IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'I' NEW DELHI

BEFORE SHRI SATBEER SINGH GODARA, JUDICIAL MEMBER
AND
SHRI MANISH AGARWAL, ACCOUNTANT MEMBER

ITA No.6528/Del/2017
Assessment Year: 2013-14

M/s. Dixon Technologies (India) Ltd., Flat No. 5, 1st Floor, Sector-6, Market, R.K. Puram, New Delhi	**Vs.**	Addl. CIT, Special Range-3, New Delhi
PAN: AAACD3641D		
(Appellant)		**(Respondent)**

Assessee by	Sh. Neeraj Jain, Adv. Sh. Ramit Katyal, AR Sh. Dhruv Seth, Adv.
Department by	Sh. Mahesh Kumar, CIT(DR)

Date of hearing	04.06.2026
Date of pronouncement	02.09.2026

ORDER

PER SATBEER SINGH GODARA, JM

This assessee's appeal for assessment year 2013-14, arises against the learned DCIT, TPO-1(2)(1), New Delhi's assessment order dated 28.08.2017, involving proceedings under section 143(3)/144C of the Income-tax Act, 1961 (hereinafter referred to as 'the Act').

Heard both the parties at length. Case file perused.

2. It transpires during the course of hearing that the assessee's first and foremost substantive ground raised herein challenges the learned lower authorities' respective findings making transfer pricing adjustment amounting to Rs.5,12,70,379/- in respect of the specified domestic transactions "SDTs". There is no dispute between the parties that the assessee/appellant manufactured audio video electronic products in India in the relevant previous year. And also that it had executed the impugned specified domestic transactions involving purchase of goods, payments of job charges and rent etc. with the persons covered under section 40A(2)(b) of the Act which duly came within the ambit of Chapter X of the Act at that point of time. The Transfer Pricing Officer "TPO" made the necessary reference so as to ascertain the arm's length price "ALP" thereof. We wish to emphasize here that the assessee had declared its operating profits/sales margin for the relevant previous year @ 1.65% after adopting the transactional net margin method "TNMM" to buttress the point that its aforesaid OP/sales margin was indeed at arm's length. The "TPO" appears to have passed his order on 10.10.2016, *inter alia*, rejecting the same and arrived at revised average OP/sales margin @ 4.70% thereby

proposing upward adjustment of Rs.5,12,70,379/- in question. Learned Dispute Resolution Panel "DRP" issued its direction on 31.07.2017 upholding the same. It is in this factual backdrop that the learned Assessing Officer has framed his impugned assessment on 28.08.2017 making the adjustment in issue in the assessee's hands forming subject matter of the tribunal's apt adjudication.

3. Learned counsel canvasses the assessee's legal/additional ground in this factual backdrop. His case before us is that given the fact that the legislature; vide Finance Act, 2017, has omitted clasue (i) to section 92BA of the Act, it has to be deemed that the reference to section 40A(2) herein above has never existed in the statute. He further quotes PCIT Vs. Texport Overseas Pvt. Ltd., (2020)114 taxmann.com 568 (Karnataka) deciding the very issue in the assessee's favour and against the department; as follows:

> *"**2.** We have heard the arguments of Sri. Jeevan J. Neeralagi and Sri. E.I. Sanmathi, learned Advocates appearing for revenue in respective appeals and Sri. Sharath, learned counsel appearing on behalf of Sri. Chythanya K.K. for respondent/ assessee.*
>
> ***3.** It is the contention of learned Advocates appearing for revenue that tribunal was not justified in arriving at a conclusion that Clause (i) of section 92BA of the Act, which had been omitted w.e.f. 01.04.2017 would be applicable retrospectively by presuming the retrospectivity, particularly when the statue itself explicitly stated it to be prospective in nature. As such they have sought for formulating substantial questions of law and have sought for answering the same in favour of revenue and against the assessee.*

