

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

श्री महावीर सिंह, उपाध्यक्ष एवं श्री मंजुनाथ. जी, लेखा सदस्य के समक्ष
BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT AND
SHRI MANJUNATHA G, ACCOUNTANT MEMBER

ITA Nos.	Asst. Year	Appellant	Respondent	Appellant By (Shri/Ms.)	Respondent By (Shri)
IT(TP)A No.27/CHNY/2023 IT(TP)A No.28/CHNY/2023 IT(TP)A No.29/CHNY/2023 IT(TP)A No.30/CHNY/2023 IT(TP)A No.31/CHNY/2023	2013-14 2014-15 2015-16 2016-17 2017-18	M/s. Sutherland Global Services Inc., C/o. Dhruva Advisors LLP, Prestige Terraces, 2nd Floor, Union Street, Infantry Road, Bengaluru - 560 001. PAN: AAOCS 1555P	The ACIT / DCIT, International Taxation Circle 2(2), Chennai.	Vijay Mehta, Sandeep Bhalla, Asmita D'souza & Harsh Bafna, CAs	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
SP Nos.34,35,36,37,38 & 39/CHNY/2023 in IT(TP)A Nos.7, 8,9,10,25 &26/CHNY/2022	2011-12 2012-13 2013-14 2014-15 2017-18 2018-19	Mobis India Limited G1, Sipcot Industrial Park, Irungattukottai, Kanchipuram – 602117 PAN : AAECM 3018M	The DCIT, Non-Corporate Circle – 8(1), Chennai.	N.V.Balaji, Advocate	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.7/CHNY/2022 IT(TP)A No.8/CHNY/2022 IT(TP)A No.9/CHNY/2022 IT(TP)A No.10/CHNY/2022 IT(TP)A No.25/CHNY/2022 IT(TP)A No.26/CHNY/2022	2011-12 2012-13 2013-14 2014-15 2017-18 2018-19	Mobis India Limited G1, Sipcot Industrial Park, Irungattukottai, Kanchipuram – 602117 PAN : AAECM 3018M	The DCIT, Non-Corporate Circle – 8(1), Chennai.	N.V.Balaji, Advocate	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.5/CHNY/2023	2016-17	Polaris Consulting & Services Pte Ltd., No.3, Changi Business Park, Vista #02-3/4/5, Alzonobel House, Foreign, Singapore-486 051. PAN: AAMCP 6729N	The DCIT, International Taxation Circle 2(1), Chennai.	N.V. Balaji, Advocate	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel

ITA Nos.	Asst. Year	Appellant	Respondent	Appellant By (Shri/Ms.)	Respondent By (Shri)
IT(TP)A No.14/CHNY/2022 IT(TP)A No.61/CHNY/2022 IT(TP)A No.63/CHNY/2022	2017-18 2018-19 2018-19	SPI Technologies India Pvt. Ltd., R.S. No.4/5 and 4/6, Gothi Indl. Complex, Vazhuduvur Road, Kurumbapet Revenue Village, Villianur Commune, Puducherry – 605 009. PAN: AADCL 3320N	The DCIT, Corporate Circle 1, Puducherry.	Ashik Shah, CA	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.18/CHNY/2022 IT(TP)A No.14/CHNY/2023 IT(TP)A No.19/CHNY/2023 IT(TP)A No.20/CHNY/2023 IT(TP)A No.22/CHNY/2023 IT(TP)A No.23/CHNY/2023	2018-19 2017-18 2015-16 2016-17 2014-15 2020-21	M/s. Siemens Gamesa Renewable Energy Sociedad Anonima, C/o. Siemens Gamesa Renewable Power Pvt. Ltd., No.489, GNT Road, Thandalkazhani, Vadagarai PO, Redhills, Chennai – 600 119. PAN: AAECG 2271N	The DCIT, International Taxation 1(1), Chennai.	Ashik Shah, CA	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.17/CHNY/2022 IT(TP)A No.55/CHNY/2022 IT(TP)A No.38/CHNY/2023	2017-18 2018-19 2019-20	M/s. Siemens Gamesa Renewable Power Pvt. Ltd., No.489, GNT Road, Thandalkazhani, Vadagarai PO, Redhills, Chennai – 600 119. PAN: AACCG 6027C	The DCIT, Central Circle 1(4), Chennai	Ashik Shah, CA	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.17/CHNY/2023	2017-18	M/s. Siemens Gamesa Renewable Energy Lanka Pvt. Ltd., C/o. Siemens Gamesa Renewable Power Pvt. Ltd., No.489, GNT Road, Thandalkazhani, Vadagarai PO, Redhills, Chennai – 600 119. PAN: ABHCS 8708E	The ACIT, International Taxation 2(2), Chennai.	Ashik Shah, CA	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel

ITA Nos.	Asst. Year	Appellant	Respondent	Appellant By (Shri/Ms.)	Respondent By (Shri)
IT(TP)A No.18/CHNY/2023	2017-18	M/s. Siemens Gamesa Renewable Energy Innovation & Technology SL, C/o. Siemens Gamesa Renewable Power Pvt. Ltd., No.489, GNT Road, Thandalkazhani, Vadagarai PO, Redhills, Chennai – 600 119. PAN: AAECG 2260M	The DCIT, International Taxation 1(1), Chennai.	Ashik Shah, CA	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.11/CHNY/2021 IT(TP)A No.11/CHNY/2022 IT(TP)A No.7/CHNY/2023	2016-17 2017-18 2020-21	M/s. Siemens Gamesa Renewable Eolica SL, C/o. Siemens Gamesa Renewable Power Pvt. Ltd., No.334, The Future IT Park, Block B, 8 th Floor, Old Mahabalipuram Road, Sholinganallur, Chennai – 600 119. PAN: AAECG 2261L	The DCIT, International Taxation 1(1), Chennai.	Ashik Shah, CA	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.9/CHNY/2023	2012-13	Kostal India Pvt. Ltd., Plot No.L3, Phase III, SIPCOT Industrial Complex, Ranipet, Vellore – 632 405 PAN: AADCK 4872E	The DCIT, Circle-1, Vellore	S.P. Chidambaram, Advocate	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.20/CHNY/2020	2012-13	Madura Coals Pvt. Ltd., Post Box No.35, New Jail Road, Madurai – 625 001. PAN: AABCM 8279K	The DCIT, Corporate Circle-2, Madurai	Ajay Rotti, CA	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.44/CHNY/2021 IT(TP)A No.40/CHNY/2023 IT(TP)A No..34/CHNY/2023	2015-16 2014-15 2020-21	Laserwords US Inc, C/o. SPI Technologies India Pvt. Ltd., 'Gothi Industrial Estate' R.S. No.415 and 416, Vazhuduvur Road, Kurumbapet Revenue Village, Puducherry – 605 009. PAN: AABCL 8781F	The DCIT, International Taxation, Circle 1(2), Chennai	Ashik Shah, CA	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel

ITA Nos.	Asst. Year	Appellant	Respondent	Appellant By (Shri/Ms.)	Respondent By (Shri)
IT(TP)A No.53/CHNY/2021 IT(TP)A No.54/CHNY/2021	2016-17	SMRC Automotive Holdings Netherlands B.V., C/o. SRMC Automotive Products India Ltd., Plot No.G 34, Survey No.15Pt 16Pt, Sipcot Industrial Park, Vallam Vadagal, A Village, Kanchipuram – 602105 PAN: AAHCR 3869C	The DCIT, International Tax 2(1), Chennai	Rakesh Gupta, Rohit Tiwari, Tanya, Advocates	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.5/CHNY/2022	2017-18	GE Power Conversion India Pvt. Ltd., Plot No.29 (SP), Thiru Vi Ka Industrial Estate, Ekkatuthangal, Guindy, Chennai – 600 032 PAN: AADCC 1026E	The Income Tax Officer, Ward – 2(3), Chennai	Ashik Shah, CA	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.22/CHNY/2022 IT(TP)A No.68/CHNY/2022	2017-18 2018-19	BGR Boilers Pvt. Ltd., 443, Guna Building, Anna Salai, 6 th Floor, Teynampet, Chennai – 600 018. PAN: AADCB 7238D	The DCIT, Corporate Circle 1(2), Chennai.	N.V. Balaji	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.24/CHNY/2022	2017-18	BNY Mellon Technology Pvt. Ltd., (formerly known as iNautix Technologies India Pvt. Ltd.,) Ground to Sixth Floor of Coral Block 3, Survey No.181/183. No.158/Old No.153, Embassy Splendid Techzone, Embassy Property Developments Pvt. Ltd., SNP Infrastructure SEZ, 200ft Pallavaram Thoraipakkam Radial Road, Zamin Pallavaram, Chennai – 600 043. PAN: AAACI 6177K	The DCIT, Corporate Circle 1(1), Chennai.	B. Ramakrishnan CA for N.V. Balaji	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel

