

आयकर अपीलिय अधिकरण, 'सी' न्यायपीठ, चेन्नई।
**IN THE INCOME TAX APPELLATE TRIBUNAL
'C' BENCH: CHENNAI**

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री एस. आर. रघुनाथा, लेखा सदस्य के समक्ष

**BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI S.R.RAGHUNATHA, ACCOUNTANT MEMBER**

आयकर अपील सं./ITA No.1214/Chny/2025
निर्धारण वर्ष/Assessment Year: 2018-19

M/s. Cholamandalam MS Risk- Services Ltd., No.2 Dare House, 2 nd Floor, NSC Bose Road, Parrys, Chennai-600 001. [PAN: AABCC 6610 Q]	v.	The PCIT-1, Chennai.
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr.Sandeep Bagmar. R, Advocate
प्रत्यर्थी की ओर से /Respondent by	:	Mr.Bipin, C.N., CIT
सुनवाईकीतारीख/Date of Hearing	:	22.01.2026
घोषणाकीतारीख /Date of Pronouncement	:	11.02.2026

आदेश / ORDER

PER ABY T. VARKEY, JM:

This is an appeal preferred by the assessee company against the order of the Learned Principal Commissioner of Income Tax, (hereinafter referred to as "the Ld.PCIT"), Chennai-1, dated 19.03.2024 for the Assessment Year (hereinafter referred to as "AY") 2018-19 invoking his revisional jurisdiction u/s.263 of the Income Tax Act, 1961 (hereinafter



referred to as "the Act") interfering with the assessment order dated 07.04.2021.

2. The brief facts of the case are that the assessee company filed its original return of income (RoI) for AY 2018-19 on 27.11.2018 declaring ₹3,89,57,320/- which return was selected for scrutiny and later assessment was completed u/s.143 r.w.s.143(3A) & 143(3B) of the Act on 07.04.2021 by the Faceless Assessment Unit assessing the total income at ₹4,12,41,620/-. The Ld.PCIT having gone through the assessment records found on a scrutiny of the annual accounts of the assessee company and especially from perusal of the **Note 22** of the 'Notes on Accounts' that the assessee had shown total expenditure of ₹8.64 Crs. out of which ₹62.34 lakhs were towards 'foreign travel' and ₹8.02 Crs. towards 'other expenditure'. Further, he noted from the **Note 18** under the heading 'other expenses' that the assessee has incurred ₹11.80 Crs. towards 'consultants outsourcing fees'. Also, he noted from perusal of the individual payment made towards 'consultants outsourcing fees' that many payments related to 'overseas outsource manpower consultants services'. Thus, according to the Ld.PCIT 'other expenditure' represented 'consultants outsourcing fees'. In this regard, the Ld.PCIT was of the view that overseas fees paid to overseas consultants was taxable u/s.9 r.w.s.5 of the Act and accordingly TDS was deductible u/s.195 of the Act. And in this regard, he noticed from Form 3CD that



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TDS u/s.195 of the Act was deducted for an amount of ₹39.81 lakhs only. Hence, according to the Ld.PCIT, non-deduction of TDS on expenditure of ₹7.62 Crs. [₹8.02 Crs. **minus** ₹39.81 lakhs] u/s.195 of the Act has resulted in non-assessment of income with tax effect of ₹2,09,95,005/-. Hence, he issued show cause notice to the assessee 'as to why' revisional jurisdiction u/s.263 of the Act shouldn't be invoked against the assessee. Pursuant to which, the assessee filed replies on 12.01.2024 and the Ld PCIT heard the version/objections of assessee on various dates including on 19.02.2024 & 22.02.2024 wherein Dy. Manager (Finance), Ms. Tailambal & Shri V.P. Prabhu, AVP (Taxation) attended the proceedings, and represented the assessee company before the Ld.PCIT; and after hearing them and considering the written submissions [which are reproduced in the impugned order], the Ld.PCIT was pleased to partly set aside the assessment order with a direction to the AO to examine the details/documents submitted after verifying the relevant aspects as discussed in his order and passed fresh order after hearing the assessee. At this juncture, it would be gainful to reproduce the relevant portion of the impugned order:

Discussion & Decision:

7.1 The assessee has submitted that the service provider is also from another third country like Singapore, Kuwait, US, etc. The assessee has submitted a chart for the same, which is as under:



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CHOLAMANDALAM MS RISK SERVICES LIMITED
AY 2018-19
List of foreign exchange payments made during AY 2018-19