4. *Sri. E.I. Sanmathi, learned counsel appearing for revenue/appellant in ITA No.170/2019 would contend that even the disallowance made by the AO under section 14A r/w section 8(2)(iii) of Income Tax Rules for a sum of Rs. 14,88,870/- by holding that there was no exempted income and as such disallowance could not have been made even though said provision was rightly invoked by AO, and as such setting aside the disallowance is erroneous. Hence, he prays for substantial question of law as formulated in the appeal memorandum (ITA 170/2019) be formulated, adjudicated and answered in favour of assessee.*

5. *Having heard learned Advocates appearing for parties and on perusal of records in general and order passed by tribunal in particular it is clearly noticeable that Clause (i) of section 92BA of the Act came to be omitted w.e.f. 01.04.2019 by Finance Act, 2014. As to whether omission would save the acts is an issue which is no more res intigra in the light of authoritative pronouncement of Hon'ble Apex Court in the matter of Kolhapur Canesugar Works Ltd. v. Union of India AIR 2000 SC 811 whereunder Apex Court has examined the effect of repeal of a statute vis-a-vis deletion/addition of a provision in an enactment and its effect thereof. The import of section 6 of General Clauses Act has also been examined and it came to be held:*

> *"37. The position is well known that at common law, the normal effect of repealing a statute or deleting a provision is to obliterate it from the statute-book as completely as if it had never been passed, and the statute must be considered as a law that never existed. To this rule, an exception is engrafted by the provisions of section 6(1). If a provision of a statute is unconditionally omitted without a saving clause in favour of pending proceedings, all actions must stop where the omission finds them, and if final relief has not been granted before the omission goes into effect, it cannot be granted afterwards. Savings of the nature contained in section 6 or in special Acts may modify the position. Thus the operation of repeal or deletion as to the future and the past largely depends on the savings applicable. In a case where a particular provision in a statute is omitted and in its place another provision dealing with the same contingency is introduced without a saving clause in favour of pending proceedings then it can be reasonably inferred that the intention of the legislature is that the pending proceedings shall not continue but fresh proceedings for the same purpose may be initiated under the new provision."*

6. *In fact, Co-ordinate Bench under similar circumstances had examined the effect of omission of sub-section (9) to Section 10B of the Act w.e.f. 01.04.2004 by Finance Act, 2003 and held that there was* *no saving clause or provision introduced by way of amendment by omitting sub-section (9) of section 10B. In the matter of General Finance Co. v. ACIT, which judgment has also been taken note of by the tribunal while repelling the contention raised by revenue with regard to retrospectivity of section 92BA(i) of the Act. Thus, when clause (i) of Section 92BA having been omitted by the Finance Act, 2017, with effect from 01.07.2017 from the Statute the resultant effect is that it had never been passed and to be considered as a law never been existed. Hence, decision taken by the Assessing Officer under the effect of section 92BI and reference made to the order of Transfer Pricing Officer-TPO under section 92CA could be invalid and bad in law.*

***7.** It is for this precise reason, tribunal has rightly held that order passed by the TPO and DRP is unsustainable in the eyes of law. The said finding is based on the authoritative principles enunciated by the Hon'ble Supreme Court in Kolhapur Canesugar Works Ltd. referred to herein supra which has been followed by Co-ordinate Bench of this Court in the matter of M/s. GE Thermometrias India Private Ltd., stated supra. As such we are of the considered view that first substantial question of law raised in the appeal by the revenue in respective appeal memorandum could not arise for consideration particularly when the said issue being no more res integra."*

4. Learned counsel's case accordingly is that we ought to delete the impugned first and foremost adjustment of Rs.5,12,70,379/- made in the assessee's hands in light of the foregoing legislative amendment/omission settling the issue against the department. Learned CIT(DR) very fairly does not dispute the legislative amendment in the Act vide Finance Act, 2017 w.e.f. 01.04.2017 in principle. He places on record the Explanatory Memorandum thereof that the same would "take effect from 1st April, 2017 and will accordingly apply from assessment year 2017-18 and subsequent assessment years', reading as under:

"44. Scope of section 92BA of the Income-tax Act relating to Specified Domestic Transactions (SDTs).

