated above, in the present case we are concerned with an army of items of sophisticated (specialiased) goods manufactured and sold by the assessee whereas the case of Indian Molasses Co. (supra) was restricted to an individual retiree. On other hand, the case of Metal Box Company of India (supra) pertained to an army of employees who were due to retire in future. In that case the company had estimated its liability under two gratuity schemes and the amount of liability was deducted from the gross receipts in the profit and loss account. The company had worked out its estimated liability on actuarial valuation. It had made provision for such liability spread over to a number of years. In such a case it was held by this Court that the provision made by the assessee company for meeting the liability incurred by it under the gratuity scheme would be entitled to deduction out of the gross receipts for the accounting year during which the provision is made for the liability. The same principle is laid down in the judgment of this Court in the case of Bharat Earth Movers (supra). In that case the assessee company had formulated leave encashment scheme. It was held, following the judgment in Metal Box Company of India (supra), that the provision made by the assessee for meeting the liability incurred under leave encashment scheme proportionate with the entitlement earned by the employees, was entitled to deduction out of gross receipts for the accounting year during which the provision is made for that liability. The principle which emerges from these decisions is that if the historical trend indicates that large number of sophisticated goods were being manufactured in the past and in the past if the facts established show that defects existed in some*

of the items manufactured and sold then the provision made for warranty in respect of the army of such sophisticated goods would be entitled to deduction from the gross receipts under Section 37 of the 1961 Act. It would all depend on the data systematically maintained by the assessee. It may be noted that in all the impugned judgments before us the assessee(s) has succeeded except in the case of Civil Appeal Nos. of 2009 - Arising out of S.L.P.(C) Nos.14178-14182 of 2007 - M/s. Rotork Controls India (P) Ltd. v. Commissioner of Income Tax, Chennai, in which the Madras High Court has overruled the decision of the Tribunal allowing deduction under Section 37 of the 1961 Act. However, the High Court has failed to notice the "reversal" which constituted part of the data systematically maintained by the assessee over last decade. 18. For the above reasons, we set aside the impugned judgment of the Madras High Court dated 5.2.07 and accordingly the civil appeals stand allowed in favour of the assessee with no order as to costs."

In view of the above, we are of the view that the assessee is consistently following the same method and even creation of provision created based on the remedy percentage of redemption is on scientific basis. As regards to excess provision is concerned, the difference between the provisions created for a particular year and the actual expenditure incurred in the subsequent year, the difference is offered to tax. In such situation, we cannot say that the provision created based on estimated percentage of redemption is not scientific. Hence, according to us, this is an allowable deduction and we allow accordingly.

3.5 Since facts and circumstances are exactly identical in assessment years 2010-11, 2011-12 & 2012-13, taking a consistent view, we allow the assessee's claim of disallowance of provision made towards ***customer loyalty program****. Accordingly, this issue of assessee in all these four assessment years i.e., AYs 2009-10 to 2012-13 is allowed.*

4. The ***second common issue*** *in these four appeals of assessee is as regards to the order of CIT(A) confirming the action of the AO in disallowing expenses relatable to exempt income u/s.14A of the Act read with rule 8D(2) of the Income Tax Rules, 1962 (hereinafter 'the Rules'). For this, assessee has raised various grounds, which are factual and argumentative and hence, need not be reproduced.*

4.1 Briefly stated facts are that the assessee earned dividend income of Rs.2,56,791/- during assessment year 2009-10 and assessee made suo-motto disallowance under Rule 8D(2) at Rs.2,500/- while computing total income towards expenditure incurred for earning the aforesaid exempt income. The AO noted that the investment portfolio of the assessee as on 31.03.2009 stands at an aggregate value of Rs.7,66,44,000/- and thereby he invoked the provisions of section 14A r.w.rule 8D(2)(ii) disallowed interest at Rs.8,14,341/- and under rule 8D(2)(iii) being administrative expenses, an amount equal to 0.5% of the average value of investment at Rs.14,39,635/-, thereby the AO disallowed total expenses relatable to exempt income u/s.14A r.w.rule 8D(2) at Rs.22,53,976/-. Aggrieved, assessee preferred appeal before CIT(A). The CIT(A) confirmed the action of the AO and dismissed the ground of assessee's appeal. Aggrieved, now assessee is in appeal before the Tribunal.

