



2025:DHC:7308-DB



\$~107 and 108

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

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Date of Decision : 21.08.2025

+ ITA 321/2025

+ ITA 323/2025

PRINCIPAL COMMISSIONER OF INCOME TAX - 4 DELHI**.....Appellant**

Through: Mr Abhishek Maratha, SSC, Mr Apoorv Aggarwal, JSC, Ms Nupur Sharma, Mr Gaurav Singh, Mr Bhanukaran Singh Jodha, Ms Muskan Goel, Mr Himanshu Gaur and Mr Nischay Purohit, Advocates

versus

MARUTI SUZUKI INDIA LTD**.....Respondent**

Through: Mr. Ajay Vohra, Sr. Adv. with Mr. Vaibhav Kulkarni and Mr. Himanshu Aggarwal, Adv.

CORAM:**HON'BLE MR. JUSTICE V. KAMESWAR RAO****HON'BLE MR. JUSTICE VINOD KUMAR****V. KAMESWAR RAO , J. (ORAL)****ITA 321/2025**

1. This appeal filed under Section 260A of the Income Tax Act, 1961 (the Act), lays challenge to an order dated 09.02.2023 passed by the Income Tax Appellate Tribunal (ITAT) in ITA No. 961/Del/2015 and ITA No. 1507/Del/2015, whereby the Tribunal has dismissed ITA No. 1507/Del/2015 filed by the Revenue for the Assessment Year (AY) 2010-11 and allowed

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ITA No. 961/Del/2015 filed by the assessee for the same AY.

2. The assessee is a limited company duly incorporated in the Companies Act, 1956 and is engaged in the business of manufacture, purchase and sale of automobiles and the other activities related to pre-owned cars, insurance, fleet management and car financing. The return of income was filed through electronic mode on 11.10.2010 declaring a total income of Rs.3255,35,58,940/- and a revised return was filed on 28.03.2012 at an income of Rs.3259,18,58,726/-. The case was processed under Section 143(1) of the Act. Thereafter, the case was taken up for scrutiny assessment. Having taken into account the transfer pricing adjustments, a draft assessment order under Section 144C of the Act was passed on 29.03.2014 determining the income at Rs.4896,58,43,555/-. Aggrieved by it, the assessee company filed its objections against the draft assessment order before the Dispute Resolution Panel-III, New Delhi(DRP) who issued certain directions on 08.01.2015 under Section 144C(5) of the Act with regard to transfer pricing adjustments.

3. In pursuance to the directions of learned DRP, the Assessing Officer (AO) passed the impugned assessment order on 20.01.2015 under Section 143(3) read with Section 144C of the Act. Thereby, he assessed the income of assessee company at Rs.4649,87,40,313/-. Thereafter, the AO passed a rectification order under Section 154 of the Act, thereby rectifying the error and assessing income at Rs.4591,24,91,796/-.

4. The assessee as well as the Revenue, aggrieved with the assessment order dated 20.01.2015 preferred appeals before the ITAT.



5. The respondent/ assessee raised the following grounds before the ITAT :

1. *“That on the facts and circumstances of the case the impugned assessment completed vide order dated 20.01.2015 passed under section 143(3) read with section 144C of the Income-tax Act, 1961 (‘the Act’), is illegal and bad in law.*

1.1. *That on the facts and circumstances of the case, the impugned assessment having been completed on the basis of directions issued by the Dispute Resolution Panel (“DRP”) under section 144C(5) of the Act without judiciously and independently considering the factual and legal objections to the draft assessment order, is illegal and bad in law.*

1.2. *That the DRP erred on facts and in law in not interfering with the draft order passed by the assessing officer holding that since appeals have been filed by the appellant and the Department on various issues, there is no warrant to interfere with the proposed additions/ disallowances.*

1.3. *That the DRP erred on facts and in law in not directing the assessing officer to delete various additions/ disallowance, which were squarely covered in favour of the appellant by the appellate orders for the earlier years.*

2. *That the assessing officer erred on facts of the case and in law in completing the impugned assessment at an income of 4649,87,40,313/- as against income of Rs.3259,18,58,726/- declared by the appellant.*

3. *That the Assessing Officer/ DRP erred on facts and in law in not allowing an aggregate claim of deduction of statutory duties/ taxes of Rs.121,82,25,605/-paid under section 43B of the Act.*

3.1. *That the Assessing Officer erred in making disallowance under section 43B of the Act following the assessment Orders for the earlier assessment years despite admitting that in the earlier year(s) most of the issues have been decided in favour of the appellant.*

3.2. *That the Assessing Officer erred on facts and in law in holding that the deduction of liability to pay taxes/duties under section 43B is admissible only after such liability has been incurred under the Act.*

3.3. *That the Assessing Officer failed to appreciate that the assessee having admittedly paid Rs. 16,42,033/- as Excise Duty on vehicles and Rs.5,84,293/- as R& D cess on vehicles in the relevant*



assessment year, the same were allowable deduction u/s 43 B of the Act.