ITA Nos.	Asst. Year	Appellant	Respondent	Appellant By (Shri/Ms.)	Respondent By (Shri)
IT(TP)A No.28/CHNY/2022 IT(TP)A No.29/CHNY/2022 IT(TP)A No.30/CHNY/2022 IT(TP)A No.31/CHNY/2022 IT(TP)A No.32/CHNY/2022 IT(TP)A No.33/CHNY/2022 IT(TP)A No.34/CHNY/2022	2006-07 2007-08 2008-09 2009-10 2010-11 2011-12 2012-13	Watanmal Boolchand & Company Ltd., C/o.C R B S & Associates LLP, Chartered Accountants, No.37, 2 nd Street, Alagiri Nagar, Vadapalani, Chennai – 600 026. PAN: AABCW 3559Q	The DCIT, International Taxation, Circle - 2(2)(i/c), Chennai.	T.Banusekar, Advocate	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.44/CHNY/2022 IT(TP)A No.76/CHNY/2022	2018-19 2017-18	Lakshmi Machine Works Limited, SRK Vidyalaya Post, Perianaickenpalayam, Coimbatore – 641 020. PAN: AAACL 5244N	The ACIT, Corporate Circle 1, Coimbatore.	M.P. Lohia, CA	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.58/CHNY/2022	2018-19	Zoho Corporation Pvt. Ltd., Plot No.140, 151, Estancia IT Park, GST Road, Guduvanchery (Post), Vallancheri Village, Chengalpet Taluk, Kancheepuram – 603 202. PAN: AAACZ 4322M	The DCIT, Corporate Circle 3(1), Chennai.	N.V. Balaji, Advocate	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.69/CHNY/2022	2009-10	Durr India Pvt. Ltd., No.471, 2 nd Floor, Prestige Polygon, Anna Salai, Nandanam, Chennai – 600 035. PAN: AAACD 3568P	The DCIT, Corporate Circle-1(1), Chennai.	M.P. Lohia, CA	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.67/CHNY/2022	2018-19	Groupon Shared Services Pvt. Ltd., Gopalan Global Axis SEZ Block ABC G, Opposite Satya Sai Baba Hospital, Plot No.152, EPIP Zone Whitefield, Bangalore, Karnataka – 560 056. PAN: AAGCG 0518G	The DCIT, Circle 1(1), Chennai.	Sharath Rao, CA	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel

ITA Nos.	Asst. Year	Appellant	Respondent	Appellant By (Shri/Ms.)	Respondent By (Shri)
IT(TP)A No.1/CHNY/2023	2018-19	BASF Catalysts India Pvt. Ltd., P8/1, Mahindra World City, Parapur, Kanchipuram – 603002. PAN: AAACE 2545B	The DCIT, Corporate Circle 1(1), Chennai.	N.V. Balaji, Advocate	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel
IT(TP)A No.24/CHNY/2023	2018-19	GU Ocean Pvt. Ltd., 3/381, 4 th Floor, AKDR Tower, Rajiv Gandhi Salai (OMR), Mettukuppam, Chennai – 600 097. PAN: AAHCG 1425H	The Income Tax Officer, Ward 2(2), Chennai	T. Banusekar, Advocate	L.Sundaresan, Additional Solicitor General of India and A.P. Srinivas, Sr. Standing Counsel

सुनवाई की तारीख/Date of Hearing : 12.12.2023

घोषणा की तारीख/Date of Pronouncement : 22.12.2023

आदेश / O R D E R

Per G Manjunatha, AM:

This batch of 54 appeals filed by different assessee's are directed against their respective final assessment orders passed by the Assessing Officer u/s 143(3) r.w.s 144C(13) of the Income Tax Act, 1961, in pursuant to directions of the Dispute Resolution Panel (DRP)-2, Bengaluru issued u/s.144C(5) of the Income Tax Act, 1961 (hereinafter the 'Act') and pertains to relevant assessment years.

2. At the outset, we find that there is delay in appeals filed by the assessee's., i.e. 90 days in IT(TP)A No.44/CHNY/2021, 73 days in IT(TP)A No.20/CHNY/2020 and 221 days in IT(TP)A Nos.53 &

54/CHNY/2021. During the course of hearing, when defect was brought to the notice of the Id.counsel for the assessee's present, it was submitted that delay in filing of these appeals are mainly due to lockdown imposed by the Govt. on account of spread of Covid-19 infections and in view of the Hon'ble Supreme Court *suomotu* Writ Petition No.3 of 2020, if the period of delay is covered within the period specified in the order of the Apex Court, then same needs to be condoned in view of specific problem faced by the public on account of Covid-19 pandemic. The learned DR, on the other hand, fairly agreed that delay may be condoned in the interest of justice.

2.1 Having heard both sides and considered reasons given by the Id.counsel for the assessee's, we find that the Hon'ble Supreme Court in *suomotu* Writ Petition No.3 of 2020, has extended limitation applicable to all proceedings in respect of Courts and Tribunals across the country on account of spread of Covid-19 infections w.e.f. 15.03.2020. The Hon'ble Supreme Court in Miscellaneous Application No.665 of 2021 vide order dated 23.03.2020 has given directions that the delay is to be condoned during this period 15.03.2020 to 14.03.2021 and they have condoned the delay up to 28.02.2022 in Miscellaneous Application No.21 of 2022 vide order dated 10.01.2022. We further noted that

delay noticed by the Registry pertains to the period of general exemption provided by the Hon'ble Supreme Court extending limitation period applicable for all proceedings before Courts and Tribunals and thus, considering facts and circumstances of these cases and also in the interest of natural justice, we condone delay in filing of appeals by the assessee's and admit for adjudication.

3. We also find that there is a delay of 242 days in appeal filed by the assessee in IT(TP)A No.76/CHNY/2022. The Id.counsel for the assessee, at the time of hearing submitted that there is a delay of 242 days in filing the appeal before the Tribunal for which necessary petition for condonation of appeal along with affidavit has been filed explaining the reasons for delay in filing the appeal. The Id.AR further submitted that the delay in filing the said appeal was neither willful nor deliberate but due to circumstances beyond the control of the assessee, because the assessee had erroneously filed an appeal before the Id. CIT(A) against the final order passed by the Assessing Officer u/s.143(3) r.w.s. 144C(13) of the Act, in pursuance of the directions of the DRP on 22nd March, 2022 based on the advice received from the erstwhile Tax Advisor of the assessee. The assessee appointed new tax advisor, on analyzing the documents he had informed the assessee that as per Section 253(1) of the Act,

assessee aggrieved by an order passed by the Assessing Officer under section 143(3) of the Act in pursuance of the directions of the DRP, appeal lies with the Hon'ble ITAT only and not before the Assessing Officer. Due to this reason, the appeal could not be filed within the statutory time allowed under the Income Tax Act, 1961 (hereinafter the 'Act').

3.1. The Id. DR strongly opposed petition filed by the assessee for condonation of delay.

3.2. Having heard both sides and considered the petition filed by the assessee for condonation of delay, we are of the considered view that reason given by assessee for not filing the appeal within the time allowed under the Act comes under reasonable cause as provided under the Act for condonation of delay and hence, delay in filing of above appeal is condoned and appeal filed by the assessee is admitted for adjudication.

4. In this batch of 54 appeals, initially appeals have been filed against orders of Id. Assessing Officer /CIT(A) on merits by raising various grounds. But, subsequently the assessee's have filed a petition for admission of additional ground in light of the circular

issued by the Central Board of Direct Taxes vide Circular No.19/2019 dated 14.08.2019 and raised a ground that the order passed by the AO/DRP without a valid computer-generated Document Identification Number ('DIN') and quoted in the body of the order is illegal and non-est and deemed to have never been issued. The assessee's have raised this additional ground for all assessment years. Therefore, for the sake of brevity, the additional grounds of appeal filed for assessment year 2013-14 in the case of M/s Sutherland Global Services Inc are reproduced as under:

“The appellant craves leave to prefer the following additional ground which is mutually exclusive and without prejudice to other grounds of appeal.

a) Assessment order is bad in law in as much as that the directions were issued by the learned Dispute Resolution Panel-2, without mentioning the Document Identification Number (DIN) therein and consequentially the assessment order ought to be quashed.”

The appellant craves leave to add, alter, vary, omit, substitute or amend the above grounds of appeal, at any time before or at the time of appeal, so as to enable the Hon'ble Tribunal to decide the appeal in accordance with the law.”

4.1 The Id.counsel for the assessee's submitted that additional ground raised by the assessee's in light of CBDT Circular

No.19/2019 dated 14.08.2019 is purely a question of law which is based on the material which is already on record and therefore, in light of the decision of Hon'ble Supreme Court in the case of NTPC Ltd., vs. CIT, reported in [1998] 229 ITR 383 (SC), the additional ground filed by the assessee's may be admitted for hearing.

4.2 The Id.DR present for the Revenue did not oppose, and fairly agreed that the additional grounds of appeal filed by the assessee's may be admitted for hearing.