44.1 Before amendment by the Act, the provisions of section 92BA of the Income-tax Act provided inter alia ^Sf any expenditure in respect of which payment has been made by the assessee to certain "specified persons" under section 40A(2)(b) of the Income-tax Act were covered within the ambit of SDTs.
44.2 As a matter of compliance and reporting, taxpayers needed to obtain the chartered accountant's certificate in Form 3CEB providing the details such as list of related parties, nature and value of SDTs, method used to determine the arm's length price for SDTs, positions taken with regard to certain transactions not considered as SDTs, etc. This had considerably increased the compliance burden of the taxpayers.
44.3 In order to reduce the compliance burden of taxpayers, section 92BA of the Income-tax Act has been amended so as to provide that expenditure in respect of which payment has been made by the assessee to a person referred to in under section 40A(2)(A) are to be excluded from the scope of section 92BA of the Income-tax Act. Consequential amendment has also been made to section 40(A)(2)(a) of the Income-tax Act.
44.4 Applicability: These amendments take effect from 1st April, 2017 and will, accordingly, apply from assessment year 2017-18 and subsequent assessment years."

5. We are next taken to the CBDT's circular/instructions no. 2/2018 dated 15.02.2018, issued in tune thereto, as under:

"44. Scope of section 92BA of the Income-tax Act relating to Specified Domestic Transactions (SDTs).

Before amendment by the Act, the provisions of section 92BA of the Income- tax Act provided inter alia that any expenditure in respect of which payment has been made by the assessee to certain "specified persons" under section 40A(2)(b) of the Income-tax Act were covered within the ambit of SDTs.

As a matter of compliance and reporting, taxpayers needed to obtain the chartered accountant's certificate in Form 3CEB providing the details such as list of related parties, nature and value of SDTs, method used to determine the arm's length price for SDTs, positions taken with regard to certain transactions not considered as SDTs, etc.

> *This had considerably increased the compliance burden of the taxpayers.*
>
> *In order to reduce the compliance burden of taxpayers, section 92BA of the Income-tax Act has been amended so as to provide that expenditure in respect of which payment has been made by the assessee to a person referred to in under section 40A(2)(b) are to be excluded from the scope of section 92BA of the Income-tax Act. Consequential amendment has also been made to section 40(A)(2)(a) of the Income-tax Act.*
>
> *Applicability: These amendments take effect from 1st April, 2017 and will accordingly, apply from assessment year 2017-18 and subsequent assessment years."*

6. Learned CIT(DR)'s case accordingly is that we ought to adopt stricter interpretation in light of Commissioner of Customs (Import), Mumbai v. M/s. Dilip Kumar and Co. and Ors. (2018) 9 SCC page (1) (SC)(FB) followed by its reiteration in Director of Income Tax (International Taxation) Vs. American Express Bank Ltd. (2025) 484 ITR 137 (SC), as under:

> *"27. Before addressing the aforementioned issue, we consider it appropriate to first discuss certain principles that guide the interpretation of taxing statutes.*
>
> ***(i) Basic Principles of Interpretation***
>
> *28. It is a well-established rule that taxing statutes have to be strictly construed. In CIT v. Kasturi & Sons Ltd. [1999] 237 ITR 24/103 Taxman 342 (SC)/(1999) 3 SCC 346, this Court was determining the meaning of the word 'moneys' in the expression 'money's payable' under Section 41(2) of the Act, 1961. In that context, the Court referenced the following concerning the strict interpretation of taxation statutes:*
>
>> *"9. The principle that a taxing statute should be strictly construed is well settled. In Principles of Statutory Interpretation by Justice G.P. Singh, 6th Edn., 1996, the law is stated thus:*