3.4. That the Assessing Officer has, without any basis or material, erroneously concluded that the aforesaid payments have been made in advance for the stocks still to be manufactured, without appreciating that as on 31.03.10 the appellant had finished stock of vehicles amounting to Rs.379.40 crores, which included accrued liability of excise duty and R&D cess amounting to Rs.23.67 crores and consequently, the same were, in any case, allowable deduction u/s 43B of the Act.

3.5. That the Assessing Officer erred on facts and in law in not allowing deduction under section 43B of the Act for a sum of Rs.54,19,86,424/- representing the customs duty paid in respect of inputs imported by the assessee company and, for which the corresponding exports had been made by the year end.

3.6. That the Assessing Officer erred on facts and in law in not allowing deduction under section 43B of the Act for a sum of Rs.2,76,77,437/- representing the amount of excise duty actually paid on purchased inputs included in RG 23A Part II.

3.7. That the Assessing Officer failed to appreciate that the aforesaid balances represented the amount of excise duty actually paid by the appellant to the suppliers of raw materials and other inputs for which liability had already been incurred and thus could not be considered as advance payment of excise duty.

3.8. That the Assessing Officer erred on facts and in law in not allowing deduction under section 43B of the Act for a sum of Rs.27,29,78,059/- representing custom duty (CVD) paid to be adjusted against excise duty payable on finished products.

3.9. That the Assessing Officer erred on facts and in law in not allowing deduction under section 43B of the Act for a sum of Rs.6,18,68,222/- representing custom duty in respect of the goods in transit/under inspection.

3.10. That the Assessing Officer erred on facts and in law in not allowing deduction under section 43B of the Act for a sum of Rs.30,48,61,320/- representing the custom duty paid and included in valuation of closing stock.

3.11. That the Assessing Officer erred on facts and in law in not allowing deduction under section 43B of the Act for a sum of Rs. 61,76,617/- being Customs Duty paid under protest.

3.12. That the Assessing Officer erred on facts and in law in not allowing deduction under section 43B of the Act for a sum of Rs.



4,51,200/- being Sales Tax paid under protest.

3.13. That the Assessing Officer erred in not following the binding decisions of the High Court and the Tribunal in the appellant's own case for the earlier assessment years, in gross violation of principles of judicial propriety.

4. That the Assessing Officer/ DRP has erred in law, on facts and in the circumstances of the case in not allowing the claim of the assessee for withdrawal of add back of Rs. 109,72,67,904/- made in the computation of taxable income, being the amounts disallowed in earlier years under section 43 B of the Act.

4.1 That the Assessing Officer has erred in law, on facts and in the circumstances of the case in failing to apply the fundamental rules of taxation that the same income cannot be taxed twice and that the AO is duty bound to determine the true figure of the assessee's taxable income in accordance with the provisions of the Act.

4.2. That the Assessing Officer has erred in not appreciating that similar withdrawal of add back under section 43B was allowed by the AO himself and confirmed by the DRP in AY 2007-08.

5. That the Assessing Officer erred on facts and in law in making further disallowance of expenses amounting to Rs. 32,57,05,335/- under section 14A of the Act.

5.1 That the assessing officer erred on facts and in law in proceeding to make disallowance under section 14A simply on the basis of method/ formula prescribed in Rule 8D of the I.T. Rules, without appreciating that preconditions for applying the said rule as prescribed in sub-sections (2)/(3) of section 14A of the Act were not satisfied.

5.2 That the Assessing Officer erred on facts and in law in not appreciating that there was no proximate nexus between any expenditure incurred and exempt dividend income.

5.3 That the Assessing Officer erred on facts and in law in holding that suo-motu disallowance of Rs.1,69,36,938/- made by the appellant in the return of income under section 14A of the Act was incorrect and not backed by the documentary evidence.

5.4. That the assessing officer erred on facts and in law in disregarding the explanation given by the appellant or non-inclusion of interest expenses for the purposes of disallowance under section 14A of the Act.

