

**IN THE INCOME TAX APPELLATE TRIBUNAL
"D" BENCH, AHMEDABAD**

**BEFORE DR. B.R.R. KUMAR, VICE-PRESIDENT
SHRI T.R. SENTHIL KUMAR, JUDICIAL MEMBER**

I.T.A. No. 1609/Ahd/2024
(Assessment Year: 2020-21)

Inductotherm (India) Pvt. Ltd., Plot No. SM-06, Sanand II Industrial Estate, Village Bol, Sanand, Ahmedabad-382170 [PAN : AAACI 3672 B]	Vs.	Deputy Commissioner of Income-tax, Circle 2(1)(1), Ahmedabad
(Appellant)	..	(Respondent)
Assessee represented by :	Shri Amol Mahajan, AR & Shri Dhanesh Bafna, AR	
Revenue represented by:	Shri Sher Singh, CIT-DR	
Date of Hearing	17.03.2026	
Date of Pronouncement	27.05.2026	

ORDER

PER DR. B.R.R. KUMAR, VICE-PRESIDENT :

By way of this appeal, the assessee-appellant has challenged correctness of the order dated 12.07.2024 passed by the Assessing Officer under section 143(3) r.w.s. 144C (13) r.w.s. 144B of the Income Tax Act, 1961 [hereinafter referred to as "the Act" for short], for the Assessment Year 2020-21.

2. The assessee has raised following grounds of appeal :-

"General Ground

1. On the facts and in the circumstances of the case and in law, the Assessment Unit, National Faceless Assessment Centre, Income Tax Department ('the Ld. AO')/the Learned Transfer Pricing Officer ('the Ld. TPO'), under the directions of the Hon'ble Dispute Resolution Panel ('the Hon'ble DRP'), erred in confirming the addition of INR 7,64,13,950/- to the income of the Appellant.

The Appellant prays that the addition of INR 7,64,13,950/- be deleted.

Validity of the assessment proceedings

2. On the facts and in the circumstances of the case and in law, the assessment order passed under section 143(3) read with section 144C(13) and 144B of the Income-tax Act, 1961 ('the Act') by the Ld. AO, being passed without a proper show-cause notice to the Appellant as required under mandatory procedure prescribed under section 144B of the

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Act, is in violation of the principles of natural justice and therefore, invalid, bad in law and liable to be quashed.

3. On the facts and in the circumstances of the case and in law, the Ld. AO under the directions of the Hon'ble DRP, erred in holding that the Intimation under section 143(1) of the Act, issued by the Learned Central Processing Centre ('the Ld. CPC') does not merge with the assessment order passed under section 143(3) read with section 144C(13) and 144B of the Act.

The Appellant prays that the assessment proceedings be held as bad in law and as such deserve to be quashed.

Transfer Pricing additions

4. On the facts and in the circumstances of the case and in law, the Ld. AO/TPO/DRP, erred in re-computing the arm's-length price of the international transaction relating to sale of 240 near comparable types of goods to AEs at INR 9,44,96,747/- instead of INR 5,56,49,843/- as determined by the Assessee, thereby computing a TP adjustment of INR 3,88,46,904/-.

5. On the facts and in the circumstances of the case and in law, the Id. AO/TPO/DRP erred in rejecting the aggregation approach adopted by the Appellant.

6. On the facts and in the circumstances of the case and in law, the Ld. AO/TPO/DRP erred in adopting the internal cost-plus method as the most appropriate method to determine the Arm's Length Price of the transaction of sale of goods.

7. Without prejudice to the grounds above, on the facts and in the circumstances of the case and in law, The Ld. AO/TPO/DRP erred in;

- **rejecting the internal TNMM approach adopted by the Appellant on without prejudice basis.**
- not granting reasonable economic adjustments as may be required to eliminate the differences between the controlled and comparable uncontrolled transactions entered into by the Appellant on without prejudice basis.

The Appellant prays that the aforesaid adjustment be deleted.

Corporate tax Additions

8. On the facts and circumstances of the case and in law, the Ld. AO under the directions of Hon'ble DRP erred in ignoring the fact that the adjustment has been made by the Ld. CPC without providing sufficient opportunity as required under section 143(1)(a) of the Act.

9. On the facts and circumstances of the case and in law, the Ld. AO under the directions of Hon'ble DRP has erred in making addition of INR 3,75,67,050/- as was disallowed in Intimation passed under section 143(1) of the Act, without appreciating that the same are in **nature of reversal of provisions that were already disallowed in the year of creation of such provisions.**

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The Appellant prays that the aforesaid addition be deleted.

