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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2025

CORAM

THE HONOURABLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

T.C.A.Nos.80, 81 and 82 of 2025
and CMP Nos.9729, 9735, 9734, 9736 and 9739 of 2025

Commissioner of Income Tax,
International Taxation,
Chennai – 600 034. ... Appellant in all cases

Vs

Sutherland Global Services Inc.,
C/o. Dhruva Advisors LLP, Prestige Terraces, 2nd
Floor, Union Street, Infantry Road, Bengaluru -
001.
(PAN: AAOCS 1555P) ... Respondent in all cases

Prayer: Appeals filed under Section 260A of the Income Tax Act, 1961 against the common order of Income Tax Appellate Tribunal, “D” Bench, Chennai, dated 22.12.2023 passed in IT (TP) A.No.29/CHNY/2023, IT (TP) A.No.30/CHNY/2023 and IT (TP) A.No.27/CHNY/2023, for the assessment years i.e., 2015-16, 2016-17 and 2013-14, respectively.

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For Appellant in all cases	:	Mr.Karthik Ranganathan Sr. Standing Counsel
For Respondent in all cases	:	Mr.N.V.Balaji

COMMON JUDGMENT

(Delivered by SUNDER MOHAN, J)

By consent, the captioned Tax Case Appeals are taken up for final hearing and disposed of at the admission stage itself.

2. Respondent/assessee aggrieved by the final assessment orders passed under Section 147 r/w Section 144 of the Income Tax Act, 1961 [hereinafter referred to as ***'the Act'***], for three assessment years, i.e., 2015-16, 2016-17 and 2013-14, filed appeals in IT (TP) A.No.29/CHNY/2023, IT (TP) A.No.30/CHNY/2023 and IT (TP) A.No.27/CHNY/2023, respectively, before the Income Tax Appellate Tribunal [hereinafter referred to as ***'ITAT'***].

3. ITAT by the impugned orders allowed the appeals, holding that the

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direction issued by the Dispute Resolution Panel [hereinafter referred to as ***'DRP'***] under Section 144C (5) of the Act did not contain a Document Identification Number [hereinafter referred to as ***'DIN'***] as mandated by the Central Board of Direct Taxes [hereinafter referred to as ***'CBDT'***] by its Circular No.19/2019 [F.No.225/95/2019-ITA II] dated 14.08.2019 [hereinafter referred to as ***'Circular'***]; that the subsequent communication intimating the DIN for DRP proceedings did not satisfy the conditions prescribed in paragraph No.3 of the circular; and that therefore, those orders are invalid in law and as a *sequitur,* the assessment orders which were impugned before ITAT are liable to be quashed. Challenging the common order passed by ITAT, in respect of the three assessment years, the instant appeals have been filed. The Tax Case Appeal No.80 of 2025 pertains to Assessment Year 2015-2016; the Tax Case Appeal No.81 of 2025 pertains to Assessment Year 2016-2017; and the Tax Case Appeal No.82 of 2025 pertains to Assessment Year 2013-2014.

4. Appellant in the grounds of appeal has proposed the following substantial questions of law.

"1. Whether on the facts and circumstances of the

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case the Income Tax Appellate Tribunal is correct in holding that that department has not complied with the CBDT

Circular No.19/2019 dated 14.08.2019 even when the manual order was communicated with DIN and in addition to that order was also communicated by e-portal and email with intimation letter and that also had DIN and the information of the DIN of the assessment order, all these were done within 15 days as mandated in the said Circular.

2. Whether on the facts and circumstances of the case, the Ld. Income Tax Appellate Tribunal had failed to consider that electronic quoting of DIN is only a procedural issue and the fact that DIN is issued only to keep track of the proceedings for audit trial of the department and to ensure genuineness of the orders passed and that non-mentioning of the DIN in the DRP order electronically which was otherwise generated immediately and informed to the assessee is sufficient compliance of the CBDT Circular No.19/2019 dated 14.08.2019.

3. Whether the Ld. Income Tax Appellate Tribunal is right in not appreciating the fact that the impugned final assessment order had electronically generated valid DIN which order alone is challengable before the ITAT and that the directions of the DRP merged with the final assessment orders serves only as a guidance to the Assessing Officers to pass the final assessment orders."