Sr. No.	Party	Amount	TDS	Nature of work	Country of Service provider	Service rendered - Country	As per DTAA or Income Tax	Reason for Non-deduction	Remarks
1	Adaptive Environmental Services Co	27,252.00	-	Preparation and submission of three Single Reports and additional Environmental and Social Impact Assessment Studies for the Durgam Cheruvu in West Mumbai, Azim Premji Park and South East Mumbai Areas during 2017 - 2021 in KDC 2020	Kenya	Kenya	As per DTAA, Article 7	No PE in India, Article 7, Service rendered outside India by a company not having PE in India	Services rendered outside India and received outside India
2	GBF Consultancy Co. IN. L.L.	10,842.57	-	REORGANISATION OF PAYMENTS TO PERSONNEL EMPLOYED IN OVERSEAS PROJECT - KOLKATA CHINA	Mauritius	Mauritius	As per DTAA, Article 7	No PE in India, Article 7, Service rendered outside India by a company not having PE in India	Services rendered outside India and received outside India
3	Parsons Limited	4,377.000	-	Professional services / Business rendered - Safety Integrity level study - nuclear project in Thailand	China	UK	As per DTAA, Article 7	No PE in India, Article 7, Service rendered outside India by a company not having PE in India	Services rendered outside India and received outside India
4	Vanguard Risk and Safety Asia Pte. Ltd.	3,454.400	-	Professional services / Business rendered - Safety Integrity level study - AS Thailand	Singapore	USA	As per DTAA, Article 7	No PE in India, Article 7, Service rendered outside India by a company not having PE in India	Services rendered outside India and received outside India
5	Revolution Middle East PTE	2,029.224	-	Payment for KDC - HAZOP/HAZID/PSD Workshops in UK and KDC Reservoirs Pipeline Project - PROJECT - 2 workshop in US	UNITED ARAB EMIRATES	UK	As per DTAA, Article 7	No PE in India, Article 7, Service rendered outside India by a company not having PE in India	Services rendered outside India and received outside India
6	Forest Internal Risk W.L.L.	1,249.888	-	Data collection and validation for carrying out detailed DSAR/FS Project - Powers 072017 - Fuel Supply to Reservoirs Thermal Power Station - Scope Full site upstream and survey works - SF/PSD - 2 workshop and 2nd issue in KDC/20	Kenya	Mauritius	As per DTAA, Article 7	No PE in India, Article 7, Service rendered outside India by a company not having PE in India	Services rendered outside India and received outside India
7	OutRamp General Trading & Commerce Co. W.L.L.	2,519.247	-	Payment against submission of floor assurance studies KDC 07	Kenya	Kenya	As per DTAA, Article 7	No PE in India, Article 7, Service rendered outside India by a company not having PE in India	Services rendered outside India and received outside India
8	Vanguard Solutions Middle East B DMSCC	1,415.000	-	Consultancy services for HAZOP/PSD Studies at Thailand	UK	JAE	As per DTAA, Article 7	No PE in India, Article 7, Service rendered outside India by a company not having PE in India	Services rendered outside India and received outside India
9	W Arzoo (UK) Limited	843.375	-	HAZOP/PSD study for KDC - 04 upgrade in French language	UK	Kenya	As per DTAA, Article 7	No PE in India, Article 7, Service rendered outside India by a company not having PE in India	Services rendered outside India and received outside India