4.2 We have heard rival contentions and gone through facts and circumstances of the case. The ld.counsel for the assessee took us through the assessment order and stated that the AO while computing disallowance of expenses relatable to exempt income has not even discussed what is the quantum of dividend income or he has not discussed what is the quantum of disallowance suo-motto made by the assessee whereas, assessee has made suo-motto disallowance of Rs.2,500/-. The AO simpliciter reproducing the provisions of section 14A applied straight formula as provided under rule 8D(2) for invoking (i), (ii) & (iii) limbs. The ld.counsel for the assessee stated that the AO has not examined the investment made and the expenditure incurred and once there is no finding as regards to the nature of expenditure and the investments and dividend earned, the AO has not at all recorded his satisfaction and for this, the ld.counsel for the assessee relied on the decision of Hon'ble Supreme Court in the case of Maxopp Investments Ltd., vs. CIT reported in [2018] 91 taxmann.com 154(SC) and also relied on the Hon'ble Madras High Court decision in the case of Redington (India) Ltd., vs. ACIT reported in [2017] 77 taxmann.com 257.

4.3 When these facts were confronted to ld.CIT-DR, he could not point out how the AO has reached to a conclusion that there are expenses relatable to exempt income and there is any satisfaction recorded qua that, he could not argue anything.

4.4 After hearing both the sides, we noted that the AO has not at all recorded satisfaction as regards to disallowance to be made or not. Once there is no satisfaction recorded, in our view, the decision of Hon'ble Supreme Court in the case of Maxopp Investments Ltd., supra squarely applies. This being a covered issue, we set aside the order of CIT(A) and that of the AO on this issue and allow this issue of assessee's appeal. Accordingly, this issue raised by assessee in all the four assessment years, 2009-10 to 2012-13 is allowed.

5. We have heard the both the parties, perused the record and also gone through the order of the coordinate bench order of the Tribunal, we find that this issue is covered by the same. Hence, respectfully following the coordinate bench order of the Tribunal referred supra, we allow the assessee's claim of provision made towards customer loyalty program. Accordingly, this issue of assessee in both the years i.e; AYs 2013-14 and 2014-15 are allowed.

6. Regarding exemption u/s.14A, this issue covered by the order of the Co-ordinate Bench of the Tribunal in the assessee's own case for earlier assessment years, vide ITA Nos. 518, 505–507/2018 dated 29.05.2024. In this case also AO has not at all recorded satisfaction as regards to disallowance to be made or not. Hence, respectfully following the coordinate bench order of the Tribunal referred supra, we set aside the order of CIT(A) and that of the AO on this issue and allow this issue of assessee's appeal. Accordingly, this issue raised by assessee in the assessment year 2013-14 is allowed.

7. Regarding Claim u/s.80IC (Transfer Pricing Issue), the assessee has raised the following grounds:

> *"The grounds hereinafter taken by the Appellant are without prejudice to one another.*
>
> *1. The Hon'ble Dispute Resolution Panel, Bangalore ('DRP') erred in ignoring the submissions made by the Appellant with regard to the Upward adjustment made of profits of 80-IC units and submissions made in case of disallowance of provision made for customer loyalty programme.*
>
> *I. Transfer Pricing*
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> *2. The Hon'ble DRP/ learned Assessing Officer ('AO') / Transfer Pricing Officer (TPO) erred in ignoring the transfer pricing analysis undertaken by the Appellant in accordance with provisions of the Income-tax Act, 1961 ('the Act') read with Income-tax Rules, 1962 ('the Rules').*
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> *3. The Hon'ble DRP / learned AO / TPO thereby erred in making an addition of Rs. 63,17,93,601 to the total income of the Appellant on*

account of variance in profit margins of the tax holiday units vis-à-vis non-tax holiday units.