"The well-established rule in the familiar words of Lord Wensleydale, reaffirmed by Lord Halsbury and Lord Simonds, means: 'The subject is not to be taxed without clear words for that purpose; and also that every Act of Parliament must be read according to the natural construction of its words. ' In a classic passage Lord Cairns stated the principle thus: 'If the person sought to be taxed comes within the letter of the law he must be taxed, however great the hardship may appear to the judicial mind to be. On the other hand, if the Crown seeking to recover the tax, cannot bring the subject within the letter of the law, the subject is free, however apparently within the spirit of law the case might otherwise appear to be. In other words, if there be admissible in any statute, what is called an equitable construction, certainly, such a construction is not admissible in a taxing statute where you can simply adhere to the words of the statute. ' VISCOUNT Simon quoted with approval a passage from ROWLATT, J. expressing the principle in the following words: Tn a taxing Act one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about a tax. There is no presumption as to tax. Nothing is to be read in, nothing is to be implied. One can only look fairly at the language used.' Relying upon this passage Lord Upjohn said: 'Fiscal measures are not built upon any theory of taxation. ' ""

(Emphasis Supplied)

29. The principle outlined above has been articulated by this Court in similar terms in a plethora of cases. Thus, it is clear that when interpreting taxation statutes such as the Act, 1961, the following aspects must be strictly observed: (i) equitable considerations, presumptions, or assumptions should not be taken into account, and (ii) the statute should be interpreted according to what is clearly expressed. Thus, if the court is satisfied that a case falls strictly within the provisions of the law, the subject can be taxed, regardless of the consequences such a levy of tax might have [See A.V. Fernandez v. State of Kerala 1957 SCC OnLine SC 23 & Commissioner of Sales Tax, U.P v. Modi Sugar Mills Ltd. 1960 SCC OnLine SC 118].

30. Another fundamental rule of statutory interpretation is that when the language of the statute is plain and unambiguous, allowing only one meaning, then no issue of statutory construction arises as the statute speaks for itself. The reasoning behind this principle is that when the words are clear and plain, the courts are obliged to accept the expressed intention of the Legislature [See State of Uttar Pradesh v. Dr. Vijay Anand Maharaj [1962] 45 ITR 414 (SC)/ 1962 SCC OnLine SC 12, M.V. Joshi v. M.U. Shimpi 1961 SCC OnLine SC 56 & Godrej & Boyce Manufacturing Company Ltd. v. Dy. CIT [2017] 81 taxmann.com 111/394 ITR 449/247 Taxman 361 (SC)/(2017) 7 SCC 421.

31. While, at first glance, the principle of plain meaning, as referred to above, may seem simple and self-contained, it is crucial to understand the nuances involved when applying it to disputes surrounding statutory interpretation. The same has been lucidly spelt out in the Principles of Statutory Interpretation by Justice G.P. Singh, fourteenth edition (2016), and reads thus:

> *"It may look somewhat paradoxical that plain meaning rule is not plain and requires some explanation. The rule, that plain words require no construction, starts with the premise that the words are plain, which is itself a conclusion reached after construing the words. It is not possible to decide whether certain words are plain or ambiguous unless they are studied in their context and construed. The rule, therefore, in reality means that after you have construed the words and have come to the conclusion that they can bear only one meaning, your duty is to give effect to that meaning.*
>
> *The true import of the rule is well brought out in an American case where JUDGE PEARSON after reaching his conclusion as to the meaning of the statutory language said: "That seems to me a plain clear meaning of the statutory language in its context. Of course, in so concluding I have necessarily construed or interpreted the language It would obviously be impossible to decide that language is 'plain' (more accurately that a particular meaning seems plain) without first construing it. This involves far more than picking out dictionary definitions of words or expressions used. Consideration of the context and setting is indispensable properly to ascertain a meaning. In saying that a verbal expression is plain or unambiguous, we mean little more than that we are convinced that virtually anyone competent to understand it and desiring fairly and impartially to ascertain its significance would attribute to the expression in its context a meaning such as the one we derive, rather than any other; and would consider any different meaning by comparison, strained, or far-fetched, or unusual or unlikely"*
>
> *For a proper application of the rule to a given statute, it is necessary, therefore, to determine first whether the language used is plain or ambiguous. As pointed out by LORD BUCKMASTER, "by 'any ambiguity' is meant a phrase fairly and equally open to diverse meanings". "A provision is not ambiguous", says LORD REID, "merely because it contains a word which in different contexts is capable of different meanings". LORD REID, proceeds to add: "It would be hard to find anywhere a sentence of any length which does not contain such a word. A provision is, in my judgment, ambiguous only if it contains a word or phrase which in that particular context is capable of having more than one meaning". To decide, therefore, whether certain words are clear and unambiguous, they must be studied in their context [.] Unambiguous means 'unambiguous in context'. So ambiguity need not necessarily be grammatical ambiguity but one of appropriateness of the meaning in a particular context."*
>
> *(Emphasis Supplied)*

32. From the above extract, the following principles regarding statutory interpretation are evident: (i) first, deciding whether statutory language is 'plain' inherently involves a process of construction. One cannot simply declare words to be clear without first studying them, and (ii) secondly, true unambiguity depends on context, not just grammar. Words cannot be judged in isolation, as most words are capable of multiple meanings. A provision is seen as unambiguous only when, after being examined in its specific context, almost anyone competent would assign to it a single, appropriate meaning to the exclusion of others, i.e., the words are unambiguous in the context of the provision in question.

33. This aspect of interpreting the words of a statute in their specific context has also been affirmed by this Court. In Commissioner of Gift Tax, Madras v. N.S. Getty Chettiar, reported in (1971) 2 SCC 741, this Court examined the meaning that should be given to words "disposition, conveyance, assignment, settlement, delivery, payment, and alienation" appearing in Section 2(xxiv) of the Gift Tax Act, 1958. The court observed that the true meaning of statutory language cannot be understood merely by holding the text in one hand and a dictionary in the other. Instead, the words must be interpreted by considering the context in which they are used and the purpose they are meant to serve. In Reserve Bank of India v. Peerless General Finance and Investment Co. Ltd. & Ors (1987) 1 SCC 424, this Court reiterated that interpretation depends on both the text and the context, where the text is the texture and the context provides the colour.

34. A natural extension of both the principles discussed earlier and a well-known principle of interpretation is that, if the language of the enactment is clear and unambiguous, it would be unjustifiable for the courts to add words on the ground that such additions would better enable carrying out the legislature's presumed intentions. This is because, in all ordinary cases, the language employed is the determinative factor for determining legislative intention [See Ram Narain Medhi v. State of Bombay 1958 SCC On Line SC 53, Dadi Jagannadham v. Jammulu Ramulu (2001) 7 SCC 71. Furthermore, this reluctance to give the courts the authority to add or read words into the statute is also based on the fact that it is not the court's duty to reframe the legislation, as the power to 'legislate' has not been granted to it [See CIT, Kerala v. Tara Agencies [2007] 292 ITR 444/ 162 Taxman 337 (SC)/(2007) 6 SCC 429.

35. However, this is not a hard and fast rule, and in certain exceptional circumstances, the court can add or read words into the statute. The circumstances which would allow for such a departure from the ordinary rule have been succinctly captured in Principles of

Statutory Interpretation by Justice G.P. Singh, fourteenth edition (2016), as follows:

> *"As already noticed it is not allowable to read words in a statute which are not there, but "where the alternative lies between either supplying by implication words which appear to have been accidentally omitted, or adopting a construction which deprives certain existing words of all meaning, it is permissible to supply the words" A departure from the rule of literal construction may be legitimate so as to avoid any part of the statute becoming meaningless. Words may also be read to give effect to the intention of the Legislature, which is apparent from the Act read as a whole. Application of the mischief rule or purposive construction may also enable reading of words by implication when there is no doubt about the purpose which the Parliament intended to achieve. But before any words are read to repair an omission in the Act, it should be possible to state with certainty that these or similar words would have been inserted by the draftsman and approved by Parliament had their attention been drawn to the omission before the Bill passed into law."*

36. If legislative intention is to be principally assessed based on the language of the enactment, then under what circumstances should the objects and purposes behind a legislation be taken into account? This Court in Shashikant Laxman Kale v. UOI [1990] 185 ITR 104/52 Taxman 352 (SC)/(1990) 4 SCC 366, established a distinction between the purpose or object of an enactment and the legislative intent. It held that while the former is to provide a remedy for the malady, the latter relates to the meaning or exposition of the remedy as enacted. Thus, the object and purpose are elements that are taken into account more concretely when the court is applying the mischief rule of interpretation.