Annexure - 1

Sr. No.	Party	Amount	TDS	Nature of work	Country of Service provider	Service rendered - Country	As per DTAA or Income Tax	Reason for Non-deduction	Remarks
10	Ushara & Co.	619.538	-	Professional services rendered in Mumbai - Auditor Report for tax for the years ended 31st March, 2020 and 2021	India	Kenya	As per DTAA, Article 7	No PE in India, Article 7, Service rendered outside India by a company not having PE in India	Services rendered outside India and received outside India
11	PRIMA TECHNICAL ADVISORS SDN BHD	542.548	-	Sitting on Final report HAMS study KDC project	Malaysia	Kenya	As per DTAA, Article 7	No PE in India, Article 7, Service rendered outside India by a company not having PE in India	Services rendered outside India and received outside India
12	ESC - Engineering Safety Consultancy Ltd	459.832	-	Submission of 21 report to KDC/GBF	UK	Kenya	As per DTAA, Article 7	No PE in India, Article 7, Service rendered outside India by a company not having PE in India	Services rendered outside India and received outside India
13	Management Group LLC/Kenya	246.213	-	Chairman Services for the Assessment Session for HPC Project continuation on 08th April 2017	Kenya	Kenya	As per DTAA, Article 7	No PE in India, Article 7, Service rendered outside India by a company not having PE in India	Services rendered outside India and received outside India
14	American Institute of Chemical Engineers	64.000	-	Administrative and Interpretive fees - CEMs Weekly Reports for 03.22.17 to 01.31.17	USA	India	As per Income Tax	Payment of Membership Fees to Technical Association is not subject to TDS provisions under the Income Tax Act, 1961	Payments made outside India - TDS not applicable for Membership and subscription
15	Others	1,549.007	-	Reimbursement of expenses	India	India	As per Income Tax	Payments made outside India - TDS not applicable for Reimbursement of expenses	Payments made outside India - TDS not applicable for Reimbursement of expenses
16	Crede Asia Pacific Pte. Ltd.	2,549.913	234.581	MSC 200 Functional Safety Training Course in Singapore	Singapore	India	As per DTAA, Article 12	As per Article 12 of DTAA with Singapore Withholding Tax @ 10% is applicable	Services rendered outside India and received outside India - TDS deducted on Professional Fee for Certification of Participants
17	GBF Consultancy Co. W.L.L.	84.500	806.079	Professional Fee for employment of manpower	Kenya	Mauritius	As per DTAA, Article 12	Professional fees paid	Services rendered outside India and received outside India - TDS deducted on Professional Fee for Certification of Participants
18	regid Numerics	214.878	54.971	Subject ID 3 Certificate Training Course	USA	India	As per DTAA, Article 12	As per Article 12 of DTAA with USA Withholding Tax @ 15% is applicable	Services rendered outside India and received outside India - TDS deducted on Professional Fee for Certification of Participants

Sr. No.	Party	Amount	TDS	Nature of work	Country of Service provider	Service rendered - Country	As per DTAA or Income Tax	Reason for Non-deduction	Remarks
19	Mitsui Sumitomo Insurance Company Limited	224,000	88,023	Director Sitting Fees	Japan	India	As per Income Tax	Professional fees paid	Service provider from outside India, rendered services within India - Payments made outside India
20	Aetna USA Inc. Co	109,058	21,842	ENS passport including top 10 Indian States - Charges for ENS Passport	USA	India	As per Income Tax	Professional fees paid	Service provider from outside India, rendered services within India - Payments made outside India
21	EMA Soft Solutions	68,379	16,674	Purchase of Software	IRELAND	India	As per Income Tax	Professional fees paid	Service provider from outside India, rendered services within India - Payments made outside India
22	CSE Risk Management Solutions	83,163	16,613	Software Support & Maintenance	NETHERLANDS	India	As per DTAA, Article 13	As per Article 12 of DTAA with Netherlands Withholding Tax @ 30% is Applicable	Service provider from outside India, rendered services within India - Payments made outside India
Total		80,177,830							



7.2 The assessee has submitted additional documents including a specimen set of agreements entered into with service providers for services being provided. It is submitted that these agreements bring out that the services were provided outside India – in countries like Kuwait, UAE, UK, etc. Therefore, a claim is made that these services are rendered by the non-residents in a location outside India, and therefore, it is claimed that no part of income accrues or arises in India.

SUB-CONSULTANCY AGREEMENT

SUB-CONSULTANCY SERVICES

This Sub - Consultancy Agreement ("Agreement") is made and effective on the day of 25 JULY 2015, by and between Cholamandalam MS Risk Services Limited, having its address at Dare House, No2, NSC Bose Road, Parrys corner, Chennai – 600 001, India and herein after referred to as "CHOLA MS" (hereinafter called "the Consultant")

And BP Consultancy Co W.L.L, having its office Shuaiba Industrial Area East Road # 100, Block # 8, Kuwait and herein after referred to as "BPC" (hereinafter called "the Sub- Consultant")

The Consultant has been appointed by KUWAIT OIL COMPANY (KOC), hereinafter called "the Client" to provide -Consultancy Services for HSE Studies for North and West Kuwait Areas Contract No. 15050883 which form part of the Services to be provided by the Consultant to the Client, Hereinafter together referred to as "the Sub-consultancy Services";

The Sub-Consultant is willing to provide such Sub-consultancy Services and has made a proposal for the same which has been accepted by the Consultant;

1.0. Scope of Study

- > Environmental Monitoring And Laboratory Services
- > Environmental Impact Assessment Study

Environmental & Monitoring Studies will require Field Data Collection and Laboratory Analysis from the field for the following as per the Companies HSEMS Procedures:

- a) Air Quality Monitoring for developing Environmental Baseline Data
- b) Water Quality Analysis
- c) Making Bore Holes to collect water & Soil samples
- d) Noise measurements

The above all Services shall be executed with the Work Orders, which the Consultant's Project Manager in Kuwait shall prepare and submit to the Client for review and approval. The specific services for HSE studies required in accordance with the Work Orders shall be performed by the Consultant's personnel to be provided on call basis.