4. Upward Adjustment of profits Rs. 63,17,93,601

a. The Hon'ble DRP / learned AO / TPO erred in adjusting the profits of tax holiday units i.e. Pantnagar Jewellery unit, Dehradun Jewellery unit and Pantnagar watch units based on the profit margin of the non-tax holiday units i.e. Hosur jewellery and watch unit without considering the products produced in each of the respective units.

b. The Hon'ble DRP / learned AO / TPO erred in rejecting the Appellant's contention that the transactions is at arm's length by applying Transactional Net Margin Method ('TNMM').

c. The Hon'ble DRP / learned AO / TPO has erred in comparing the margins earned by the Appellant on sale of finished products to the third party customers for making adjustment to inter-unit transfer of semi-finished /unfinished products.

d. The Hon'ble DRP / learned AO / TPO has erred in not determining appropriately the arm's length nature of the transfer pricing policy followed in the inter-unit transfer of semi / unfinished products.

e. The Hon'ble DRP / learned AO / TPO has erred by comparing the net operating margins earned by tax holiday and non-tax holiday unit from sale of finished products to third party customers, even when semi /unfinished products are transferred from non-tax holiday unit to tax holiday units.

f. The Hon'ble DRP/learned AO/TPO has erred in ignoring the fact that the reason for variation in net profit margin at various units of the Appellant is on account of difference in product-mix which is sold by the respective units.

g. The Hon'ble DRP/learned AO/TPO erred in appreciating the fact that the learned TPO without finding any inappropriateness in the TP report as required under section 92C(3) of the Act proceeded to make adjustment to the inter-unit transfer of semi-finished products..

h. The Hon'ble DRP/learned AO/ TPO ought to have accepted the economic analysis performed in the TP report in support of arm's length price of Inter-unit transfer of Jewellery and watch units.

i. The Hon'ble DRP erred in not considering the segmental profit and loss account of jewellery unit which is certified by an independent

practicing chartered accountant, wherein the reason for variance in profit margins have been demonstrated. Further, the Hon'ble DRP has also erred in not considering the details submitted for variation in profit margin of the watch units.

j. Without prejudice to the above, the learned AO erred in ignoring the segment margin analysis done by the Company and erred in computing the correct profit margin earned by the tax holiday units i.e. Dehradun and Pantnagar units of the Appellant.

k. The Hon'ble DRP erred in not taking into the consideration the details furnished before them as a part of submission for adjudicating the same and not commenting on the reasonableness of the analysis as submitted by the Appellant in response to the allegation brought in by the TPO / AO on account of manual profit manipulation.

l. The Hon'ble DRP has erred in merely following the earlier year DRP directions and has not adjudicated the facts for the year under consideration."

8. Facts of the case are that the Assessee is engaged in the manufacturing and sale of jewellery and watches and has various units, including tax holiday units at Pantnagar and Dehradun and non-tax holiday units at Hosur. The Transfer Pricing Office ('TPO' in short) proposed an adjustment of Rs.63,17,93,601/- on the ground that the tax holiday units reported significantly higher margins compared to non-tax holiday units. The TPO rejected the Transfer Pricing documentation and the economic analysis submitted by the Assessee and made an adjustment by comparing the margins of the tax holiday units with the non-tax holiday units. The ld.DRP upheld the TPO's position without dealing with the assessee's detailed submissions,

including certified segmental financials and the rationale behind product-mix-based margin differences.

The Assessee also claimed no change in facts over the years and opposed the use of internal TNMM (Transactional Net Margin Method). The assessee submitted that the AO has not done any adjustment in earlier years u/s.143(3) of the Act. The ld. Counsel relied upon the order of the Tribunal in the case of DCIT Vs Deepak Industries Ltd [2022] 142 taxmann.com 49 (Kolkata-Trib.).

Per contra, the department countered that SDT (Specified Domestic Transactions) provisions applied only from AY 2013–14. For earlier years, ALP (Arm's Length Price) determination for SDT wasn't legally required. He further submitted that the Assessee failed to provide full details and cost data, making their TP study unreliable. Thus, the TPO had to adopt its own method to determine ALP.

9. We have also gone through the table 3 and 4 at page 2-5 and paras 5.6 to 11.2 of the TPO's order and find that without any sufficient data TPO did not accept the veracity of the product mix as claimed by the assessee.