5. Mr.Karthik Ranganathan, learned counsel for appellant/revenue submitted that there cannot be any quarrel with the proposition, that any document of an income tax authority must contain a DIN as otherwise it

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would become invalid; that however, in the instant case, the proceedings of DRP contained the DIN manually communicated though, there was an error in the number quoted; that the DIN was also communicated electronically two days later; that the error in the number quoted manually ought not to have weighed with the ITAT for setting aside the assessment orders; that even assuming that the DRP proceedings did not contain a DIN on the date on which the directions were issued, the subsequent communication by which the DIN was communicated is sufficient compliance of the CBDT Circular; and that in any case, assessee had not challenged the directions issued by DRP and therefore, the impugned assessment orders before ITAT, which contains a DIN, ought not to have been quashed.

6. Mr. Balaji, learned counsel for respondent/assessee submitted that the assessment orders were pursuant to the directions of DRP; that an invalid document i.e., the directions of the DRP, would render the consequential acts, including the assessment orders, invalid; that appellant had made a false statement of having generated a DIN for proceedings of DRP as ITBA/DRP/5/91/2022-23/1048143460(1) on 19.12.2022; that the said DIN was generated for a communication called the intimation letter

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dated 21.12.2022 purportedly to electronically communicate the DIN for the DRP proceedings dated 19.12.2022 and therefore, could not have been generated on 19.12.2022 and that even according to appellant, the DIN for the DRP proceedings is ITBA/DRP/M/144C(5)/2022-23/10481433274(1) .

7. Learned counsel submitted that this DIN, which ends with 460(1), was generated only on 21.12.2022 and hence could not have been in existence on 19.12.2022 and therefore, appellant had interpolated the number subsequently and not on the date on which the proceedings concluded, i.e., on 19.12.2022. He, therefore, would reiterate that appellant has made a false statement before ITAT and to this Court. He would also submit that the factual finding of the ITAT that appellant had not complied with the circular of the CBDT is justified and there is no reason to interfere with the said finding, especially since no substantial question of law arises in these appeals.

8. It is not in dispute that the assessment orders which were challenged before ITAT were passed pursuant to the directions of DRP. The circular issued by the Director of CBDT reads as follows:

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"CIRCULAR NO.19/2019 (F. NO.225/95/2019-ITA.II], DATED 14-8-2019
Subject: Generation / Allotment / quoting of Document Identification Number in Notice / Order / Summons / letter / correspondence issued by the Income-tax Department – reg.

With the launch of various e-governance Initiatives, Income tax Department is moving toward total computerization of its work. This has led to a significant improvement in delivery of services and has also brought greater transparency in the functioning of the tax-administration Presently, almost all notices and orders are being generated electronically on the Income Tax Business Application (ITBA) platform. However, it has been brought to the notice of the Central Board of Direct Taxes (the Board) that there have been some instances in which the notice. order, summons, letter and any correspondence (hereinafter referred to as "communication" were found to have been issued manually, without maintaining a proper audit trail of such communication.

2. In order to prevent such instances and to maintain proper audit trail of all communication, the Board in exercise of power under section 119 of the income-tax Act, 1961 (hereinafter referred to as "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. investigation, 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 (DIN) has been allotted and is duly quoted in the body of such communication.

3. In exceptional circumstances such as,-

(i) when there are technical difficulties in generating/allotting/ quoting the DIN and issuance of communication electronically; or

(ii) when communication regarding enquiry, verification etc. is required to be issued by an income-tax authority, who is outside the office, for discharging his official duties; or

(iii) when due to delay in PAN migration. PAN is lying with non-jurisdictional Assessing Officer; or

(iv) when PAN of assessee is not available and where a proceeding under the Act (other than verification under section 131 or section 133 of the Act) is sought to be initiated; or

(v) when the functionality to issue communication is not

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available in the system,

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 cases where manual communication is required to be issued due to delay in PAN migration, the proposal seeking approval for issuance of manual communication shall include the reason for delay in PAN migration. 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 Chief Commissioner/ Director General of Income-tax for issue of manual communication in the following format-

> *"....... This communication issues manually without a DIN on account of reason/reasons given in para3(i)/3(ii)/3(iii)/3(iv)/ 3(v) of the CBDT Circular No .... dated (strike off those which are not applicable) and with the approval of the Chief Commissioner/Director General of Income Tax vide number .... dated ...."*

4. Any communication which is not in conformity with Para-2 and Para-3 above, shall be treated as invalid and shall be deemed to have never been issued.

5. The communication issued manually in the three situations specified in para 3- (i), (ii) or (iii) above shall have to be regularised within 15 working days of its issuance, by-

i. uploading the manual communication on the System.

ii. compulsorily generating the DIN on the System;

iii. communicating the DIN so generated to the assessee/any other person as per electronically generated pro-forma available on the System.