T/S



8. In the instant case, three types of issues are involved - as under:



a) Service availed from foreign service providers whether inside or outside India (Rs.7,46,47,192). It is claimed that since both the service providers and the place of supply of services are outside India, no withholding Tax Applicable.

b) Some of the expenses are in the nature of reimbursement without any mark-up (Rs.15,49,407). It is submitted that by mistake wrongly included under foreign expenditure.

c) It is also claimed that on some of the services rendered by foreign service providers and TDS apparently not deducted on such payments (Rs.39,81,231). It is submitted that TDS deducted and remitted based on Form 15CA / 15CB declaration in such cases.

8.1 In my considered view, the documents and details submitted during the course of the proceedings u/s 263 were not submitted before the Assessing Officer. Hence, the same needs to be properly verified. *Invoice, carry over*

8.2 Therefore, this is a fit case to invoke the provisions of Sec. 263 of the Act since the Assessing Officer had failed to make a complete verification and enquiry with respect to the aspects discussed supra and had passed the Assessment Order u/s 143(3) read with section 144B of the Act. The assessment order so passed, therefore, is considered both erroneous and prejudicial to the interest of the revenue. Accordingly, the assessment order is hereby **partly set aside** u/s 263 of the Act, with a direction to the Assessing Officer to examine the details/documents submitted and to verify the relevant aspects, as discussed in the order, during the Accounting Year in question and pass a fresh order after granting opportunity to the assessee, within the stipulated time.

8.3 The assessee can furnish documents which were not available at the time of assessment in the records of the Assessing Officer for fresh examination.

It is ordered accordingly.

3. Aggrieved by the aforesaid action of the Ld.PCIT u/s.263 of the Act, the assessee is before us challenging the validity of exercise of revisional jurisdiction by the Ld PCIT.

4. At the outset, the Ld.DR for the Revenue objected to the maintainability of the appeal on the ground that the assessee belatedly filed the appeal before this Tribunal with a delay of '332' (three hundred & thirty two) days. According to the Ld.DR, the AO has already given effect to the impugned order of the Ld.PCIT and has made certain additions, which has been appealed by the assessee before the First Appellate



Authority. Therefore, the Ld.DR wants us not to condone the delay and resultantly dismiss the appeal of the assessee.

5. Per contra, the Ld.AR of the assessee addressed the issue of delay in filing of this appeal before this Tribunal and tried to justify the action by pointing out that assessee doesn't gain any advantage by not filing the appeal and for showing that there was sufficient cause for the delay, drew our attention to the affidavit filed by the Managing Director of the assessee company and submitted that the Officer-In-charge of the litigation didn't take timely advice for filing of appeal against the impugned action and later on she resigned on 12.07.2024. And then the Officer who came in her place promptly took advice from the legal professionals, but by that time, around '300' days had passed away; and finally assessee filed the appeal on 28.04.2025. The Ld.AR, reiterated that assessee doesn't gain any advantage by not filing the appeal within time, when it has statutory right to prefer an appeal before this Tribunal. According to him, the omission on the part of the dealing Officer should not rob the right of the assessee filing the appeal before the Tribunal and cited several cases for condoning the delay viz. (i) decision of the Hon'ble Supreme Court in the case of State of West Bengal v. Administrator, Howrah Municipality AIR 1972 SC 749, (ii) decision of ITAT, Mumbai The Income Tax Officer Sterlite Industries (India) Ltd. v. Addl.CIT/Jt. CIT [2006] 6 SOT 497 (Mum.), (iii) decision of ITAT Surat Bench in the case



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of Chirag P. Thummar v. PCIT in ITA No.44 (SRT)/2022 dated 22.01.2025 & (iv) decision of the Hon'ble Supreme Court in the case of Collector, Land Acquisition v. Mist. Katiji [1987] 167 ITR 471, and prayed that the delay may be condoned since the delay was not occasioned due to any negligence and can't be termed as deliberate. According to the Ld.AR, the assessee has a good case on merits and pointed out in this regard that the Ld.PCIT didn't had the requisite jurisdiction to invoke revisional jurisdiction u/s.263 of the Act because the condition precedent for assumption of jurisdiction was absent in this case. According to him, it can be seen that enquiry was conducted by the AO on the issues raked up by the Ld.PCIT (supra). Hence, according to the Ld.AR, the Ld.PCIT ought not to have given an open remand to the AO for conducting enquiry, rather, he ought to have decided the issues flagged by him. In other words, since the AO had inquired about the issues, the Ld.PCIT should have passed an order allowing/disallowing the expenses rather than sending it back to the AO for fresh assessment, which is erroneous. Therefore, he prayed that the delay may be condoned and matter may be decided on merits/legal issue.