37. The mischief rule of interpretation, also known as Heydon's Rule, was established in England as far back as 1584. This rule states that for the sure and true interpretation of all statutes in general, four things are to be discerned and considered:

- *(a) The Prior Law: What the law was before the new Act was passed?*
- *(b) The Problem (Mischief): The specific defect or issue that the old law failed to address.*
- *(c) The Solution (Remedy): The new method Parliament introduced to fix that problem.*
- *(d) The Reason: The underlying logic or purpose behind this new solution.*

This rule was considered necessary to guide judges away from subtle inventions or loopholes that might allow the mischief to continue. The *mischief rule has been widely adopted by this Court in various scenarios.[See Bengal Immunity Company Ltd. v. State of Bihar (1955) 1 SCC 763 & Shashikant Laxman (supra)]*

38.As noted above, in most circumstances, the legislative intention is to be discerned from the words used in the statute itself, and the mischief rule of interpretation should not be invoked in an unfettered manner. This Court has held that considering the object and purpose is relevant only when the words in question are ambiguous and reasonably capable of more than one meaning [See CIT v. Sodra Devi [1957] 32 ITR 615 (SC)/ 1957 SCC OnLine SC 33 & Kanai Lal Sur v. Paramnidhi Sadhukhan 1957 SCC OnLine SC 8].

39.However, as recognised above, even determining the 'plain' meaning involves the contextual interpretation of a word, and the object and purpose of a relevant statute are elements that form part of that context. Yet, there is a vital distinction: while the object and purpose may help illuminate the context, they cannot override the text. Once the words are examined in their context, including considerations of object and purpose, and are found to be clear, unambiguous, and capable of only one meaning, then the plain meaning rule prevails, and considerations of object and purpose cannot be invoked to alter, control, or distort the clear mandate of the statutory language.

40.A brief summary of the aforesaid discussion is as follows:

- *(a) Taxation statutes require strict interpretation.*
- *(b) Where the words are plain and unambiguous, the court is bound to give effect to their plain meaning.*
- *(c) The determination of whether language is 'plain and unambiguous' is not a mechanical exercise, and it necessitates interpreting words within their specific context rather than in isolation.*
- *(d) The legislative intent is primarily to be gathered from the specific words used by the legislature. Reference to the object and purpose becomes crucial in those situations where the language is ambiguous and capable of multiple constructions.*
- *(e) Under ordinary circumstances, it is impermissible for the Court to add or read words into the statute, especially when the language is plain and unambiguous, on the notion that such words would appear to better serve the legislative object or purpose.*

7. We afforded rebuttal opportunities to the assessee. Learned counsel submits that the fact that the very issue stands settled in an hon'ble high court's decision (supra), this tribunal is very much bound by the said decision. And that no second opinion in such an instance is possible regarding the instant legal issue. He further quotes Kolahpur Canesugar Works Vs. UOI (supra) that the legislative omission in statute has to be interpreted in such a manner that the same never existed as contrary to the Revenue stand.

