

<p>आयकर अपीलीय अधिकरण, ' डी' न्यायपीठ, चेन्नई। IN THE INCOME TAX APPELLATE TRIBUNAL 'D' BENCH: CHENNAI</p> <p>श्री मनु कुमार गिरि, न्यायिक सदस्य एवं श्री एस. आर. रघुनाथा लेखा सदस्य BEFORE SHRI MANU KUMAR GIRI, JUDICIAL MEMBER AND SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER</p>		
<p>विविध अपील सं./MA. No. 120/Chny/2025 IN आयकर अपील सं. (IT (TP) No. 28/Chny/2019) निर्धारण वर्ष/Assessment Years: 2012-13</p>		
M/s Young Buhmwoo India Co. P. Ltd, K5 Phase II, SIPCOT Industrial Park, Mambakkam Village, Sriperumbudur, Kancheepuram Dist. 631 560. [PAN: AAACY 2562N] (अपीलार्थी/ Appellant)	v.	The Deputy Commissioner of Income Tax, Corporate Circle 3(2) Chennai. (प्रत्यर्थी/ Respondent)
अपीलार्थी की ओर से/ Appellant/Assessee by	:	Mr. S Anand, Advocate
प्रत्यर्थी की ओर से /Respondent/Revenue by	:	Ms. Gowthami Manivasagam, JCIT
सुनवाई की तारीख/Date of Hearing	:	22.08.2025
घोषणाकीतारीख /Date of Pronouncement	:	06.02.2026

आदेश / O R D E R

PER MANU KUMAR GIRI, JM:-

The present captioned Miscellaneous Application has been filed by the Revenue seeking recall of the order dated 24.02.2025 passed in IT(TP) No.28/Chny/2019 for the assessment year 2012-13.

2. By this Miscellaneous Application, the Revenue prayed for the following: -

(a) *On the facts and circumstances of the case, the ITAT order dated 24.02.2025 passed in IT[TP] No. 28/Chny/2019 in the case of*



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M/s Young Buhnwoo India Co. Pvt Ltd deserves to be recalled and restored in its original position since the setting aside the matter to the DRP for passing a speaking order afresh is bad in law and invalid in terms of sub section 2,5,6,8 and 13 of the section 144C of the Income Tax Act, 1961.

(b) In terms of Rule 28 of the Income Tax Act (Appellate tribunal) Rule 1963 the Hon'ble Tribunal may remand a case only to the Authority from whose order the appeal has been preferred or to the assessing officer.

3. The Id.AR for the assessee objected to the Miscellaneous Application filed by the Revenue, contending that there is no mistake apparent from the record in the impugned order.

4. We have heard the rival contentions and perused the record of the appeal file. The operating para of the impugned order passed by this Tribunal is as under: -

16. We find that the DRP derives its authorities and powers from the provisions of section 144C of the I.T. Act and its procedures are governed by Income-tax (Dispute Resolution Panel) Rules, 2009. The provisions of the Act or Rule do not give power to the DRP to direct TPO or AO in 2nd round. If the Legislature had intended to give such powers, it had been expressly implied in section 144C itself. Therefore, we are of the view that the DRP does not have powers to direct TPO or AO in 2nd round of proceedings. Our view is also strengthening by the judgment of the Hon'ble Delhi High Court in the case of Undercarriage and Tractor Parts (P.) Ltd. Vs. Dispute Resolution Panel [2023] 156 taxmann.com 79 (Bom.) which held that the learned DRP can give directions only in pending assessment proceedings, and once the assessment order is passed, the learned DRP would have no power to pass any directions as contemplated under section 144C(5) of the Act. We also take note of the fact that in this case even section 144C(5) has not been complied with.

17. Hence, in the light of the above facts and circumstances of the case, we are of the considered view that Transfer pricing order u/s 92CA(3) dated 20/12/2018 and impugned final assessment order dated 31.12.2018, passed under section 143(3) r/s section 144C(5) r.w.s 254 of the Act are void ab-initio hence quashed.

18. We further note that there is no specific time limitation or provision in section 144C of the Act which provides Id. DRP to pass direction within such time in a set aside matter to DRP by the Tribunal.



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19. In result, the additional grounds raised by the assessee are allowed. Since, we have allowed the appeal on the additional grounds therefore, other grounds raised became academic hence infructuous.

5. We observe that, under the guise of this Miscellaneous Application, the Revenue has attempted to reargue the case by adopting a legally drawn process, which is not permissible under Section 254(2) of the Act, as no mistake apparent from the record exists.

6. In the result, the captioned Miscellaneous Application filed by the Revenue is dismissed.

Order pronounced on the 06th day of February 2026, in Chennai.

Sd/-

(एस. आर. रघुनाथा)

(S.R.RAGHUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-

(मनु कुमार गिरि)

(MANU KUMAR GIRI)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,

दिनांक/Dated: 06th February, 2026.

SNDP, Sr. PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF