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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision : 21.05.2025*

+ W.P.(C) 4207/2022
+ W.P.(C) 4759/2022
+ W.P.(C) 4760/2022
+ W.P.(C) 4761/2022
+ W.P.(C) 4762/2022
+ W.P.(C) 4763/2022
+ W.P.(C) 5172/2022
+ W.P.(C) 5174/2022
+ W.P.(C) 5337/2022
+ W.P.(C) 5338/2022
+ W.P.(C) 5799/2022
+ W.P.(C) 5815/2022
+ W.P.(C) 5816/2022
+ W.P.(C) 7572/2022
+ W.P.(C) 7573/2022
+ W.P.(C) 9194/2022 & CM APPL. 29313/2022

M/S GE STEAM POWER SYSTEMS (EARLIER KNOWN AS M/S. ALSTOM POWER SYSTEM SA) .....Petitioner

Through: Mr. Deepak Chopra, Mr. Ankul Goyal, Mr. Priyam Bhatnagar, Advocates.

versus

ASSISTANT COMMISSIONER OF INCOME TAX, CIRCLE INT TAX 1 (1) (1) AND ANOTHER .....Respondents

Through: Mr. Ruchir Bhatia, SSC with Mr. Anant Mann, JSC and Mr. Pratyaksh Gupta, JSC.
Mr. Sunil Agarwal, SSC with Mr. Shivansh B. Pandya, JSC; Mr. Viplav Acharya, JSC; Ms. Priya Sarkar, JSC

and Mr. Utkarsh Tiwari, Advocate.
Mr Puneet Rai, SSC, Mr Ashvini Kumar and Mr Rishabh Nangia, JSCs and Mr Nikhil Jain, Advocate.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE TEJAS KARIA

VIBHU BAKHRU, J. (*ORAL*)

1. The petitioners have filed the present petitions impugning notices issued by the Assessing Officer [**AO**] under Section 148 of the Income Tax Act, 1961 [**Act**] seeking to assess / reassess the income of the Petitioner/s for Assessment Years [**AY**] ranging from 2013-14 to 2017-18. The tabular statement setting out the notices impugned in each of the aforesaid petitions, is set out below:

S.NO	PETITIONER	WRIT PETITION NO.	ASSESSMENT YEAR	DATE OF NOTICE
1.	GE Steam Power Inc.	4759/2022	2013-14	19.03.2021
		4762/2022	2014-15	30.03.2021
		4763/2022	2015-16	30.03.2021
		4761/2022	2016-17	19.03.2021
		4760/2022	2017-18	19.03.2021
2.	GE Steam Power System	4207/2022	2015-16	31.03.2021
		5172/2022	2013-14	30.03.2021

		5174/2022	2014-15	30.03.2021
		5337/2022	2016-17	24.03.2021
		5338/2022	2017-18	19.03.2021
3.	GE (Shanghai) Power Technology Co. Ltd.	5799/2022	2013-14	17.03.2021
4.	GE Power GMBH GE Power GMBH	5815/2022	2016-17	30.03.2021
		5816/2022	2017-18	30.03.2021
5.	GE Power Solutions Malaysia	7572/2022	2015-16	30.03.2021
6.	General Electric (Switzerland) GMBH	7573/2022	2017-18	30.03.2021
7.	GE Power SP.Z.O. O	9194/2022	2017-18	19.03.2021

2. The material facts obtaining in the present petitions and the issues involved are identical, therefore the petitions were heard together and are being disposed of by this common order.

3. The short facts with respect to each of the Petitioners are summarized

below:

i. GE Steam Power Inc. (formerly known as Alstom Power Inc.) is a company incorporated in the United States of America and is engaged in the business of manufacturing, sales, marketing of power generation equipment and technical support services and is part of GE's 'Power' business vertical. GE Steam Power Inc. was formally known as Alstom Power Inc. and was a part of the Alstom Group till 02.11.2015. However, the Alstom Power business was acquired by GE in 2015 and since then, the Petitioner is a part of the GE Group.

ii. The Petitioners are not tax residents of India. Each of the petitioners had received certain incomes in the nature of Fee for Technical Services [**FTS**] for previous years relevant to AY 2013-14 to 2017-18, which were taxable in India and accordingly, they had filed their respective returns of income for the relevant assessment years.

iii. GE Steam Power Systems [**GSPS**] is a company incorporated under the laws of France and is engaged in the business of supplying power plant equipment and its components and systems used to control and recover energy. It is part of GE's 'Power' business vertical. GSPS was formally known as Alstom Power Systems SA and was a part of the Alstom

Group till 02.11.2015. However, the Alstom Power business was acquired by GE in 2015 and since then, GSPS is a part of the GE Group. GSPS is not a tax resident of India. According to the Petitioner, it had received certain incomes in the nature of FTS for previous years relevant to AY 2013-14 to 2017-18, which were taxable in India and accordingly, returns of income were filed for the said AYs.

iv. GE (Shanghai) Power Technology Co. Ltd. [**GSPTCL**] is a company incorporated under the laws of China and is engaged in the business of supplying power generation equipment and spares and is part of GE's 'Power' business vertical. GSPTCL was formally known as Alstom Technical Services (Shanghai) Co. Ltd. and was a part of the Alstom Group till 02.11.2015. However, the Alstom Power business was acquired by GE in 2015 and since then, GSPTCL is a part of the GE Group. GSPTCL is also not a tax resident of India. According to the GSPTCL, it has not received any income, which was chargeable to tax in India in the previous year relevant to AY 2013-14 and accordingly, did not file its return of income for the said AY.