8. We have given our thoughtful consideration to the assessee's and the Revenue's foregoing vehement submissions. There could be hardly any dispute that the foregoing statutory amendment does not expressly cover the impugned assessment year 2013-14 since applicable from 01.04.2017 i.e. AY 2017-18 and subsequent assessment years only. So far as the assessee's case based on Kolahpur Canesugar Works Ltd. (supra) is concerned, we are of the considered view that contrary to the facts therein, the legislature has made it explicitly clear that its omission carries prospective effect only. That being the case, we find merit in the Revenue's arguments that the aforesaid conditional and prospective omission

could not be held as applicable with retrospective effect for any preceding assessment year before that i.e. upto AY 2016-17. Coming to the other hon'ble high court's decision, we quote CIT Vs. Thane Electricity Supply Company Ltd. (1994) 206 ITR 727 (Bom.) that it does not form a binding precedent, as under:

> *"21. From the foregoing discussion, the following propositions emerge:*
>
> > *(a) The law declared by the Supreme Court being binding on all courts in India, the decisions of the Supreme Court are binding on all courts, except, however, the Supreme Court itself which is free to review the same and depart from its earlier opinion if the situation so warrants. What is binding is, of course, the ratio of the decision and not every expression found therein.*
> >
> > *(b) The decisions of the High Court are binding on the subordinate courts and authorities or Tribunals under its superintendence throughout the territories in relation to which it exercises jurisdiction. It does not extend beyond its territorial jurisdiction.*
> > *(c) The position in regard to the binding nature of the decisions of a High Court on different Benches of the same court may be summed up as follows:*
> >
> > > *(i) A single judge of a High Court is bound by the decision of another single judge or a Division Bench of the same High Court. It would be judicial impropriety to ignore that decision. Judicial comity demands that a binding decision to which his attention had been drawn should neither be ignored nor overlooked. If he does not find himself in agreement with the same, the proper procedure is to refer the binding decision and direct the papers to be placed before the Chief Justice to enable him to constitute a larger Bench to examine the question (see Food Corporation of India v. Yadav Engineer and Contractor).*
> > >
> > > *(ii) A Division Bench of a High Court should follow the decision of another Division Bench of equal strength or a Full Bench of the same High Court. If one Division Bench differs from another Division Bench of the same High Court, it should refer the case to a larger Bench.*

(iii) Where there are conflicting decisions of courts of co-ordinate jurisdiction, the later decision is to be preferred it reached after full consideration of the earlier decisions.

(d) The decision of one High Court is neither binding precedent for another High Court nor for courts or Tribunals outside its own territorial jurisdiction. It is well settled that the decision of a High Court will have the force of binding precedent only in the State or territories on which the court has jurisdiction. In other States or outside the territorial jurisdiction of that High Court it may, at best, have only persuasive effect. By no amount of stretching of the doctrine of stare decisis, can judgments of one High Court be given the status of a binding precedent so far as other High Courts or Tribunal within their territorial jurisdiction are concerned. Any such attempt will go counter to the very doctrine of stare decisis and also the various decisions of the Supreme Court which have interpreted the scope and ambit thereof. The fact that there is only one decision of any one High Court on a particular point or that a number of different High Courts have taken identical views in that regard is not at all relevant for that purpose. Whatever may be the conclusion, the decisions cannot have the force of binding precedent on other High Courts or on any subordinate courts or Tribunals within their jurisdiction. That status is reserved only for the decisions of the Supreme Court which are binding on all courts in the country by virtue of article 141 of the Constitution."

8. We are accordingly of the considered view that neither the assessee's case is covered under the foregoing statutory amendment nor the Revenue's arguments deserve to be rejected in preceding terms. The assessee's reliance on various judicial precedent is rejected as the above strict interpretation had nowhere even been discussed therein. We thus conclude in this factual backdrop that the impugned assessment as well as transfer pricing adjustment herein involving "specified domestic transactions"; as

the case may be, do not suffer from any legal defect so as to be quashed. The same are hereby upheld therefore.