5.6. Without prejudice, the assessing officer erred in computing the disallowance u/s 14A read with Rule 8D of the Income Tax Rules.

6. That the Assessing Officer/ DRP erred on facts and in law in



disallowing expenditure of Rs.444,43,46,454/- (Net of depreciation for the year) incurred on account of royalty (both lumpsum and running), holding the same to be capital expenditure.

6.1. That the Assessing Officer erred, on facts and in law in not appreciating that royalty paid by the appellant to Suzuki Motor Corporation, Japan (hereinafter referred to as "SMC") was merely for the limited right/license to manufacture and sell the licensed product for a specified duration in India and was therefore, revenue in nature.

6.2. That the Assessing Officer erred on facts and in law in not appreciating that payment of royalty was directly linked and correlated with the production/ sales of cars and spares by the appellant and if there is no production/ sale of cars and spares, there will be no royalty payable to SMC.

6.3. That the Assessing Officer erred on facts and in law in not appreciating that royalty payment (including cess) was held to be revenue expenditure in all the preceeding assessment years till assessment year 2005-06 and that there being no change in facts during the year under consideration, there was no warrant or justification to take a totally contradictory view in holding the same to be capital expenditure.

7. That the Assessing Officer erred on facts and in law in disallowing Rs.33,89,08,734/-(Net of depreciation for the year) on account of R&D cess on royalty, holding that cess also partook the character of royalty, without appreciating that royalty was paid to SMC whereas R&D cess on royalty, being a statutory payment, was paid to the Indian Government.

7.1. That the Assessing Officer erred in failing to appreciate that R&D cess, being a statutory payment, is governed by section 43B of the Act, which is a separate code in itself and overrides other provisions of the Act, and hence the payment of R&D cess is an allowable deduction under that section.

7.2. That the Assessing Officer erred on facts and in law in not appreciating that R&D cess on royalty was always accepted to be revenue expenditure in all the previous assessments till assessment year 2005-06 and that there being no change in facts during the year under consideration, there was no warrant or justification to take a totally contradictory view and holding the same to be capital expenditure.

7.3. Without prejudice, the assessing officer erred on facts and in law in not appreciating that the appellant had suo-moto disallowed



R&D cess paid on royalty to the extent of Rs. 1,39,45,180/- under section 43B. thereby resulting in a double disallowance to the extent of Rs. 1,39,45,180/-.

7.4. Without prejudice, the assessing officer erred in granting the alternative deduction of depreciation of Rs.93,92,54,794/- instead of Rs.145,22,90,555/-with respect to Royalty Paid to SMC and R&D Cess thereon resulting in short deduction of Rs.51,30,35,761/-.

8. That the Assessing Officer/ DRP has erred in law and on facts in disallowing deduction of Rs.43,11,000/- representing the excise duty paid by the appellant during the relevant previous year.

8.1 That the Assessing Officer failed to appreciate that the said amount of Rs.43,11,000/- constituted and represented excise duty actually paid by the appellant and was, therefore, allowable deduction under section 43B of the Act.

8.2 That the Assessing Officer/DRP erred on facts and in law in leveling false and baseless allegations of the appellant having, inter alia, hidden true nature of payment of excise duty, without appreciating that aforesaid amount had been paid by the assessee as excise duty and the same was duly certified by the tax auditors in the tax audit report.

9. That the Assessing Officer/ DRP has erred on facts and in law in making disallowance of Rs.33,00,89,403/-, being the expenditure provided on estimated basis on account of foreseen price increase (in short "FPI"), disregarding the consistent and accepted method followed by the appellant for last many years since inception.

9.1 That the Assessing Officer completely failed to appreciate that there was a clear contractual agreement/ understanding between appellant and suppliers under which the appellant was liable to pay additional amount of price for the supplies of various inputs received during the year and accordingly the said liability accrued during or before the end of that year and estimated amount thereof was accordingly allowable as deduction from assessable income.

9.2 That the Assessing officer failed to appreciate that mere fact that the exact amount of additional price payable to suppliers was not quantified until the end of relevant accounting year did not at all mean that there was no accrual of liability in that year.

9.3 That the Assessing officer/ DRP erred on facts and in law in completely disregarding the evidence and material placed on record which conclusively established the existence of agreement/understanding between appellant and suppliers for the payment of additional price to them for supplies made during the



accounting year ended on 31st March, 2010.