5. Having heard both the sides and considering relevant petitions filed by the assessee's for admission of addition ground, we find that all assessee's have taken legal ground challenging the validity of order passed by the DRP or the AO, without a valid DIN generated and quoted in the body of the order in view of Circular No.19/2019 of CBDT dated 14.08.2019 is purely a question of law based on material which is already on record before the AO and thus, can be taken at any time of proceedings, including proceedings before the Tribunal. Further, the Hon'ble Supreme Court in the case of NTPC Ltd, *supra*, has inter-alia held that the view that the Tribunal is confined only to issues arising out of the appeal before the CIT(A) is too narrow a view of the powers of the Appellate Tribunal. It has been held that the Tribunal will have discretion to allow or not to

allow new ground to be raised. However, where the Tribunal is only required to consider a question of law arising from the facts which are on record in the assessment proceedings, there is no reason, why such a question should not be allowed to be raised. Therefore, considering the petition filed by the assessee's for admission of additional ground and also following the decision of Hon'ble Supreme Court in the case of NTPC Ltd., *supra*, we admit the addition ground filed by the assessee's.

6. The preliminary issue raised in this batch of appeals filed by different assessee's goes back to circular issued by the CBDT in Circular No.19/2019 dated 14.08.2019. The core issue raised in this batch of appeals being identical, these appeals were heard altogether and are being disposed off, by this common order. Different assessee's have been represented by different counsels. Therefore, the Bench has requested all those counsels who present for the assessee's to choose any one or two persons to make arguments on the issue and others may supplement the argument, in case they wish to do so. Accordingly, few counsels chooses to argue the issue and thus, we proceed to record arguments advanced by various counsels appeared for respective assessee's.

7. We have heard M/s Sutherland Global Services Inc., as the lead matter to decide the preliminary issue raised by various assessee's. Shri. Vijay Mehta, Chartered Accountant appearing for assessee, M/s Sutherland Global Services Inc., has begin his arguments in light of Circular No.19/2019 dated 14.08.2019 issued by CBDT. The Id.counsel for the assessee referring to Circular No.19/2019 dated 14.08.2019, submitted that the CBDT has explained in paragraph 1, the purpose of introduction of computer-generated Document Identification Number in all communications issued by an income-tax authority on or after 1st day of October, 2019. He took us to para 2 of the Circular dated 14.08.2019 and submitted that the Board in exercise of power u/s.119 of the Act, has decided that no communication shall be issued by any income-tax authority relating to assessment, appeals, orders, statutory or otherwise, exemptions, enquiry, inspection, verification of information, penalty, prosecution, rectification, approval etc., to the assessee or any other person on or after the 1st day of October, 2019, unless a computer-generated Document Identification Number has been allotted and is duly quoted in the body of such communication. The Id.counsel for the assessee further explained that, as per para-3 of said circular, in exceptional circumstances, the communication may be issued manually, but only after

recording reasons in writing in the file and with prior written approval of the Chief Commissioner / Director General of Income-tax. In case, where manual communication is required to be issued for any exceptional circumstances as referred to in said circular, prior approval from the Chief Commissioner / Director General of Income-tax should be obtained in a specific format given in said circular. Further, as per para 4 of said circular any communication which is not in conformity with para 2 & 3 of said circular shall be treated as invalid and shall be deemed to have never been issued. He further submitted that in case any communication which has been issued manually not in conformity with para 2 & 3 of said circular, then said communication shall have to be regularized within 15 working days and its issuance in a manner prescribed in the said circular. He further explained the term communication which has been explained in para 1 of said circular which includes a notice, order, summons, letter and any correspondence. Therefore, he submitted that any communication including an order of DRP/AO issued without a valid computer-generated DIN and quoted in the body of the order shall be treated as invalid and shall be deemed to have never been issued. In the present appeals, the order passed by the DRP is without a valid computer-generated DIN and is duly

quoted in the body of the order and thus, invalid and non-est in the eyes of law.

7.1 The Id.counsel for the assessee explained the background and significance of the Document Identification Number and circular issued by the CBDT dated 14.08.2019, in light of certain judicial precedents including decision of Hon'ble Supreme Court in the case of Pradeep Goyal vs. Union of India, Writ Petition (Civil) No.32 of 2022. He, further submitted that the Board has issued circular as per the directions of the Supreme Court in the above case. In the said case, the Hon'ble Supreme Court explained the necessity of implementing the system of electronic generation of a Document Identification Number (DIN) for all communications sent by the State Tax Officers. The Id.counsel for the assessee further referring to various instructions and FAQs issued by the Income-tax Department on authentication of notices inter-alia the circular issued by the CBDT submitted that as per FAQ of the Department, any notice or order issued without a valid DIN is treated as invalid and shall be non-est in law or deemed to be as if as it has never been issued. The Id.counsel for the assessee further submitted that the circular itself has provides for consequences of not allotting and quoting a DIN in the communications issued by an income-tax

authority. In the event said requirement is not met, the impugned circular provides that said communication shall be considered as invalid and deemed to have never been issued. He further submitted that Courts often undertake the exercise of ascertaining the nature of particular legal requirement whether directory or mandatory. For this purpose, the Court would look into several criteria like nature of requirement, legislative background, and prejudice caused to the party, etc. Based on such criteria, the Courts come to a conclusion about the consequences of not following the legal requirement. However, such exercise is uncalled for in the present case because the consequences of not following DIN requirement have been prescribed in the impugned circular itself, which is undoubtedly binding on the Department.

7.2 The Id.counsel for the assessee further submitted that as per Circular No.19/2019 issued by the CBDT, the requirement of the impugned circular needs to be examined before considering the arguments of the Department. It is crucial to ascertain the exact requirement of the impugned circular, because Department has taken shelter by creation of DIN either on the same day or subsequently or communication of DIN separately. For this purpose, one has to look into the language of the circular. The impugned

circular mandatorily requires an income-tax authority to allot and quote DIN on the body of every communication. Therefore, to comply with the provisions of the impugned circular, every income-tax authority is required to satisfy twin conditions i.e., a) allot DIN and b) quote such DIN in the body of the communication. The Department has contended that in case where DIN has been separately generated and are communicated, it would be sufficient compliance of the impugned circular. But fact remains that, the requirement of impugned circular is to allot and quote DIN in the body of its communication. The requirement is not generation and communication of DIN. In case, the DIN is not generated and quoted in the body of the order then it does not satisfy the conditions of circular and consequently, any communication issued by an authority is invalid and non-est in law and also deemed to have never been issued.

7.3 The Id.counsel for the assessee further submitted that this issue is no longer a *res integra*. The Hon'ble High Court of Calcutta in the case of PCIT vs. Tata Medical Centre Trust, reported in 154 taxmann.com 600, has considered an identical issue and after considering relevant circular issued by the CBDT held that if DIN was generated separately and communicated to the assessee along

with the order then the requirement of the circular has not been satisfied. He further submitted that the Hon'ble High court of Bombay in the case of Ashok Commercial Enterprises, reported in 154 taxmann.com 144 had also considered an identical issue and held that even a satisfaction recorded by the AO in light of provisions of section 153C of the Act, should contain a computer-generated DIN number. He further submitted that the issue has been considered by various Benches of Tribunal and consistently held that any communication issued by an income-tax authority whether it is a DRP or AO, without a valid computer-generated DIN and quoted in the body of the order is invalid, non-est in law and deemed to have never been issued.

7.4 The Id.counsel for the assessee further submitted that the Id.CIT-DR Shri A. Sasikumar, in the previous hearing has submitted that directions issued by the DRP is an internal communication and thus, non-generation of DIN on said communication will not invalidate the assessment order passed by the Assessing Officer. In this regard, he submitted that directions issued by the DRP u/s.144C(55) of the Act is not an internal communication because said communication is served on the assessee to make the assessee to file rectification if any as per the provisions of the Act. He further

submitted that section 144C(14) of the Act, empowers the CBDT to make rules for the purpose of efficient function of the DRP. In view of section 144C(14) of the Act, the Income-tax (Dispute Resolution Panel) Rules, 2009 came to be notified. Rule 11 of the Income-tax (Dispute Resolution Panel) Rules, 2009 provides that the DRP shall, after the directions are issued, communicate the same to the eligible assessee and to the AO. Further, Rule 13 of said Rules provides that after the issue of directions by the DRP, if any mistake or error is apparent in such direction, the DRP may, suo-motu or on an application from the eligible assessee or the AO rectify such mistake or error and also direct the AO to modify the assessment order. Therefore, he submitted that the arguments of the Id.DR that directions issued by the DRP is an internal communication is fallacious and not in accordance with law.

7.5 The Id.counsel for the assessee further submitted that DRP is an income-tax authority under the Act. Although the Department contended that DRP is not an income-tax authority, but fact remains that section 144C(15) of the Act defines 'Dispute Resolution Panel' to mean a collegium comprising of three Principal Commissioners or Commissioner of Income-Tax constituted by the Board. Thus, the DRP is nothing but collegium of three Commissioners, all of which

are income-tax authorities as per the provisions of section 116 of the Act. Further, the term 'collegium' was not defined under the Act and consequently a dictionary meaning has to be referred to understand the meaning of collegium. Black's Law Dictionary has defined the term 'collegium', which means 'an association of at least three people having the right to assemble and enact rules concerning membership, organization and the rights and duties of members'. Webster's Unabridged Dictionary defines the term 'collegium' and as per which 'a group of ruling officials each with equal rank and power, esp. that formerly administered a Soviet commissariat'. On perusal of aforesaid dictionary meaning, it is clear that DRP is clearly an association/group of three ruling officials. Therefore, the arguments of the Id.DR for the assessee that DRP is not an income-tax authority is fallacious and not in accordance with law.