6. An intimation of issuance of manual communication for the reasons mentioned in para 3(v) shall be sent to the Principal Director General of Income-tax (Systems) within seven days from the date of its issuance.

7. Further, in all pending assessment proceedings, where notices were issued manually, prior to issuance of this Circular, the Income-tax authorities shall identify such cases and shall upload the notices in these cases on the

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Systems by 31th October, 2019."

9. It is well settled that circulars issued by CBDT in exercise of its powers under Section 119 of the Act are binding on the revenue. The consequences of not following the directions issued in the circular are also provided in the circular.

10. Paragraph No.4 of the circular extracted above would make it clear that any communication which is not in conformity with paragraph Nos.2 and 3 of the circular shall be treated as invalid and shall be deemed to have never been issued.

11. Paragraph No.3 of the circular provides for exceptional circumstances where the mandatory requirement may not be adhered to but, requires that if an order/communication is issued without a DIN, it could be done after recording reasons in writing in the file and with prior written approval of the Chief Commissioner / Director General of Income Tax. Paragraph No.3 also states that if DIN is not generated and quoted in

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the body of the communication, then reasons for not generating and quoting DIN should be mentioned in a specific format set out in paragraph No.3 of the circular, which is extracted *supra.*

12. From the third question of law raised by appellant, it could be seen that their stand is that even assuming that the proceedings of DRP did not contain a valid DIN, the subsequent assessment orders which were impugned had a valid DIN and therefore ITAT erred in setting aside the assessment orders. It is their case that the proceedings of the DRP is not an order of an income tax authority and therefore, the circular requiring the generation of DIN would not be applicable to DRP proceedings. This submission cannot hold water.

13. Firstly, on facts, it is the case of appellant that there was a DIN generated and it was written in hand in the proceedings of DRP and subsequently, communicated to assessee two days later. Therefore, appellant concedes that DIN has to be generated for DRP proceedings.

14. Secondly, the issue is no longer *res integra*. A Division Bench of

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Bombay High Court in ***Ashok Commercial Enterprises v. Assistant Commissioner of Income Taxation***[1] in which one of us [the Hon'ble Chief Justice] was a member, held as follows:

> *"18 (b)...*
>
> *19. The object and purpose of the issuance of the 2019 Circular, as indicated hereinabove, inter alia, was to create an audit trail. Therefore, the communication relating to assessments, appeals, orders, etcetera which find mention in paragraph 2 of the 2019 Circular, albeit without DIN, can have no standing in law, having regard to the provisions of paragraph 4 of the 2019 Circular.*
>
> *(c) During the course of hearing, Mr. Suresh Kumar produced an intimation letter dated 13th October 2021 stating that the order dated 28th September 2021 under Section 153C of the Act has a DIN, which is set out therein. Even if this is held to be in compliance with paragraph 5 of the Circular, which deals with regularization of communications without DIN, this can only seek to regularize the failure to generate a DIN, but yet the requirements of paragraph 3 of the Circular will still remain contravened and consequently, the order dated 28th September 2021 ought to be treated as invalid and never issued;*
>
> *(d) The said Circular also applies to the satisfaction note dated 13th July 2021 issued by respondent no.1. The satisfaction note will fall within the scope of paragraph 2 of the Circular as a communication of the specified type issued to any person. In the case of the satisfaction note no regularization dated 13th October 2021 has been issued;*
>
> *(e) In view of the binding nature of Circular issued under*

1 [2023] 154 taxmann.com 144 (Bombay)

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Section 119 of the Act, and the peculiar facts and circumstances of the case, the consequences of contravention of the Circular set out above, therefore, ought to be given full effect to. The object of the said Circular is clear and laudatory and intended to ensure that proper trail of all assessment and other orders are maintained and further that any deviation therefrom can only be undertaken after prior written approval of the higher authorities under the Act. Therefore, the satisfaction note dated 13 th July 2021 and the impugned order of assessment dated 28th September 2021 ought to be treated as invalid and deemed never to have been issued;

(f) On this ground, rule ought to be made absolute in the following petitions :

A.Y. 2011-2012 - WP No.2593 of 2021
A.Y. 2012-2013 - WP No.2598 of 2021
A.Y. 2013-2014 - WP No.2847 of 2021
A.Y. 2014-2015 - WP No.2597 of 2021
A.Y. 2015-2016 - WP No.2594 of 2021
A.Y. 2016-2017 - WP No.2588 of 2021
A.Y. 2017-2018 - WP No.2595 of 2021
A.Y. 2018-2019 - WP No.2625 of 2021
A.Y. 2019-2020 - WP No.2696 of 2021"

15. Thus, even a satisfaction note according to the Division Bench would fall within the scope of paragraph No.2 of the circular and therefore, in our view, there cannot be any doubt that the directions of the DRP which consists of a collegium of three Income Tax Commissioners also would fall within the scope of paragraph No.2 of the circular.