9.4 That the Assessing Officer erred on facts and in law in not taking cognizance of the fact that the entire amount of liability has either been paid or written back and offered to tax as its income in the succeeding assessment year.

9.5 That the DRP erred on facts and in law in alleging that calculation/ method/ basis of computing and claiming the liability on account of foreseen price increase was not furnished/ explained by the appellant.

9.6 Without prejudice, the Assessing Officer erred on facts and in law in not allowing the deduction of the amount disallowed in the preceding assessment year(s) but actually paid/written back during the year under consideration.

10. That the Assessing Officer/ DRP has erred in law, on facts and in the circumstances of the case in making ad-hoc disallowance of Rs.21,83,04,695/- for alleged sharing of resources by the appellant with other group / subsidiary companies.

10.1 That the assessing officer / DRP erred in observing that the appellant had borne expenses incurred for other corporate entities, failing to appreciate that the entire expenses were incurred by the appellant for the purposes of its business and hence no part of the expenditure incurred ought to be disallowed on account of sharing of resources.

10.2 That the assessing officer/ DRP further failed to appreciate that the disallowance of any part of the expenses incurred was ultimately tax neutral in as much as the expenses disallowed in the hands of the appellant would have to be allowed in the hands of the group/ subsidiary companies.

10.3 Without prejudice to the aforesaid, the quantum of disallowance computed by the assessing officer was very high as compared to expenses of Rs. 1.22 crores that could, if at all, reasonably be attributed towards sharing of expenses.

11. That the Assessing Officer/ DRP erred on facts and in law in disallowing Rs.11,30,00,000/-, being the expenditure incurred on account of discharging corporate social responsibility, without appreciating that such expenditure was incurred wholly and exclusively for the purposes of business.

11.1 That the assessing officer/ DRP erred on facts and in law in holding that the expenditure incurred on corporate social responsibility is, even otherwise, capital in nature on the ground that the same resulted in enduring benefit to the appellant.



11.2 Without prejudice, the assessing officer erred on facts and in law in not allowing depreciation under section 32 of the Act, consistent with his finding that the aforesaid expenditure is capital in nature.

12. That the Assessing officer/ DRP has erred on facts and in law in disallowing a sum of Rs.7,50,017/- being expenditure incurred on account of club membership fees, following the assessment orders for the earlier years, alleging that the appellant failed to justify the said commercial expediency.

13. That the assessing officer/ DRP has erred in law, on facts and in circumstances of the case in treating gains from sale and purchase of mutual funds as “business income” as against the same being declared under the head “capital gains” by the assessee.

13.1. That the assessing officer erred on facts and in law in assessing gain of Rs.125,66,52,966 on transfer of units of mutual fund as business income as against long-term capital loss of Rs.68,16,79,305 declared by the assessee after claiming benefit of indexation.

13.2. That the assessing officer erred on facts and in law in assessing short-term capital gain of Rs.3,32,97,441 as business income.

13.3. That the assessing officer erred on facts and in law in holding that investment in units of mutual funds and shares were made as a systematic business activity, without appreciating that such investments were made on capital account and not as “stock-intrade”.

13.4. That the assessing officer erred on facts and in law in holding that the assessee had shown/ categorized the purchases of mutual funds as “investment” in the books of account in order to hoodwink the Department and conceal the real nature of the transactions.

13.5. That the DRP erred on facts and in law in holding that the appellant was unable to establish that the holding in shares/ securities were held as investments and not as stock in trade.

14. That the A.O./ DRP has erred in law, on facts and in circumstances of the case in disallowing the deduction of Rs.20,98,82,138/- claimed by assessee in respect of provision for warranty (Inadvertently mentioned in the order as gratuity).

14.1. That the AO erred on facts and in law in holding that the provision for warranty was made on an ad-hoc basis and not based on scientific valuation.



15. That the assessing officer erred on facts and in law in disallowing the purchases to the tune of Rs. 1,95,67,83,751 made by the assessee from SMC, on the ground that the assessee has failed to deduct tax at source from purchases made from SMC, by invoking the provisions of section 40(a)(i) of the Act.

15.1. That on the facts and circumstances of the case and in law the aforesaid disallowance is bad in law and not sustainable having being made in violation of principles of natural justice.

15.2. That the assessing officer erred on facts and in law in holding that SMC had a Permanent Establishment [“PE”] in India in terms of Article 5 of the India-Japan Tax Treaty “Treaty” and income arising to SMC from sale of goods to the assessee was attributable to the activities of such alleged PE, and was liable to tax in India.