10. We have heard the rival submissions and perused the record and case law cited. The order of the Tribunal in the case of *DCIT Vs Deepak Industries Ltd [2022] 142 taxmann.com 49 (Kolkata-Trib.)* held as under:

> *9. We have heard the rival contentions and perused the material on record including the impugned order of the Ld. CIT(A) and decisions cited before us by both the parties. The undisputed facts as observed by us from the records are that the assessee has three manufacturing unit at Kolkata, Faridabad and Rudrapur. The unit at Rudrapur was set up in FY 2007-08 and is eligible for deduction u/s 80IC of the Act and accordingly has been claiming deduction u/s 80IC of the Act right from AY 2008- 09. The department has accepted all the inter unit transactions and their ALP determined by the assessee in all the years even in the assessment proceedings where as the assessment was framed u/s 143(3) of the Act right from AY 2008-09 to 2013- 14 by allowing deduction u/s 80IC of the Act. We observe on the basis of records before us that both these units at Faridabad and Rudrapur unit were manufacturing different products. Faridabad units manufactures gears for tractors and bigger trucks whereas Rudrapur unit produces 3rd & 4th gear for small truck manufactured by Tata Motors Ltd and is contract manufacturer. The Rudrapur unit procures semi finished goods in the form of shaft/blank from Faridabad unit and the same is further subjected to manufacturing processes for production of 3rd & 4th gears as such. During the year, specified domestic transactions between eligible unit and non-eligible unit were made and ALP was determined at 22.10 cr . Similarly Rudrapur unit also does some job work for non eligible unit which was transferred at a price of Rs. 4.11 cr. The assessee followed CPM as most appropriate method on the strength of the reasoning that the direct and indirect cost were available as per costing records CAS-4 which were duly certified by CA and a gross profit margin of 10% was added to arrive at the transfer price. The TPO proposed the adjustment in the arm's length price on the ground that there is huge difference in profit margin of both the units. We note that the assessee has made similar transaction between Rudrapur unit to Faridabad unit in the earlier year right from AY 2008-09 to 2013-14 which were accepted by the revenue even in scrutiny proceedings. Therefore on the principle consistency, the TPO/AO cannot be allowed to disturb the arm's length price adopted by the assessee as the Hon'ble Apex Court in the case of Radhasoami Satsang vs CIT in 193 ITR 321 (SC) has laid down that unless there is a change in facts and circumstances of the case, the stand as accepted by the revenue in the earlier years cannot allowed to be changed during the year. Similarly the case of the assessee also finds support from the two decision of the Co-ordinate benches as cited supra before us. Further find merit in the*

contention of the Ld. A.R. that mere extraordinary profit cannot be criteria for adjustment in the transfer price which is supported by the decisions of the Co-ordinate benches in the case of A T Kearney (P) Ltd. (supra) and Zavata India Ltd. (Supra).”

11. It is an undisputed fact that the Assessee had undertaken a detailed transfer pricing study and adopted the Transactional Net Margin Method (TNMM) as the Most Appropriate Method to benchmark its inter-unit transactions. The TPO has not pointed out any specific defects in the TP documentation as required under section 92C(3) of the Act before proceeding with the adjustment. The TPO’s approach of comparing net margins of tax holiday units with non-tax holiday units, without considering differences in product mix, production processes, and market dynamics, is not in accordance with established transfer pricing principles. It is well settled that comparability adjustments must be made where differences materially affect the profitability. The Assessee has furnished segmental profit and loss accounts duly certified by an independent Chartered Accountant, which demonstrate that the variation in profit margins is due to product mix and not due to profit shifting. This crucial evidence has been disregarded by the ld.DRP. Further, the adjustment pertains to inter-unit transfers of semi-finished and unfinished products, while the TPO has benchmarked these against margins earned on third-

party sales of finished goods, which are not comparable transactions. The ld.DRP has simply followed the directions of the previous year without applying its mind to the facts of the current year, which is not acceptable in law.

In view of the above discussion and case law referred, we are of the considered opinion that the TP adjustment made by the TPO and sustained by the ld.DRP is not sustainable. Accordingly, the adjustment of Rs.63,17,93,601/- for AY 2014-15 is deleted.

12. In the result, both the appeals filed by the assessee are allowed.

Order pronounced on 19th day of September, 2025 at Chennai.

Sd/-	**Sd/-**
(एस. आर. रघुनाथा)	**(मनु कुमार गिरि)**
(S.R. Raghunatha)	**(Manu Kumar Giri)**
लेखा सदस्य /Accountant Member	**न्यायिक सदस्य / Judicial Member**

चेन्नई/Chennai, दिनांक/Dated: *19th September*, 2025.
EDN, Sr. PS

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