6. Having heard both the parties and after perusal of the records on the limited purpose for condoning the delay, we note that the appeal has been preferred by the assessee with a delay of more than '330' days. The impugned order of the Ld.PCIT is dated 19.03.2024 and the assessee has



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preferred the appeal before this Tribunal on 28.04.2025. The main plea of the assessee for condoning the delay is that the Officer handling the litigation [Ms. K.R.Thailambal] who appeared before the Ld.PCIT in February, 2024 had resigned on 12.07.2024. According to the assessee, the said Officer didn't seek any advice from the legal consultants for filing of appeal and after she resigned, the Officer who came in her place got advice for filing the appeal in the month of March 2025, and immediately thereafter, an appeal was preferred on 28.04.2025, therefore, the delay should be condoned. However, it is noted that during revisional proceedings, Asst. Vice President (Taxation), Shri V.P. Prabhu, had also appeared before the Ld.PCIT and represented the assessee before the Ld.PCIT along with Ms. K.R.Thailambal. Therefore, it can't be said that the vice president Taxation was not aware of the impugned action of the Ld.PCIT and therefore, the delay caused in filing of the appeal before this Tribunal can't be put solely on the shoulder of the resigned official. Hence, the foundation attributed for cause of delay can't be accepted. Moreover, it is noted that the AO has given effect to the impugned order of the Ld.PCIT and has made certain adjustments which action has already been challenged by the assessee before the First Appellate Authority. Thus, it is noted that the assessee has availed a statutory remedy available as per law against the action of AO passed pursuant to the impugned action of Ld PCIT. As noted the delay of more than '330'



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days in filing of this appeal couldn't be explained satisfactorily by the assessee. Instead, the reason adduced by the assessee for cause of delay as noted (supra) can't be termed as sufficient cause. The expression 'sufficient cause' means a cause beyond control of the assessee. The cause stated by the assessee as noted supra can't be said to be a cause beyond control of the assessee. The resignation of Dy. Manager (Finance) couldn't have prevented the assessee from filing of the appeal in time when the Asst. Vice President (Taxation) who had represented/appeared before the Ld.PCIT was still serving in the assessee company. The reason cited by the assessee doesn't in anyway demonstrate that the cause for delay was beyond the control of the assessee by virtue of which it was prevented from filing of the appeal in time before this Tribunal. The assessee was bound to explain each day of delay along with supporting material evidence. In the absence of the same and especially when the Dy. Manager (Finance) had resigned on 12.07.2024, still the assessee filed the appeal only after more than nine (9) months after her resignation speaks volume about the lackadaisical attitude of assessee, which inaction/omission couldn't be satisfactorily explained by the assessee. Moreover, the assessee is noted to have participated before the AO during the set-aside proceedings pursuant to the impugned action of Ld PCIT. Hence the reason attributed for cause of delay in filing of appeal belatedly, doesn't sound genuine. Therefore, the cause for delay stands



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M/s. Cholamandalam MS Risk Services Ltd.

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unexplained and also considering the fact that the AO has already given effect to the order of the Ld.PCIT (after hearing the assessee) and had made certain adjustments, against which the assessee is noted to have preferred an appeal before the First Appellate Authority. Therefore, the assessee has availed statutory remedy against the adjustment made pursuant to the impugned order. Considering the overall facts discussed (supra), we are not inclined to condone the delay.

7. In the result, appeal filed by the assessee is dismissed.

Order pronounced on the 11th day of February, 2026, in Chennai.

Sd/-
(एस. आर. रघुनाथा)
(S.R.RAGHUNATHA)

लेखा सदस्य/**ACCOUNTANT MEMBER**

Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)

न्यायिक सदस्य/**JUDICIAL MEMBER**

चेन्नई/Chennai,
दिनांक/Dated: 11th February, 2026.
TLN

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकरआयुक्त/CIT, Chennai / Madurai / Salem / Coimbatore.
4. विभागीयप्रतिनिधि/DR
5. गार्डफाईल/GF