15.3. That the assessing officer erred on facts and in law in alleging that SMC had a place of management in India and hence, a fixed place PE in India in terms of Article 5(1) and 5(2) of the Treaty, on the ground that the executive directors on the board of the assessee who were Japanese nationals nominated (nominee directors) by SMC and held significant influence over the affairs of the assessee were employees of SMC and were deriving salary from SMC.

15.4. That the assessing officer erred on facts and in law in alleging that the nominee directors were looking after the interests of SMC in India and carrying on business of SMC in India.

15.5. That the assessing officer erred on facts and in law in alleging that SMC also had dependent agent PE in India since the nominee directors were taking commercial decisions in the interest of SMC.

15.6. That the assessing officer erred on facts and in law in alleging that the assessee also had service PE in India alleging that the nominee directors were rendering managerial services on behalf of SMC to the assessee.

15.7. Without prejudice, the assessing officer erred on facts and in law in not appreciating that there is no concept of service PE under the Treaty.

15.8. Without prejudice, the assessing officer erred on facts and in law in computing the profits attributable to the alleged PE of SMC in India at Rs. 1,95,67,83,751, and disallowing the same under section 40(a)(i) of the Act.

15.9. That the assessing officer erred on facts and in law by arbitrarily assuming 20% net profit margin on purchases made by



assessee from SMC, out of which 50% profits have been alleged to be attributable to the alleged PE of SMC in India.

15.10. That the assessing officer erred on facts and in law in not appreciating that no disallowance under section 40(a)(i) of the Act was warranted as the said provisions were not applicable in view of the provisions of Article 24 of the Treaty.

16. That the assessing officer erred on facts and in law in making transfer pricing adjustment amounting to Rs.442,92,00,000/- on account of the alleged difference in the arm's length price of international transactions of payment of royalty entered into by the appellant on the basis of the order under section 92CA(3) of the Act.

16.1. That the TPO / DRP erred on facts and in law in holding that the international transaction of payment of royalty does not satisfy the arm's length principles as envisaged under the Act.

16.2. That the TPO / DRP erred on facts and in law in holding that the assessee was not liable to pay royalty to SMC towards use of SMC's trademark.

16.3. That the TPO / DRP erred on facts and in law in holding that out of the total royalty paid by the assessee, 46% was attributable to royalty towards payment for use of SMC's trademark and thereby ought to be disallowed.

16.4. That the TPO / DRP erred on facts and in law in rejecting Transactional Net Margin Method ('TNMM') as the most appropriate method for benchmarking the international transaction of payment of royalty.

16.5. That the TPO / DRP erred on facts and in law in not following any of the prescribed method for determination of the arm's length price of international transaction of payment of royalty.

16.6. That the TPO / DRP erred on facts and in law in failing to appreciate that at the time of entering into the license agreement, the appellant and SMC were unrelated parties.

16.7. That the TPO / DRP erred on facts and in law in not appreciating that brand 'Maruti Suzuki' was used by the appellant from its inception.

16.8. That the TPO / DRP erred on facts and in law in not appreciating that the use of brand 'Suzuki' was in the commercial interest of the appellant

16.9. That the TPO / DRP erred on facts and in law in holding that 'Suzuki' brand has piggybacked the brand 'Maruti' owned by the



appellant

16.10 .That the TPO / DRP erred on facts and in law in artificially splitting the single and inseverable license agreement entered into by the applicant with Suzuki Motor Corporation, Japan ('SMC').

16.11.That the TPO / DRP erred on facts and in law in not appreciating that all rights vested in the license agreement are inseverable and linked to the core right to manufacture and sell licensed products.

16.12.That the TPO / DRP erred on facts and in law in holding that cobranding of "Maruti- Suzuki" has resulted in the reinforcement of value of "Suzuki" brand and simultaneous impairment of "Maruti" trademark.

16.13.That the TPO / DRP erred on facts and in law in holding that "Suzuki brand in India is relatively weak".

16.14.That the TPO / DRP erred on facts and in law in not following the appellate order passed by the Hon'ble Tribunal for assessment year 2005-06 wherein similar Transfer Pricing adjustment on account of international transaction of payment of royalty was deleted.

16.15.That the TPO / DRP erred on facts and in law in holding, on the basis of conjectures and surmises that, the associated enterprise has charged separate royalty for the use of technology and for use of brand name in the proportion in which it incurs expenditure on R&D and Brand promotion.