7.6 The Id.counsel for the assessee further submitted that the Department contended that impugned circular does not apply to the orders communicated electronically. But, fact remains that the impugned circular does not say so. No such exception has been made out nor is any rationale available to make such distinction. Further, any order communicated through e-mail does not become

electronically communicated order automatically. Therefore, he submitted that in this regard it is necessary to refer to instructions issued by the CBDT on 30.12.2016, as per which, the DRP order prepared outside ITBA system should be uploaded on the system. The Id.counsel further submitted that the Directorate of Income-tax (Systems) vide Instruction No. System/ITD/Instruction/AST-DIN/2019-20 dated 25.10.2019 had issued instructions for the guidance and appraisal all the field officers regarding the new functionality for auto generation of DIN in respect of orders passed on ITD/AST. The new functionality inter-alia ensured that wherever the orders are passed on the ITD/AST application, the corresponding DIN for such orders was generated automatically on the ITD/AST application screen. However, in case where the orders were passed manually and not through ITBA application, similar instructions were issued by the Directorate of Income-tax (Systems) vide Instruction No.System/ITBA/Instruction/Common Function/180/2019-20 dated 25.10.2019 and as per said instruction, a new functionality was developed for automatic generation of DIN in cases, where the orders were issued manually outside the ITBA system. Therefore, in view of aforesaid instructions, the field officers of the Income-tax Department were equipped to allot and quote DIN on the body of any communication issued to the assessee

irrespective of whether the impugned order was generated online on the AST/ITD applications or manually. Therefore, he submitted that the arguments of the Id. DR that the DRP system and ITBA portal has not been integrated it is impossible to generate DIN in DRP order is fallacious and not in accordance with the scheme implemented by the Board.

7.7 The Id.counsel for the assessee further submitted that the Id. DR claimed that the order of DRP cannot be challenged before the Tribunal. There is no dispute on this proposition canvassed by the Id. DR, because what is challenged before the Tribunal is not the DRP order but the final assessment order passed by the AO in pursuant to the directions issued by the DRP. Further, the Id.AO gets extended time u/s.144C(13) of the Act, for passing the final assessment order and if, no valid DRP order for want of valid DIN, then extend time for passing order for the Assessing Officer would not be applicable and thus, the final assessment order passed by the AO is barred by limitation.

7.8 The Id.counsel for the assessee further submitted that the objection of the Department during the course of hearing on 17.10.2023, regarding maintainability of the present appeal by the

appellant is equally unsustainable. The Id. DR argued that if the order of the DRP is non-est, the final assessment order cannot be said to be the one passed pursuant to the order of the DRP. Since the direct appeal to the Tribunal can be filed u/s. 253(1)(d) of the Act only against the assessment order passed pursuant to the order of the DRP, the present appeal is not maintainable. In this regard, the Id.counsel for the assessee submitted that unless any order which has been declared as illegal by any court of competent in appeal cannot be treated as illegal order so long as it is not set aside in appeal. Therefore, the argument of the Id. DR that present appeal filed by the assessee is not maintainable is incorrect. In this regard, he relied upon the decision of Hon'ble Supreme Court in the case of CIT vs. Bhikajee Dadabhai & Co., reported in [1961] 42 ITR 123.

7.9 To sum up, the Id.counsel for the assessee Shri Vijay Mehta submitted that the order passed by the DRP without a valid computer-generated DIN and quoted in the body of the order is invalid, non-est in law and deemed to have never been issued as per circular issued by the CBDT vide Circular No.19/2019 dated 14.08.2019. In present appeals, there is no dispute with regard to the fact that the order issued by the DRP / AO does not contain a

computer-generated DIN. Although, the Revenue filed certain evidences to argue that subsequently on same day or next day, a valid DIN has been generated and communicated to the assessee along with separate intimation, but said action of the revenue does not satisfy the conditions of circular. Therefore, the order passed by the DRP/AO is invalid and should be declared as null and void.

8. Shri Ashik, Shah, Chartered Accountant appearing for the assessee M/s. Siemens Gamesa Renewable Energy group of companies, to supplement the arguments of Shri Vijay Mehta submitted that, he is fully endorsing the arguments made by Shri Vijay Mehta and also submitted that same arguments equally applicable for all cases. He further submitted that in all these appeals, the requirements of Circular No.19/2019 dated 14.08.2019 is not satisfied, because the order issued to the assessee's through e-mail does not contain a DIN at all, leave it alone quoting a handwritten DIN in the order copy available in the file of the Department. Although, the Department claims that DIN has been generated and intimated to the assessee either on same day or next day, but it is not sufficient compliance of circular issued by the CBDT because as per Circular No.19/2019 dated 14.08.2019, it is mandatory to generate a valid computer-generated DIN before

issuing any order and quoting such DIN in the body of the order. Therefore, he submitted that the argument of the Id. DR that subsequent communication sent to the assessee does contain DIN is no longer a valid argument in light of various decisions of High Courts and Tribunals. He further submitted that any communication issued without a valid DIN is invalid and deemed to have never been issued and thus, order passed by the DRP / AO is non-est in law and ought to be declared as null and void. The Id.counsel for the assessee took us to Circular No.19/2019 dated 14.08.2019 and explained the purpose and significance of introduction of computer-based Document Identification Number in all communications issued by the Income-tax Authority on or after 1st day of October, 2019. The Id.counsel for the assessee had also took us through various case laws including the decision of Hon'ble Delhi High Court in the case of CIT vs. Brandix Mauritius Holdings Ltd., reported in 456 ITR 34 and submitted that whenever communications are issued in the circumstances alluded to in paragraph 3(i) to (v), they require to be backed by the approval of the Chief Commissioner / Director General of Income-tax. Further, such communication should contain the formatted endorsement which is required to be engrossed on such a manual communication. In present appeals, the orders passed by the DRP/AO does not contain a valid computer

generated DIN and further, there is no reference to any of the exceptional circumstances referred to in para 3(i) to (v) of said circular and also approval if any, obtained from the competent authority. Therefore, the communications issued by the authority without a valid DIN is invalid, non-est and deemed to have never been issued.

8.1 The Id.counsel for the assessee has explained the issue in light of various judicial precedents and also countered the arguments of the Id. DR made during earlier hearings in light of provisions of section 116 of the Act, to define an 'income-tax authority'. He further submitted that the arguments advanced by the Id. DR are fallacious, because the DRP is consisting of three Commissioner of Income-tax which is an income-tax authority defined u/s.116 of the Act. The Id.counsel of the assessee had also negated the arguments of the Department that the orders of DRP was not appealable before Tribunal and submitted that what is challenged before the Tribunal is not the DRP order but final assessment order passed by the AO in pursuant to directions of the DRP. Therefore, the argument of Id. DR that DRP order is not appealable is incorrect. The Id.counsel for the assessee had also filed certain screenshots downloaded from ITBA portal for authentication of notices/orders issued by the ITD

with reference to handwritten DIN quoted on body of the order available in the Department file and submitted that if you try to authenticate the DIN quoted in the order, the authentication fails and a message shows that 'no record found for the given document number'. Therefore, he submitted that subsequent generation of DIN either on same day or next day or subsequent day does not satisfy the conditions of Circular No.19/2019 dated 14.08.2019 and thus, the order passed by the DRP in all these cases without a valid DIN is invalid and deemed to have never been issued. Therefore, he further submitted that the order passed by the DRP should be declared as null and void.

9. Shri T. Banusekar, Advocate appearing for the assessee, M/s. Watanmal Boolchand & Company Ltd., has filed a detailed submission on the issue, in light of certain judicial precedents and argued that any communication issued by income-tax authority without a valid computer-generated DIN and quoted in the body of the order is non-est and deemed to have never been issued and consequently, the order passed by the authority should be declared as null and void. The Id.counsel for the assessee further submitted that the circular issued by the CBDT are binding in nature to income-tax authorities and this legal position has been upheld by

the Jurisdictional High Court of Madras in the case of Jain Metal Rolling Mills vs. Union of India in Writ Petition No.13455 of 2021. Further, the Hon'ble Supreme Court had also upheld the view that circulars issued by the Board are binding in nature for the income-tax authorities. The Id.counsel for the assessee had also explained the intention of circular issued by the Board dated 14.08.2019 in light of FAQ issued by the Income-tax Department regarding authentication / verification of DIN. The Id.counsel for the assessee had also argued that DRP directions not merely internal communication within the Department but a communication for the assessee which is evident from Rule 11 & 13 of Income-tax (Dispute Resolution Panel) Rules, 2009. He further submitted that the DRP order is not appealable before Tribunal is also incorrect, because what is challenged before Tribunal is not DRP directions but final assessment order passed by the AO in pursuant to DRP directions and thus, DRP directions are subsumed and part of final assessment order which is appealable. The Id.counsel for the assessee had also explained the concept of income-tax authority as defined u/s.116 of the Act and submitted that the DRP is an income-tax authority consisting of collegium of Commissioner of income-tax and further, such Commissioner of income-tax are Income-tax Authority as per section 116 of the Act. Therefore, he submitted that any order

issued by an authority whether it is DRP or AO, without any valid DIN and quoted in the body of the order is invalid and non-est in law and also deemed to have never been issued. In the present appeals, it is undoubtedly proved that order passed by the DRP/AO is not having valid DIN and consequently, order passed by the authority should be declared as null and void.