9. Next comes the correctness of the impugned transfer pricing adjustment between the parties on merits. The assessee's case before us is that its twin comparables, i.e., M/s. Asia Electronics Ltd. and M/s. Blue Star Limited have been wrongly rejected in the learned lower authorities' respective findings, *inter alia,* on the ground that the net worth was declining on year-to-year basis due to accumulated losses and for want of segmental dates; respectively. We are of the considered view that so far as accumulated losses are concerned, hon'ble jurisdictional high court in (2015) 376 ITR 183 (Delhi) Chryscapital Investment Advisors (India) Pvt. Ltd. v. Deputy Commissioner of Income Tax has already settled the issue and that Rule 10B(iii) duly envisages suitable adjustment(s) in such an instance wherein a comparable could not be outrightly rejected merely for a reason of abnormal profits etc. The outcome regarding M/s. Blue Star Ltd. is hardly any different as the assessee's case before us that although it is engaged in the three business segment of electronics & mechanical projects and packaging air-conditioned system, cooling products

and professional electronics etc., the former twin segments involve manufacturing activity as is the case sought to be made out before us. We thus accept its case on both these counts regarding the instant twin comparables in principle and direct the learned TPO to frame his consequential computation as per law in very terms therefore.

10. The assessee's further case before us is that it has all along objected to the inclusion of M/s. Mold-Tek Packaging Ltd. and M/s. National Plastic Technologies Ltd. since engaged in the corresponding diverse business segments i.e. manufacturing of plastic containers, pet bottles and blow molding, moulded plastic products for consumers. We thus conclude in this factual backdrop that the Revenue's vehement stands supporting inclusion of these twin comparables entities does not carry any merit. We thus direct the learned TPO to exclude both of them in his consequential computation therefore. The assessee's instant first and foremost substantive ground is treated as partly allowed in foregoing terms.

11. Next comes the second substantive issue of correctness to section 14A r.w. Rule 8D disallowance amounting to Rs.3,17,289/- in question. The assessee had admittedly derived exempt income

of Rs.11,10,545/- from its associated company My Box Technology Pvt. Ltd. It disallowed *suo motu* a sum of Rs.55,585/- @ 5% thereof as representing administrative expenditure in relation to earning of the said exempt income.

12. Learned counsel's case therefore is that the lower authorities have mechanically invoked the impugned disallowance without recording any satisfaction regarding books of account under section 14A(2) of the Act. The fact however remains that we are dealing with the ad-hoc administrative expenditure under Rule 8D(2) of the Income Tax Rules whereas it has all along failed to justify the foregoing estimation @ 5% in the lower proceedings. We thus reject its first and foremost legal argument in very terms.

13. Next comes equally important aspects of quantification of the impugned disallowance. We find that there is no clarity as to whether the learned lower authorities' computation has included only the dividend yielding investments or not in light of ACB India Ltd. Vs. ACIT (2015) 374 ITR 108 (Del.). We thus direct the learned Assessing Officer to compute the impugned disallowance afresh in very terms therefore.

14. Lastly comes the third issue of disallowance of the 1/5th preliminary expenditure amounting to Rs.34,61,300/- under various heads. We wish to reiterate here that the assessee manufactured electronic appliances including washing machine and set top boxes. It is stated to have carried out various discussions with Life Science Group for joint marketing and manufacturing of LED lights in India. There is further no dispute that it incurred aforesaid preliminary expenditure and the said product could not ultimately take off between them. We find that the learned Assessing Officer disallowed the same on the ground that it was not in connection with the aforesaid regular line of business or expansion of existing business so as to be allowable in the impugned assessment year. That being the case, we find no reason to sustain the impugned disallowance as the same was incurred in exploration of possibility of setting up of a new business which could not be ultimately materialize/abandoned. We thus quote Indo Rama Synthetics India Ltd. v. Commissioner of Income Tax, 333 ITR 18 (Delhi) to be very much allowable since falling under the revenue head. We accordingly accept the assessee's

instant last substantive ground to delete the impugned disallowance in very terms.

No other ground or argument has been pressed before us.

15. This assessee's appeal is partly allowed in above terms.

Order pronounced in the open court on 2nd September, 2026

Sd/-	***Sd/-***
(MANISH AGARWAL)	**(SATBEER SINGH GODARA)**
ACCOUNTANT MEMBER	**JUDICIAL MEMBER**

Dated: 2nd September, 2026.
RK/-
Copy forwarded to:
1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asst. Registrar, ITAT, New Delhi