Other Grounds

10. On the facts and circumstances of the case and in law, the Ld. AO erred in not granting credit of Tax Deducted at Source (TDS) of INR 71,86,233 and Tax Collected at Source (TCS) of INR 91,050 as claimed by the Appellant in the return of income.

3. The brief facts of the case are that the assessee is a wholly owned subsidiary of Inductotherm Technologies Inc., USA and is engaged in the business of manufacturing and sale of induction heating, welding and related industrial equipment and components. For the assessment year under consideration, the assessee filed its return of income on 13.02.2021 declaring total income of Rs175.94 crores. The case was selected for scrutiny and notice u/s 143(2) of the Act was issued. During the course of scrutiny proceedings, an intimation u/s 143(1) of the Act was issued by the CPC making an adjustment of Rs.3,75,67,050/- on account of mismatch between the tax audit report and the return of income in respect of reversal of provisions. **The assessee contended that the relevant provisions had already been disallowed in the year of creation in earlier assessment years** and, therefore, the reversal thereof had been rightly reduced while computing income during the year under consideration, and any contrary view would result in double taxation of the same item.

3.1 During the relevant previous year, the assessee also entered into international transactions with its Associated Enterprises (AEs). For the purpose of benchmarking such international transactions, the assessee adopted the Transactional Net Margin Method (TNMM) at the entity level and demonstrated an operating margin of 23.68%, which was higher than the margins of the comparables selected by it. The Transfer Pricing Officer (TPO), however, rejected the aggregated TNMM approach adopted by the assessee and proceeded to apply an internal Comparable Profit Margin/Cost Plus Method by selecting around 240 product lines out of approximately 9000 products manufactured by the assessee, which were considered comparable between AE and non-AE segments. On this basis, the TPO made a transfer pricing adjustment of Rs.3,88,46,904/-.

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3.2 The assessee objected before the Dispute Resolution Panel (DRP) contending that the adoption of product-level internal Cost Plus Method was not appropriate in view of significant functional, economic, geographical and risk differences between AE and non-AE transactions, and that reliable adjustments to eliminate such differences were not feasible as required under Rule 10B of the Income-tax Rules, 1962. It was further submitted that the aggregated **TNMM approach had consistently been accepted in the assessee's own case in earlier assessment years and there was no justification for deviating from the settled approach.** However, the DRP rejected the objections and upheld the transfer pricing adjustment made by the TPO.

4.3 The assessee also challenged the adjustment made in the intimation under section 143(1) of the Act relating to reversal of provisions amounting to Rs.3,75,67,050/- as well as denial of benefit of concessional tax rate under section 115BAA of the Act. The DRP, however, declined to adjudicate these issues holding that adjustments made by CPC under section 143(1) did not fall within its jurisdiction under section 144C of the Act. At this juncture, we feel it is abdication of responsibility of the Senior Revenue Officers who are part of the DRP. The assessee further assailed the initiation of penalty proceedings under section 270A of the Act as being mechanical and without proper application of mind.

4. Aggrieved by the order of the Assessing Officer, the assessee is now in appeal before the Tribunal raising the grounds as mentioned above.

Issue I : Transfer Pricing Adjustment

5. The Ld. AR submitted that the rejection of TNMM by the TPO is contrary to settled principles of transfer pricing law and contrary to earlier decisions of the coordinate bench in assessee's own case for preceding assessment years where TNMM has been consistently upheld as the most appropriate method. The Ld. AR also submitted that there is no change in the functional, asset and risk profile of the assessee during the year under consideration. The Ld. AR contended that the TPO erred in selecting only 240 products out of a large product basket of approximately 9000 products without

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demonstrating strict comparability or making reasonably accurate adjustments as mandated under Rule 10B(3). The AR further submitted that the DRP failed to follow binding precedent of the Tribunal in assessee's own case and instead sought to keep the issue alive in the interest of revenue, which is impermissible in law. The assessee relied on earlier years' orders of the Tribunal in its own case from AY 2006-07 onwards, wherein identical issue was decided in favour of the assessee holding that internal CPM could not be applied where proper comparability adjustments were not possible and TNMM at entity level was appropriate.

6. The Ld. DR supported the orders of the TPO, Assessing Officer and DRP and submitted that where internal comparable data is available, Cost Plus Method (CPM) is more appropriate and should be preferred over aggregated TNMM. It was submitted that the TPO has rightly identified comparable transactions and applied a scientific internal comparison rather than relying on broad aggregation. The Ld. DR further contended that earlier Tribunal decisions may not automatically apply as each assessment year is independent.