10. The Id.counsel for the assessee Shri M.P. Lohia, Chartered Accountant appearing for the assessee, M/s Lakshmi Machine Works Limited, fully endorsed the arguments advanced by various counsels. He further submitted that the arguments of the Department that it is impossible to generate a valid DIN in the DRP order is incorrect because the order passed by the DRP, Mumbai is having a bar coded DIN generated and quoted in the body of the order. From the above, it is very clear that there is an integration of DRP module and ITBA portal and thus, the arguments of the Id. DR is invalid and fails. The Id.counsel for the assessee further submitted that if you understand the purpose of Circular No.19/2019 dated 14.08.2019 issued by the CBDT, it is very clear that on and from 1st October, 2019, no communication shall be issued by any income-tax authority without a valid computer-generated DIN. Any communication issued manually without a DIN

should be in accordance with para 3 (i) to (v) of said circular. In case, the order issued by an authority is not in conformity with para 3(i) to 3(v), then as per para 4 of said circular, said communication is invalid, non-est in law and deemed to have never been issued. Therefore, he submitted that in these cases, there is no valid DIN in order passed by the DRP/AO and thus, the order passed by the authority should be declared as null and void and *ab-initio*.

11. The Id.counsel for the assessee Shri S.P. Chidambaram, Advocate appearing for the assessee M/s Kostal India Pvt. Ltd., fully endorsed arguments advanced by various counsels appearing for assessee's and further, submitted that the circular issued by the CBDT vide Circular No.19/2019 dated 14.08.2019 is binding on the Revenue authorities and thus, non-compliance of said circular has vitiated the order / communication issued by such authority. In all these cases, it is undisputed fact that there is no valid computer-generated DIN in orders passed by the authorities and consequently, said order is invalid, non-est in law and deemed to have never been issued. Therefore, the order passed by the authority should be declared as null and void.

12. Shri N.V. Balaji, Advocate, Shri B. Ramakrishnan, CA, Shri Rakesh Gupta, CA, Shri Ajay Rotti, CA and Shri Sharath Rao, CA appearing for respective assessee's made their submission in light of CBDT vide Circular No.19/2019 dated 14.08.2019 and argued that any communication issued by an income tax authority, on or after 1-10-2019 without a computer generated DIN and is duly quoted in the body of the order is treated as invalid and shall be never have been issued. Since, orders passed by the DRP in all these cases is not having DIN, such orders are invalid and null and void.

13. The Id. Additional Solicitor General of India (ASG), Shri L.Sundaresan, appearing for the Revenue submitted that before deciding preliminary ground raised by the assessee's, purpose and intention of circular issued by CBDT vide Circular No.19/2019 dated 14.08.2019 needs to be carefully read. The circular clearly explained in paragraph-1 that to maintain a proper audit trail of communication, a system of generating and quoting DIN has been introduced. In all these cases, the Revenue has complied with conditions prescribed in Circular No.19/2019 dated 14.08.2019. He further submitted that in all communications issued by the income-tax authority computer-based DIN has been generated and intimated to the assessee's either on the same day or on

subsequent days. The communication sent to the assessee's by an authority contains a valid DIN for the orders passed by the authority and also communication sent to the assessee's and further, such communication has been sent through electronically. Therefore, it is incorrect on the part of the counsels for the assessee's to argue that the Department / Revenue have not complied with circular issued by the CBDT. Therefore, he submitted that if sufficient time is given to the Revenue, the Department is ready to furnish necessary records to the assessee's or their counsels to verify the records and ascertain the fact.

14. The above submission of Id. ASG has been put forth to the counsels for the assessee's, for which, all have agreed and therefore, on 09.11.2023, the cases have been adjourned to 05.12.2023 in order to provide sufficient time to the Revenue as well as the assessee's to verify the records of the Department and to ascertain 'is there any valid DIN in the communications sent to the assessee's'.

15. Further, when these appeals were taken up for hearing on 12.12.2023, the Id.ASG has filed a chart of 60 cases generated from the ITBA portal which contains name and PAN number of the

assessee's, assessment year, date of DRP order, issue date and DIN number, etc. He further submitted that in all cases a valid DIN has been generated for the orders and the same has been communicated to the assessee's through electronically. He further submitted that in some cases, DIN has been handwritten on the first page of the order which is not the DIN of the impugned order but DIN of the communication which has been sent to the assessee's intimating generation of DIN for the orders. But such writing of an incorrect DIN in the body of the order is a human error for which, the assessment order or any communication issued by the authority cannot be vitiated or treated as null and void. The Id.ASG had also took us through the Circular No.19/2019 dated 14.08.2019 and explained the purpose and intention of introducing system-based DIN in all communications issued by income-tax authority. He, further explained the manner in which such intimation has been communicated to the assessee's. Therefore, he submitted that the Department has fully complied with the circular issued by the Board and hence, the additional ground filed by the assessee's challenging the validity of order passed by DRP/AO is devoid of merit and needs to be dismissed.

16. Shri A.Sasikumar, CIT-DR in addition to arguments advanced by the Id.ASG for the Revenue submitted that Circular No.19/2019 issued by the CBDT is not applicable to DRP, because DRP directions are internal communication within the Department and for the guidance of the AO to enable him to complete the assessment. Therefore, non-generating or non-quoting of DIN in said communication does not invalidate the assessment order passed by the AO in pursuant to the DRP directions. Therefore, he submitted that when the directions are not intended to the assessee, but for the AO, the nature of communication becomes an internal communication within the Department and said communication is not the subject matter covered by the CBDT Circular No.19/2019 dated 14.08.2019. He further submitted that, initially allotment of Document Identification Number (DIN) was introduced in the statute by insertion of section 282B of the Act and as per said provision, every income-tax authority shall on or after 1st day of July, 2011 allot a computer-generated DIN in respect of every notices, order, letter or any correspondences. The comparison of omitted section 282B(1) and the Circular No.19/2019 issued by the CBDT clearly establish the fact that the circular covers only the communication issued by the income-tax authority to the assessee or any other person. Further, any other person mentioned in the circular does

not include communication to any other income-tax authority. Since, the DRP directions are communication to the AO, it does not come under the circular issued by the CBDT and consequently, non-mentioning of DIN in said communication does not invalidate the assessment order passed by the AO.

17. The Id.CIT-DR further submitted that DRP directions are not an appealable order before Tribunal, because as per provisions of section 253(1)(d) of the Act, an appeal can be preferred by the appellant only against the assessment order passed by the AO and not against the DRP order. Therefore, when the DRP order in itself is not appealable order, it is not legally correct to admit that DRP order issued without DIN is not a valid order. The Id.CIT-DR further submitted that DRP is not an income-tax authority u/s.116 of the Act. As per the provisions of section 116 of the Act, DRP is not included in the definition of 'income-tax authority'. The DRP is like settlement commission, is in the nature of a body of alternate dispute resolution mechanism. Therefore, once DRP is not an income-tax authority as per section 116 of the Act, then circular issued by the CBDT is not applicable because it applies only to communications issued by the income-tax authority. Since, DRP is not an income-tax authority and its directions are issued only to the

AO and its directions are *per se* not appealable, contents of Circular No.19/2019 are not binding on DRP and its directions.

18. The Id.CIT-DR further explained the procedure of communication of orders, notices, etc. According to Id.DR, in the Income-tax Department there are two modes or mechanism of communication to the assessee and other person. One is electronic mode in ITBA platform and another one is manual mode. Circular No.19/2019 is not applicable to all the communications but only to manual communications. Therefore, he submitted that said circular is not applicable to communications which are generated through ITBA or which are uploaded to ITBA or which are communicated to the assessee by ITBA. He further submitted that intend and purpose of circular as mentioned is, to prevent the issue of manual correspondence without any audit trail. Since, there is audit trail for each and every communication sent to the assessee, merely for non-recording DIN in the body of the order cannot vitiate the orders passed by an authority. The Id.DR took us to Circular No.19/2019 issued by the CBDT and submitted that communication which fulfill the twin conditions of non-generating / allotting / quoting of DIN and not issuing order electronically then the communication becomes manual communication. This is due to the reason that

issuance of electronic communication even without DIN is having audit trail about issuing authority, date, time, etc. Therefore, any manual communication which does not have DIN and not communicated electronically and if it is sent physically means without prior approval of the Chief Commissioner / Director General, it becomes invalid and treated as deemed to have never been issued. In other words, the communication issued electronically without DIN and manually with DIN are valid communications as per the Circular.