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16. The other argument made by learned counsel for appellant is that, on facts, a DIN was in fact generated on 19.12.2022 and the same was written in hand, which was also communicated, as stated earlier, pursuant to an intimation letter dated 21.12.2022. First of all, if the DIN had been generated on the same day and written by hand, there been no necessity for the subsequent communication. Be that as it may.

17. The DIN written in hand in DRP proceedings dated 19.12.2022, the DIN is for the intimation letter dated 21.12.2022 and the DIN said to have been generated for DRP proceedings and communicated vide the intimation letter dated 21.12.2022, in these cases, are as follows:

Sl. No.	Assessment Year	DIN written in hand DRP dt. 19.12.2022	DIN for the intimation letter dt. 21.12.2022	DIN said to have been generated for DRP
1	2015-16	ITBA/DRP/5/91/2022-23/1048144116(1)	ITBA/DRP/S/91/2022-23/1048144116(1)	ITBA/DRP/M/144C(5)/2022-23/1048144087(1)
2	2016-17	ITBA/DRP/5/91/2022-23/1048143460(1)	ITBA/DRP/S/91/2022-23/1048143460(1)	ITBA/DRP/M/144C(5)/2022-23/1048143274(1)

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3	2013-14	ITBA/DRP/5/91/2022-23/1048145070(1)	ITBA/DRP/S/91/2022-23/1048145070(1)	ITBA/DRP/M/144C(5)/2022-23/1048145025(1)

18. For ease of reference, DRP for the assessment year 2016-2017, as an illustration is scanned and reproduced below. Even for the other assessment years, there were similar communications:

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GOVERNMENT OF INDIA
MINISTRY OF FINANCE, INCOME-TAX DEPARTMENT
DISPUTE RESOLUTION PANEL-2, BENGALURU
'A' Wing, 4th Floor, Kendriya Sadan, Koramangala, Bengaluru- 560034

PROCEEDINGS OF THE DISPUTE RESOLUTION PANEL-2BENGALURU

ITBA/DRP/S/91/2022-23/1014814 3460(1)

1	Name and Address of the eligible assessee	**M/s Sutherland Global Services Inc.** 1160 Pittsford Victor Road, Pittsford, NY 14534 United States of America
2	Permanent Account Number	AAOCS1555P
3	Assessment year in connection with which the objection filed	2016-17
4	Assessing Officer passing the draft order of assessment	The Assistant Commissioner of Income Tax, International taxation Circle 2(2), Chennai
5	Section and sub section of the income tax Act,1961 under which the assessing officer proposing the addition has sent the draft order for which reference is filed	Under Section 143(3) read with section 147 of the Income Tax Act, 1961.
6	The date of the service of the draft assessment order	21.04.2022
7	Date of filing of objection by the assessee before the DRP	25.04.2022
8	Date of hearing(s)	As Per Order Sheet
9	Present for the assessee	Shri. Ajay Roti & Virendra Shah
10	Present for the department	None
11	Date of issue of directions	19/12/2022

DIRECTIONS UNDER SECTION 144C(5) OF THE INCOME TAX ACT, 1961

1.0 M/s Sutherland Global Services Inc. (PAN: AAOCS1555P) is a company incorporated under the laws of USA and is a Tax Resident of the USA. The Assessee is engaged in the business of automotive supplier focused primarily on cockpit electronics. A TDS Survey was conducted on the Associated Enterprise, namely, Sutherland Global Services Pvt Ltd on 18.01.2018. The 15CA data and remittances received by Sutherland Global Services Inc. from resident entities and TDS details were examined. It was seen that the assessee company had provided IT support services, maintenance services, etc. to its sister concern in India.

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19. The subsequent communication dated 21.12.2022, i.e., the Intimation Letter for the assessment year 2016-17, is also scanned and reproduced below.