7. We have carefully considered rival submissions and perused material on record on this issue. The primary issue is whether the TPO was justified in rejecting TNMM adopted by the assessee and in applying internal CPM. It is an undisputed fact that in assessee's own case for earlier assessment years involving identical facts, the Coordinate bench of this Tribunal has consistently upheld application of TNMM and rejected internal CPM approach adopted by the TPO. The Revenue has not brought on record any material change in facts or functional profile of the assessee during the year under consideration. The Ld. DRP has also recorded that there is no change in factual matrix, yet it chose not to follow binding judicial precedent on the ground that the issue is pending before higher forums. In our considered view, such an approach is not sustainable in law. Judicial discipline requires that orders of coordinate benches on identical facts must be followed unless stayed, reversed or distinguished on facts. Therefore, in view of the consistent judicial view in assessee's own case and absence of any distinguishing facts, **we hold that TNMM at entity level is the most appropriate**

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method in the present case. Accordingly, the transfer pricing adjustment of Rs.3,88,46,904 is directed to be deleted.

Issue II - Adjustment u/s 143(1) and write-back of provisions

8. The Ld. AR submitted that the addition of Rs.3,75,67,050/- arises purely from a clerical mismatch between the tax audit report and the return of income in respect of reversal of provisions. It was submitted that the relevant provisions were originally disallowed in the year of creation itself in earlier assessment years and therefore, upon reversal during the year, the same was rightly reduced while computing total income so as to avoid double taxation. It was contended that if the adjustment made by CPC is sustained, it would result in taxing the same expenditure twice. The AR also submitted that the intimation u/s 143(1) was issued without granting the mandatory 30 days' time as required under the second proviso to section 143(1) of the Act, thereby rendering the adjustment procedurally invalid. The Ld. AR, on merits, it was pointed out that the mismatch was subsequently rectified through a certificate from the tax auditor dated 06.06.2025 and revised tax audit report filed on 07.08.2025 confirming that the classification error was inadvertent and that the impugned amount was correctly reported under the relevant clause. Reliance was placed on various judicial precedents holding that procedural violations in section 143(1) adjustments render such additions unsustainable.

9. The Ld. DR, on the other hand, submitted that CPC is statutorily empowered to make adjustments under section 143(1) based on discrepancies between the return and audit report and that such processing is independent of scrutiny assessment proceedings under section 143(3). The Ld. DR also submitted that the assessee failed to correctly reconcile its tax audit report with the return of income at the time of processing and therefore the CPC was justified in making the adjustment. The DR supported the action of lower authorities and contended that no procedural infirmity survives once statutory conditions of section 143(1) are substantially complied with.

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10. We have carefully considered the rival submissions and perused material on record on this issue. **The undisputed fact is that the impugned provisions were disallowed in earlier years at the time of creation itself. Once such disallowance has already been made, reversal of such provisions during the year cannot again be treated as taxable income, as it would amount to double taxation of the same item.** Further, the assessee has brought on record a revised tax audit report and auditor's certificate clarifying that the mismatch arose due to inadvertent classification error, which stands reconciled. However, these factual aspects, including the claim of earlier disallowance of the provisions and the reconciliation furnished through the revised tax audit report and auditor's certificate, require verification at the end of the Assessing Officer. We therefore deem it fit and proper to set aside this issue to the file of the Assessing Officer for the limited purpose of verification of the assessee's claim and adjudication afresh in accordance with law after affording adequate opportunity of being heard to the assessee.

Accordingly, this ground is allowed for statistical purposes.

Issue III- Short grant of TDS/TCS credit

11. The Ld. AR submitted that the Assessing Officer has not granted full credit of TDS amounting to Rs.71,86,233/- and TCS amounting to Rs.91,050/- as claimed by the assessee in the return of income. It was submitted that the necessary details and supporting evidences are available on record and the assessee is legally entitled to the said credit.

12. The Ld. DR, on this aspect, submitted that the issue may be restored to the file of the Assessing Officer for verification of the claim in accordance with law.

13. We have considered the rival submissions and perused the material available on record. Since grant of TDS/TCS credit is consequential and verification based, we deem it appropriate to restore this issue to the file of the Assessing Officer with a direction to verify the assessee's claim from Form 26AS/AIS and other supporting evidences and

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grant due credit in accordance with law after providing reasonable opportunity of being heard to the assessee (in case Assessing Officer doubts the deduction/collection). This ground is allowed for statistical purposes.

14. In the result, the appeal of the assessee is allowed for statistical purposes.

The order pronounced in the open Court on 27.05.2026

Sd/-

(T.R. SENTHIL KUMAR)
JUDICIAL MEMBER

Ahmedabad; Dated 27/05/2026

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Sd/-

(DR. B.R.R. KUMAR)
VICE-PRESIDENT

आदेश की प्रतिलिपि □ ग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
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