19. The Id.DR further submitted that since all DRP directions are communicated electronically, it satisfies the conditions of Circular No.19/2019 and thus, the arguments of the counsel for the assessee that subsequent generation of DIN separately and communicated to the assessee does not satisfy the contents of circular is incorrect. The Id.DR further submitted that the DRP directions are issued with proper audit trail establishing the authority which issues directions, date and time etc. In substance and in letter of spirit followed the true intend and purpose of directions issued by the CBDT. The appellant has not brought out any case of grievance or in what way it put into disadvantage position by the directions issued by the DRP without quoting DIN in

the body of the order. In this regard, he relied on the following judicial precedents:-

- i. Hon'ble High Court of Madras in the case of Texmo Precision Castings UK Ltd vs. CIT in W.P.No.12310 of 2021 and WMP No.13097 of 2021 dated 22.04.2022.
- ii. Hon'ble High Court of Jharkhand in the case of Prakash Lal Khandelwal vs. CIT in W.P.(T) No.1901 of 2022 dated 19/21.02.2023.
- iii. Hon'ble High Court of Allahabad in the case of Chandra Bhan vs. Union of India in Writ Tax No.829 of 2023 dated 18.07.2023.

20. We have heard both the parties, perused materials on record and gone through the orders of the authorities below. We have also carefully considered the circular issued by the CBDT vide Circular No.19/2019 dated 14.08.2019 along with certain judicial precedents which have dealt the issue. The core issue arises for our consideration from this batch of appeals is validity of order passed by the income-tax authorities without generating computer-based 'Document Identification Number' and quoted in the body of the order as required by Circular No.19/2019 dated 14.08.2019. To resolve the issue, it is necessary to read the circular issued by the CBDT in true letter and spirit. The CBDT has through Circular No.19/2019 made it compulsory that on and from 01.10.2019, a DIN has to be duly allotted and quoted in the body of all communication. The significance of generation of Document

Identification Number has been explained in paragraph-1 of said circular, as per which, in light of various instances of communication being issued without a proper audit trail and also in order to move towards total computerization of its work, the CBDT introduced the concept of mandatory quoting of DIN on all communications issued by income-tax authority to the assessee or to any other person. Para 2 of said circular states that no communication shall be issued by income-tax authority relating to assessment, appeals, orders, statutory or otherwise, exemptions, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval etc., to the assessee or any other person on or after 1st day of October, 2019 unless a computer generated DIN has been allotted and is duly quoted in the body of such communication. The consequences of non-generating computer based DIN number and also exception under which a manual communication may be issued is also provided in para 3 of said circular. As per para 3 of said circular, in exceptional circumstances as mentioned therein, communication may be issued manually but only after recording reasons in writing in the file and with prior written approval of the Chief Commissioner / Director General of income-tax. Further, whenever any such manual communication has been issued, it would be necessarily required to specify reason for issuing such

communication without DIN along with the date of obtaining written approval from the competent authority in a particular format which shall be mentioned in the body of communication itself. Para 4 explains the consequences of communications issued which is not in conformity with para 2 and 3 and as per said para 4 of circular, any communication which is not in conformity with para 2 & 3 above, shall be treated as invalid and shall be deemed to have never been issued. The circular goes on to explain in para 5, the process of regularization of manual communication issued without a valid DIN. Therefore, from the circular issued by the CBDT, it is undoubtedly clear that on and from 01.10.2019, any communication issued without a valid DIN and quoted in the body of the order is invalid and shall be deemed to have never been issued.

21. It is an undisputed fact that circulars issued by the CBDT are binding in nature for all income-tax authorities and this fact has been time and again emphasized by the Hon'ble Supreme Court in the case of UCO Bank vs. CIT, reported in 237 ITR 889 and K.P. Varghese vs. ITO, reported in 131 ITR 597. Further, the significance and background of issuing Circular No.19/2019 dated 14.08.2019 also needs to be understood. As explained by the CBDT itself, with the launch of various e-governance initiatives, Income-tax

Department is moving toward total computerization of its work and this has led to a significant improvement in delivery of services and has also brought greater transparency in the functioning of the tax administration. However, it has been brought to the notice of the CBDT that there have been some instances in which the notice, order, summons, etc., were found to have been issued manually without maintaining a proper audit trail of such communication. In order to prevent such instances and to maintain proper audit trail of all communication, the Board in exercise of power u/s.119 of the Act, had decided that no communication shall be issued by any income-tax authority to the assessee or any other person on or after the 1st day of October, 2019 unless a computer-generated Document Identical Number has been allotted and is duly quoted in the body of such communication. Further, introduction of DIN system in tax administration was pursuant to the directions of the Hon'ble Prime Minister of India which is evident from press release dated 01.10.2019 issued by the Ministry of Finance. Further, the FAQ issued by the Income-tax Department on authentication of notice, inter-alia, provides that in a case where the ITD notice / order does not bear a DIN, said notice/order received by the taxpayer shall be treated as invalid and non-est in law or deemed to be as if it has never been issued. This fact is further strengthened

by the press release dated 14.08.2019 issued by the Ministry of Finance which categorically states that every communication from the Income-tax Department must contain a DIN. Therefore, if you understand the background and significance of issuing a circular mandating generating DIN in all communications from certain date, one has to go by the letter and spirit of circular issued by the CBDT without any second thought. This fact is also further strengthened by the decision of Hon'ble Supreme Court in the case of Pradeep Goyal vs. Union of India reported in [2022] 141 taxmann.com 64(SC), where the Hon'ble Supreme Court has issued suggestion to the Government, for the necessity of implementing the system for electronic generation of Document Identification Number in all communications sent by the tax authorities. Therefore, we are of the considered view that going by the law on the issue of mandatory nature of circular issued by the CBDT and its significance, there is no doubt of whatsoever with regard to present circular issued by the CBDT dated 14.08.2019 on generation of computer-based DIN and quoting such DIN in the body of the order.

22. In the present batch of appeals, there is no dispute with regard to fact that none of the communications issued by the income-tax authority is having computer-generated DIN number

and quoted in the body of the order. Although, the Revenue claims that in all communications issued by the Department, a valid DIN has been generated and communicated to the assessee either on the same day or next day, but fact remains that in the body of the order DIN is quoted. The Id.ASG has filed a chart explaining the manner in which DIN has been generated in each and every communication issued by the income-tax authority in all these cases and explained that a communication has been sent to the assessee intimating generation of DIN for the impugned orders. Therefore, he submitted that the Department has complied with the mandatory conditions of Circular No.19/2019. We have gone through the chart submitted by the Id.ASG and we find that, in all these cases DIN has been separately generated either on the same day or next day or after few days and communicated to the assessee by way of separate intimation which is also having a valid DIN number. But fact remains that, whether this satisfies the requirement of Circular No.19/2019 or not has to be seen. To answer this question, it is crucial to ascertain the exact requirement of the circular, because if you go by the wording of circular, especially para 3, it is very clear that in exceptional circumstances as specified therein, the communication may be issued manually but only after recording reasons in writing in the file and with prior written approval of the

Chief Commissioner / Director General of Income-tax. The communication issued under aforesaid circumstances shall state the fact that the communication is issued manually without a DIN and the date of obtaining of the written approval of the competent authority for issue of manual communication in a specified format in the body of said communication. Therefore, to comply with the provisions of circular, every income-tax authority is required to satisfy the twin conditions i.e., a) allot DIN and b) quote such DIN in the body of the communication. If DIN is not generated and quoted in the body of the communication, then reasons for non-generating and quoting DIN should be specified in a particular format in the communication itself. In all these cases, computer-generated DIN has not been quoted in the body of the order. Although in few cases, a handwritten DIN is quoted in the body of the order, but it was explained by the counsels of the assessee's that if you authenticate the document by using said DIN number, the income-tax database shows an error 'no record found for the given document number'. Although, the Department has contended that in a case where DIN has been separately generated and/or communicated, it would be sufficient compliance of the impugned circular, in our considered view, the requirement of impugned circular is to allot and quote DIN in the body of the communication

but not generation and communication of DIN by separate intimation. Therefore, we are of the considered view that the Department has not complied with the conditions of Circular No.19/2019. We, further are of the opinion that when a statute describes or requires a thing to be done in a particular manner, it should be done in that manner or not at all.