v. GE Power GmbH [**GPG**] is a company incorporated under the laws of Germany and is engaged in the business of power plants, turbine, generators etc. and is part of GE's 'Power' business vertical. GPG was formally known as Alstom Power AG and was a part of the Alstom Group till 02.11.2015. However, the Alstom Power business was acquired by GE in 2015 and since then, GPG is a part of the GE Group. GPG is not a tax resident of India. According to the GPG, it has received certain income in the nature of FTS for previous years relevant to AY 2016-17 and 2017-18, which were taxable in India. Accordingly, it had filed its returns of income for the said relevant assessment years.

vi. GE Power Solutions (Malaysia) SDN. BHD [**GPSSB**] is a company incorporated under the laws of Malaysia and is engaged in the business of construction and project management of power plants and supplying of power generation engineering spares and related services and is part of GE's 'Power' business vertical. GPSSB was formerly known as Alstom Asia Pacific SDN. BHD. and was a part of the Alstom Group till 02.11.2015. However, the Alstom Power business was acquired by GE in 2015 and since then, the Petitioner is a part of the GE Group. GPSSB is not a tax resident of India. According to GPSSB, it has not received any income, which was chargeable to tax in India in the previous year relevant to AY 2015-16 and therefore had not filed its return of income for the said assessment year.

vii. General Electric (Switzerland) GmbH [**GESB**] is a company incorporated under the laws of Switzerland and is engaged in the business of manufacturing and supply of generators and auxiliary systems for hydroelectric power projects is part of GE's 'Power' business vertical. GESG was formally known as Alstom Switzerland Limited and was a part of the Alstom Group till 02.11.2015. However, the Alstom Power business was acquired by GE in 2015 and since then, the Petitioner is a part of the GE Group. GESG is not a tax resident of India. According to GESG, it was engaged in offshore supply of equipment to third party previous years relevant to AY 2017-18, which were taxable in India. Accordingly, it had filed its return of income for AY 2017-18.

viii. GE Power SP.Z.O.O. [**GPS**] is a company incorporated under the laws of Poland and is engaged in the business of Engine, Turbine and Power Transmission Equipment. GPS was formally known as Alstom Power SP.Z.O.O. and was a part of the Alstom Group till 02.11.2015. However, the Alstom Power business was acquired by GE in 2015 and since then, GPS is a part of the GE Group. GPS is not a tax resident of India. According to the Petitioner, it has not received any income, which was chargeable to tax in India in the previous year relevant to AY 2017-18 and therefore did not file its return of income for the said assessment year.

4. It is stated that in compliance of the notices issued under Section 148 of the Act, the Petitioners furnished their return of income for the relevant assessment years. The Petitioners also sought the reasons recorded for reopening of the assessments, which were provided to them. The reasons to believe that the income of the respective petitioner had escaped assessment for the relevant assessment year, recorded by the AO are similar in some of the material aspects. The AO's reasons to believe that the Petitioner's income has escaped assessment is primarily based on a survey that was conducted under Section 133A(1) of the Act. The said survey was conducted on 06-07/06/2019 in the premises of GE Power India Ltd. which is a company incorporated in India and engaged in 'Power' business vertical of the GE Group, and GE T&D India Ltd., which is also a company incorporated in India and engaged in 'Transmission and Distribution' business vertical of the GE group.

5. The AO recorded that it was found during the survey proceedings that the companies of the *erstwhile* Alstom Group which was engaged in 'Power' business have a Permanent Establishment [**PE**] in India in the form of a Dependent Agent PE and Fixed Place PE. Thus, part of their business income attributable to their PEs is chargeable to tax in India.

6. The AO also noted that post survey operations, it was found that the Petitioner had made certain supplies to Indian entities. However, no tax was deducted on the payments made by the Indian entity for the said supplies. Thus, the same were not declared in India. The AO referred to the statements of various employees of GE Power India Ltd. and GE T&D India

Ltd. recorded during the survey conducted on 06-07/06/2019 and observed that the Petitioner had a Dependent PE and a Fixed Place PE in India. And, on the aforesaid basis alleged that the Petitioner's business income attributable to its PE was chargeable to tax under the Act.

7. The Petitioner objected to the initiation of the assessment proceedings under Section 147 of the Act primarily on the ground that there was no tangible material for the AO to conclude that the Petitioner had a PE in India during the previous year relevant to the assessment years in respect of which the impugned notices have been issued. However, the objections raised by the Petitioner were rejected.

8. A plain reading of the reasons as recorded clearly indicates that there was no tangible material for forming a belief that the Petitioners had a dependent PE or a Fixed Place PE in India during the previous years relevant to the said assessment years in respect of which the impugned notices under Section 148 of the Act are issued, was sustainable.

9. Concededly, the question involved in the present petitions is covered in favour of the Petitioners by earlier decisions of this court in **Grid Solutions OY (Ltd.) v. Assistant Commissioner of Income Tax: Neutral Citation No.: 2025:DHC:214-DB**, order dated 07.02.2025 in WP(C) No.5095/2022 captioned **UK Grid Solutions Ltd. v. ACIT**, order dated 12.02.2025 in WP(C) No.1629/2022 captioned **GE Hydro France v. ACIT, GE Grid (Switzerland) GmbH v. ACIT: Neutral Citation No.: 2025:DHC:1280-DB** and **GE Renewables Grid LLC (formerly known as**

Alstom Grid Inc. / Alstom Grid LLC) v. ACIT, 2025:DHC:2911 – DB.

10. In view of the above, the present petitions are allowed and the impugned notices are set aside.

11. The petitions are disposed of in the aforesaid terms.

VIBHU BAKHRU, J

TEJAS KARIA, J

MAY 21, 2025
RK

Click here to check corrigendum, if any