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भारत सरकार/ GOVERNMENT OF INDIA
वित्त मंत्रालय/ MINISTRY OF FINANCE
आयकर विभाग/ INCOME TAX DEPARTMENT
CIT(DRP-2) BANGALORE 3

सेवा में/ To,	
SUTHERLAND GLOBAL SERVICES INC 1160 ,PITSFORD VICTOR ROAD ROCHESTER NEYWORK US 14534, FOREIGN, India, 999999,	

स्थायी लेखा संख्या/ PAN:	द.प.सं. एवं प्रपत्राक संख्या / DIN & Document No.:	दिनांक/ Dated:
AAOCS1555P	ITBA/DRP/S/91/2022-23/1048143460(1)	21/12/2022

Intimation Letter for Order u/s 144C(5)

महोदय/महोदया/ मेसर्स,
Sir/ Madam/ M/s,

This is to inform you that Order u/s 144C(5) dated **19/12/2022** is having Document No. (DIN) **ITBA/DRP/M/144C(5)/2022-23/1048143274(1).**

This is a system generated document and does not require any signature.

Note: If digitally signed, the date of digital signature may be taken as date of document.
,KENDRIYA SADAN, 4th FLOOR, KORAMANGALA, BANGALORE, Karnataka, 560034
Email: BANGALORE.CIT.DRP2.3@INCOMETAX.GOV.IN,

Note:- The website address of the e-filing portal has been changed from www.incometaxindiaefiling.gov.in to www.incometax.gov.in.
DIN- Document identification No.

20. Thus, according to appellant, a DIN in fact was generated for DRP proceedings, written by hand and subsequently communicated on 21.12.2022 and therefore, the conditions prescribed in paragraph No.3 of

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the circular have been complied with. Admittedly, the reason for writing the DIN number by hand and the reason for not generating the DIN electronically have not been specified in the format prescribed in paragraph No.3 of the circular. Even prior written approval of the Chief Commissioner/Director General of Income-Tax, as prescribed in Clause (3) of the Circular, was not brought to our notice. If such prior permission has not been taken, that will also be another ground to make the communication to be treated as invalid and having never been issued. Therefore, the communication or the proceedings of the DRP, is not in conformity with paragraph Nos.2 and 3 of the circular and are invalid and deemed to have never been issued. Consequently, the assessment orders under Section 144C(13) of the Act, which are passed on those directions of DRP, cannot be sustainable. Therefore, the findings of ITAT are in accordance with law and no interference is called for. The substantial questions of law are answered accordingly.

21. It is alleged that ITAT chose to hold that the orders are invalid, which had led to huge revenue loss to the department. It is, however, the responsibility of the Assessing Officer to ensure that he strictly complies

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with the Circulars issued by his Department and instead of blaming the ITAT, he should personally take the responsibility of causing revenue loss to the department.

22. We note another disturbing feature in these cases. According to the communication dated 21.12.2022, the DIN for the directions under Section 144C (5) of the Act, ends with the following number 1048133274(1), whereas, the DIN quoted in the DRP is the number ending with 1048143460(1). In fact, the latter number is the DIN generated in the communication dated 21.12.2022. It is not known as to how a DIN generated on 21.12.2022, could find a place in the proceedings of DRP dated 19.12.2022. Learned counsel for appellant was unable to give any satisfactory explanation. Therefore, we are of the view that the DIN has been interpolated subsequently in the proceedings of the DRP and would not have been generated in real time as claimed by appellant. The false claim by appellant, therefore, has to be viewed seriously.

23. We are of the view that the appellant would be liable to pay costs of Rs.1,00,000/- [Rupees One Lakh only]. Hence, we direct appellant to

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pay a sum of Rs.1,00,000/-[Rupees One Lakh only] to PM CARES Fund and this amount shall be paid within two weeks from the date of uploading this order. The account details are as under:

Name of the Account	: PM CARES
Account Number	: 60355358964
IFSC	: MAHB0001160
Branch	: UPSC - New Delhi

A Compliance affidavit is to be filed within one week thereafter with a copy to advocate for respondent.

24. As a result, all three Tax Case Appeals are dismissed with costs as stated above. Consequently, interim applications stand closed.

(K.R.SHRIRAM, C.J.) (SUNDER MOHAN, J.)
10.06.2025

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To

1. The Income Tax Appellate Tribunal,
"D" Bench, Chennai.

2. The Assistant Commissioner of Income Tax (HQ) & Secretary,
Dispute Resolution Panel-2,
Bengaluru.

3. The Assistant Commissioner of Income Tax,
International Taxation Circle 2(2), Chennai.

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THE HON'BLE CHIEF JUSTICE
AND
SUNDER MOHAN, J.

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