23. At this stage, it is relevant to consider various decisions on this issue. The Hon'ble Delhi High Court in the case of CIT vs. Brandix Mauritius Holdings Ltd., *supra*, has considered an identical issue in light of circular issued by the CBDT and held that whenever communications are issued in the circumstances alluded to in paragraph 3(i) to 3(v) without a DIN, they require to be backed by the approval of the competent authority. The manual communication is required to furnish the reference number and the date when the approval was granted by the concerned officer. The formatted endorsement which is required to be engrossed on such a manual communication should be in a specified format provided in para 3 of said circular itself. The Hon'ble Calcutta High Court in the case of PCIT vs. Tata Medical Centre Trust, reported in 154 taxmann.com 600 held that DIN was generated separately and communicated to the assessee along with the order passed u/s.263

of the Act, is not a sufficient compliance of requirement of the circular. The ITAT, Delhi Benches in the case of Abhimanyu Chaturvedi vs. DCIT in ITA No.2486/Del/2022, also held that generation of DIN subsequent to passing the assessment order and communication thereafter by a separate intimation letter is of no consequence and that the requirements of the circular are not satisfied. A similar view has been expressed by various Benches of this Tribunal and held that the requirement of circular is to generate a computer-based Document Identification Number and duly quote in the body of such communication. The ITAT, Delhi Benches in the case of Toyota Micromatic Machinery Pvt. Ltd., vs. DCIT, in ITA No.849/DEL/2022 held that simultaneous issue of DIN is an insignificant exercise, in the absence of mentioning DIN number on the body of the order/directions. Similar view has been taken by ITAT, Delhi Benches in the case of Harish Gupta vs. DCIT in ITA No.1229/DEL/2023, where it has been held that absence of a DIN on the body of the assessment order rendered it invalid. If that condition is not satisfied, then subsequent generation of DIN either on same day or next day or communicated to assessee by way of separate communication does not satisfy the requirement of circular. Therefore, we are of the considered view that any communication issued by the income-tax authority without a valid

computer-generated DIN and is duly quoted in the body of such communication is treated as invalid and shall be deemed to have never been issued. In this batch of appeals, there is no dispute with regard to fact that in all orders issued by the AO/DRP, there is no valid computer-generated DIN has been allotted and is duly quoted in the body of the order and thus, in our considered view, the requirement of para 3 of Circular No.19/2019 is not satisfied and consequently, the orders issued by the AO/DRP are invalid, non-est and shall be deemed to have never been issued.

24. Insofar as the arguments of Id.ASG on handwritten DIN in the body of the orders, although the Id.ASG argued that quoting wrong DIN number in the body of the order is only a human error for which the entire proceedings cannot be treated as void and *ab-initio*, but we find that what is required as per Circular No.19/2019 is generation of computer-based Document Identification Number and quoting in the body of the order. In our considered view, such requirement is not satisfied and consequent generation of DIN number, subsequently and handwritten in the body of the order whether the DIN number of impugned order or the communication does not satisfy the conditions and accordingly, the arguments of the Id.ASG is rejected.

25. Coming back to the case law relied upon by the Revenue. The revenue relied upon the decision of Hon'ble High Court of Madras in the case of Texmo Precision Castings UK Ltd., vs. CIT, reported in 288 Taxman 251. We find that said decision has not dealt the issue in light of paragraph 3 & 4 of Circular No.19/2019 and has directly dealt with paragraph 5 of the impugned circular, which deals with regularization of orders which are issued without quoting DIN thereon, due to exceptional circumstances mentioned in paragraph 3 of said circular. In our considered view, the Hon'ble Madras High Court did not consider paragraph 3 & 4, which is very crucial where it has specified the exceptional circumstances under which a manual communication can be issued but subject to certain conditions. In the facts of present case, no exceptional circumstances as described in para 3 of the impugned circular are mentioned in the directions issued by the DRP/AO. Therefore, in our considered view, the ratio laid by the Hon'ble Madras High Court is not applicable to the facts of the present case. The Hon'ble Madras High Court has merely considered para 5 & 7 of the impugned circular, whereas in all other cases, the issue has been thoroughly examined in light of para 2 & 4 of said circular which is very important to understand the issuance of manual communication without a valid DIN and circumstances under which such communications can be issued with certain

conditions. Anyway, subsequent decision of Hon'ble High Court of Madras in the case of Ericsson India P. Ltd., vs. DCIT in Writ Petition No.14776/2020 and WMP No.18358/2020 dealing with similar circular issued under the indirect tax laws, has clearly held that non-generation/non-allotment of DIN is fatal to the communication itself, which invalidates the communication issued by the authority. Since, the subsequent decision of Jurisdictional High Court has considered the issue and held that any communication issued without a valid computer-generated DIN and is duly quoted in the body of the order is invalid and shall be deemed to have never been issued, in our considered view, subsequent decision of Jurisdictional High Court needs to be followed and accordingly, the decision in the case of Texmo Precision Castings UK Ltd., is considered to be not applicable to the facts of the present case and ignored. The Revenue has also relied upon the decision of Hon'ble High Court of Jharkhand in the case of Prakash Lal Khandenwal vs. CIT, *supra* and Hon'ble High Court of Allahabad in the case of Chandra Bhan vs. Union of India. We find that the issue before the Hon'ble High Court of Jharkhand is notice issued without a valid DIN for which the assessee has responded during the course of assessment proceedings. Similarly, the facts of case before the Hon'ble High Court of Allahabad are

different and are not applicable to the facts of this case. Therefore, we reject the case laws relied upon by the Revenue.

26. In the present case, there is no dispute with regard to fact that mandatory requirement of generating a computer-based DIN has not been allotted and is duly quoted in the body of the order issued by the AO/DRP. Subsequent generation of DIN either on the same day or next day and intimated to the assessee or other person by way of separate communication does not satisfy the conditions of para 3 & 4 of said circular. Therefore, we are of the considered view that any communication issued by the income-tax authority, in the present case, the AO/DRP without a valid computer-generated DIN and is duly quoted in the body of the order is invalid, non-est and shall be deemed to have never been issued.

27. Having said so, let us come back to various averment made by the Revenue on the issue. First and foremost argument taken by the Revenue is that directions issued by the DRP is an internal communication and non-generation of DIN and is duly quoted in the body of said order would not invalidate the assessment order passed by the AO. In our considered view, the argument of Revenue that DRP direction is an internal communication is wholly

erroneous and devoid of merits. Further, as per section 144C(15) of the Act, directions issued by the DRP is not an internal communication, because said communication is served on the assessee to enable the assessee to file rectification if any, as per the provisions of the Act. Section 144C(5) of the Act, inter-alia, provides that the DRP shall, in a case where any objection is received by the eligible assessee, issue such directions, as it thinks fit, for the guidance of the AO to enable him to complete the assessment. On the basis of above sub-section, it has been contended by the Department that the purpose of the DRP direction is only for the guidance of the AO. In our considered view, said understanding of law is incorrect because sub-section (5) of section 144 indicates one of the purposes of the DRP direction, but it does not indicate that such directions are internal communication. In this regard, it is relevant to consider the provisions of section 144C(14) of the Act, which empowers CBDT to make rules for the purposes of efficient functioning of the DRP. The CBDT has framed rules called the Income-tax (Dispute Resolution Panel) Rules, 2009. Rule 11 of the Income-tax (Dispute Resolution Panel) Rules, 2009 provides that the DRP shall, after the directions are issued, communicate the same to the eligible assessee and to the AO. Further, Rule 13 of the Income-tax (Dispute Resolution Panel) Rules, 2009 provides that

after the issue of directions of the DRP, if any mistake or error is apparent in such direction, the DRP may, suo motu, or on an application from the eligible assessee or the AO, rectify such mistake or error and also direct the AO to modify the assessment order accordingly. On a conjoint reading of section 144C(5) of the Act with Rule 11 & 13 of the Income-tax (Dispute Resolution Panel) Rules, 2009, it is crystal clear that the directions issued by the DRP to the AO are not merely 'internal communication' but is an order/communication which is issued to the eligible assessee. Assuming for a moment, the directions issued by the DRP are internal document within the Income-tax Department, the impugned circular would still be applicable and DIN must be allotted and quoted on the body of the directions as held by the Hon'ble Bombay High Court in the case of Ashok Commercial Enterprises vs. ACIT, reported in 154 taxmann.com 144, wherein the Hon'ble Bombay High Court held that the circular issued by the CBDT is applicable even to a satisfaction note prepared by the AO for invoking the provisions of section 153C of the Act. In this regard, it is relevant to consider the decision of ITAT, Pune Benches in the case of B.V.G. India Ltd., vs. DCIT in IT(SS)A Nos.11 to 16/PUN/2023, where it has been held that approval granted by the Addl.CIT u/s.153D of the Act, cannot be said to be an internal document and hence, the

requirement of DIN has to be complied with in respect of such approval. Therefore, we are of the considered view that the arguments of Id.DR that DRP communication is an internal communication is devoid of merit and thus, rejected.

28. The Department has taken another argument in light of provisions of section 116 of the Act. The revenue claimed that DRP is not an income-tax authority defined under the Act and circular issued by the CBDT is not applicable to DRP proceedings. We do not find any merit in the arguments of the Revenue that DRP is not an income-tax authority. Section 144C(15) of the Act defines 'Dispute Resolution Panel' to mean a collegium comprising of three Principal Commissioners or Commissioner of Income-tax constituted by the CBDT and thus, DRP is a collegium of three Commissioners, all of which are income-tax authorities as per section 116 of the Act. The term 'collegium' has not been defined under the Act and consequently, it should be understood by a dictionary meaning. Black's Law Dictionary has defined the term 'collegium', which means 'an association of at least three people having the right to assemble and enact rules concerning membership, organization and the rights and duties of members'. Webster's Unabridged Dictionary defines, 'collegium' means 'a group of ruling officials each with equal

rank and power, especially that formerly administered a Soviet commissariat'. From the dictionary meaning of 'collegium', it is clear that Dispute Resolution Panel is merely an association/group of three Principal Commissioner or Commissioner of Income-tax, all of which are defined as income-tax authority u/s.116 of the Act. Therefore, in our considered view, the argument of the Revenue that DRP is not an income-tax authority does not hold water. Further, section 116 of the Act, merely prescribes 'class' of the income-tax authority and does not provide exhaustive list of income-tax authority. There are various income-tax authorities functioning under the Act, such as High Pitch Assessment Committee, Interim Board for Settlement, Panel for General Anti-avoidance Rules, Transfer Pricing Officer, etc, which are not listed u/s.116 of the Act. Nevertheless, they are income-tax authorities for the purpose of administering the provisions of the Act. These authorities discharge their duties in terms of respective CBDT circular issued u/s.119 of the Act. Therefore, we are of the considered view that DRP is an income-tax authority for the purpose of administering the provisions of the Act and consequently, the DRP would be bound to follow the circular issued by the CBDT. Further, the fact that DRP is an 'income-tax authority' for the purpose of administering the provisions of the Act is corroborated

from section 117 & 119 of the Act. Section 117 of the Act, inter alia, provides that the Central Government may appoint such 'persons; as it thinks fit to be income-tax authorities. Similarly, section 118 of the Act, provides that CBDT may direct that any income-tax authority or authorities specified in the notification shall be subordinate to such other income-tax authority or authorities specified in such notification. In exercise of the powers conferred u/s.118 of the Act, the CBDT through notification have directed the Commissioner of Income-tax being members of Dispute Resolution Panel to be the sub-ordinate of another income-tax authority namely Chief Commissioner of Income-tax (International Taxation), Bangalore. Therefore, we are of the considered view that from the above it is clear that DRP is an income-tax authority and consequently, the panel would be bound to follow the circular issued by the CBDT. Assuming for a moment, the DRP is not an income-tax authority, still it is bound to follow the circular issued by the CBDT u/s.119 of the Act for the simple reason that instructions and directions issued by the CBDT are required to be observed and followed by every income-tax authority and all other persons employed in the execution of this Act. In our considered view, DRP would certainly fall within the purview of 'all other persons employed in the execution of this Act' as envisaged u/s.119 of the

Act and consequently, the impugned circular would also be required to be followed by the DRP.

29. The next argument taken by the Revenue is that circular issued by the CBDT does not apply to the orders communicated electronically. In our considered view, no such exception has been made out nor is any rationale available to make such distinction. Further, any order communicated through e-mail cannot become electronically communicated order automatically. In this regard, it is necessary to refer instruction issued by the Directorate of Income-tax (Systems) for the guidance/appraisal of all the field officers regarding the new functionality of auto generation of DIN for the order passed in ITD-AST. The new functionality inter-alia ensured that whenever the orders are passed on the ITD/AST application, the corresponding DIN for such orders was generated automatically on the ITD/AST application screen. However, in cases where orders have been passed manually and not through ITD application, similar instructions have been issued by the Directorate of Income-tax (Systems) vide its instruction No.Sytem/ITBA/Instruction/Common Function/180/2019-20 dated 25.10.2019 and by virtue of the aforesaid instruction, a new functionality was developed for automatic generation of DIN in cases where the

orders were issued manually outside the ITBA system. From the above, it is clear that the field officers of the Income-tax Department were equipped to allot and quote DIN on the body of any communication issued to the assessee's irrespective of whether the impugned order was generated online on the AST/ITD applications or manually. This fact is further strengthened by the fact that the Id.counsel for the assessee Shri M.P. Lohia appearing for the assessee, M/s. Lakshmi Machine Works, has filed few sample copies of order passed by the DRP, Mumbai which contains a bar coded computer generated DIN allotted and is duly quoted in the body of the order. From the above it is undoubtedly clear that the systems provide for generation of computer based DIN. Therefore, we are of the considered view that there is no merit in the argument of the Revenue that there is no integration between ITBA portal and DRP module and because of this, DRP is unable to generate DIN numbers when the order was passed. Accordingly, we reject the argument of the Revenue.

30. The Revenue had also taken another argument that DRP order cannot be challenged before ITAT and consequently non-generation/quoting of DIN in the body of the order does not in any way invalidate such order. In this regard, we find that the

proposition canvassed by the Id.DR is correct to the extent that the DRP order cannot be challenged before ITAT. But, what is challenged before ITAT is final assessment order, which is passed in pursuant to the directions of the DRP. If there is no valid DRP direction, the assessment order passed by the AO becomes time barred once the order of DRP has been held to be non-est. The AO gets extended time u/s.144C(13) of the Act, for passing final assessment order pursuant to the direction of the DRP. But for want of DIN, there is no valid DRP order, the extended time limit u/s.144C(13) of the Act for passing the final assessment order under the first proviso to section 153(2) of the Act, would not be applicable and consequently, the final assessment order passed by the AO is barred by limitation. Thus, in our considered view the argument of the revenue that DRP order is not appealable is incorrect and devoid of merit.

31. The Revenue had also taken one more argument that present appeal filed before the Tribunal is not maintainable, because when the assessee argued that order of the DRP is non-est, the final assessment order cannot be said to be the one passed pursuant to the direction of the DRP. We do not find any merit in the arguments of the Revenue for the simple reason that, it is a well settled

principle of law that an illegal order would be in operation till it is vacated or set aside by the competent court in appeal. Such an illegal order can be corrected in appeal, but so long as it is not set aside in appeal, it remains an order having its own statutory force. This principle is supported by the decision of Hon'ble High Court of Andhra Pradesh in the case of Bhikajee Dadabhai & Co., vs. CIT, reported in [1958] 33 ITR 760. Further, the Hon'ble supreme court has upheld the legal position canvassed by the Hon'ble High Court of Andhra Pradesh in the case of Bhikajee Dadabhai & Co., vs. CIT, reported in [1961] 42 ITR 123(SC). Therefore, we are of the considered view that impugned orders passed by the AO/DRP would be in operation having its own statutory force till it is vacated or set aside in appeal. Thus, we reject the arguments of the Revenue.

32. In this view of matter and considering facts and circumstances of these cases and also by following ratios of various decision cited herein above, we are of the considered view that orders passed by the DRP/AO without a valid computer-generated Document Identification Number has been allotted and duly quoted in the body of such order is invalid, non-est and shall be deemed to have never been issued. However, as per section 144C(13) of the Act, the AO has to pass the final assessment order in conformity with the

directions issued by the DRP within one month from the end of the month in which such direction is received. In all these cases, the DRP directions are held as invalid and deemed to have never been issued, being in violation of Circular No.19/2019. Once the DRP directions are deemed to have never been issued, the Id.AO could not have passed the final assessment orders u/s.144C of the Act, in pursuance to such non-est directions. Thus, final assessment orders passed u/s.144C(13) r.w.s. 143(3) of the Act in pursuant to invalid, non-est DRP directions is bad in law, void *ab-initio* and accordingly liable to be quashed. Accordingly, we quash the final assessment orders passed by the AO for all these assessment years and in all assessee's cases. Accordingly, we allow the additional ground of appeal filed by the assessee's.

33. Since, we have allowed the appeals filed by the assessee's on additional ground and held that orders passed by the DRP/AO is invalid, non-est and shall be deemed to have never been issued, other grounds raised by the assessee's on merits becomes academic in nature and thus, not adjudicated at this stage.

34. In the result this batch of appeals filed by different assessee's as per cause title are allowed.

35. Coming to stay petitions filed by the assessee M/s Mobis India Limited in SP Nos.34 to 39/CHNY/2023 for the assessment years 2011-12 to 2014-15, 2017-18 & 2018-19. Since, we have disposed off the appeals filed by the assessee, the stay petitions filed by the assessee becomes infructuous and thus, dismissed.

36. In the result, the stay petitions filed by the assessee in SP Nos.34 to 39/CHNY/2023 are dismissed and the appeals filed by the assesseees are allowed.

Order pronounced in the open court on 22nd December, 2023 at Chennai.

Sd/-
(महावीर सिंह)
(MAHAVIR SINGH)
उपाध्यक्ष /VICE PRESIDENT

Sd/-
(मंजुनाथ. जी)
(MANJUNATHA.G)
लेखा सदस्य/ACCOUNTANT MEMBER

चेन्नई/Chennai,
दिनांक/Dated, the 22nd December, 2023

RSR

आदेश की प्रतिलिपि अग्रेषित/Copy to:

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