16.16.That the TPO / DRP erred on facts and in law in not appreciating that the royalty was the consolidated charge made by the appellant for obtaining right and license to manufacture motor vehicles in India using the technology and brand name of the SMC, Japan.

16.17.Without prejudice, the TPO / DRP erred in considering the consolidated financials of the associated enterprise for the purpose of segregating the payment of royalty for the use of technology and for the use of brand name.

17. That the AO has erred in law, on facts and in the circumstances of the case in allowing TDS credit of Rs.31,95,97,761/- only against Rs. 33,76,81,853/- claimed by the appellant in the revised return of Income and/or before DRP/AO, thereby allowing a short-credit of Rs. 1,80,84,092/-

18. That the assessing officer erred on facts and in law in charging interest under sections 234B and 234C of the Act. 18.1. That the assessing officer grossly erred in computing the interest under



section 234B of the Act by first adjusting the interest computed under that section on the basis of the assessed income against the self assessment tax paid by the appellant. The appellant prays leave to add, amend, alter, delete or forego any of the grounds either before or during the course of hearing.”

6. The Revenue raised the following grounds before the ITAT:

“1. Whether on the facts and circumstances of the case & in law, the DRP erred in allowing the deduction u/s 35(2AB) on the basis of order of approval for in house R & D facilities signed by Scientist 'G' for or on behalf of Secretary DSIR by relying on the decision of Mumbai Bench of ITAT in the case of Ferment Biotech Ltd. v. ACIT [ITA No. 4888/Mum/2012].

2. Whether on the facts and circumstances of the case & in law, the DRP was justified in directing the AO to allow the claim of the assessee subject to verification whether any order of approval of in house R & D facilities was issued for the relevant assessment year disregarding the fact that Rule 6(1B) mandates Secretary, DSIR as the prescribed authority and there is no specific further sub-delegation provided in the Rule whereas such further sub-delegation is to be specifically provided as in the case of 3rd proviso to Rule 6(5).

3. That the order of the DRP is erroneous and is not tenable on facts and in law.

4. That the appellant craves leave to add, alter, amend or forgo any ground(s) of appeal either before or at the time of hearing of the appeal.”

7. ITAT held that the only effective ground in the appeal filed by Revenue is against the deduction of claim made under Section 35(2AB) of the Act.

8. The ITAT vide impugned order dated 09.02.2023 allowed the assessee's appeal in part, in the following manner :

“120. We find that Ld. DRP followed the decision of Co-ordinate



Bench of the Tribunal in ITA No.4888/Mum/2012 wherein Coordinate Bench of the Tribunal was pleased to direct the AO to verify the fact and to examine whether any order of approval for in house in R&D facility was issued for the relevant Assessment Year. The assessee was also directed to provide all necessary evidences if such an order is available and even if it is signed by the Scientist "G" on behalf of the Secretary, DSIR, has been issued by the prescribed authority. We do not see any reason to deviate from the view of the Coordinate Bench in ITA No.4888/Mum/2012 (supra). Moreover, the Revenue has not brought any other binding precedents to our notice therefore, we do not see any reason to interfere in the finding of Ld.DRP, the same is hereby affirmed. Thus, grounds raised by the Revenue are rejected.

121. In the result, the appeal of the Revenue in ITA No.1507/Del/2015 is dismissed.

122. In the final result, appeal of the assessee in ITA No.961/Del/2015 [Assessment Year 2010-11] is allowed for statistical purposes and the appeal of the Revenue in ITA No. 1507/Del/2015 [Assessment Year 2010-11] is dismissed."

9. Being aggrieved, the Revenue has preferred the present appeal before this Court.

10. The Revenue has proposed the following questions of law:

"(1) Whether Hon'ble ITAT erred in deleting the addition of Rs. 16,42,033/- & 5,84,293/- made by Assessing officer being excise duty paid on vehicles and R&D cess on vehicle under PLA?

(2) Whether Hon'ble ITAT erred in deleting the addition of Rs. 54,19,86,424/- made by Assessing officer on account of Custom Duty Paid on import of components for export purposes for which export had been made by the year end?

(3) Whether Hon'ble ITAT erred in deleting the addition of Rs. 16,61,81,616/- made by Assessing officer on account of CVD (Modvat) paid on goods in transit to be adjusted against excise duty on finished products components?

(4) Whether Hon'ble ITAT erred in deleting the addition of Rs. 10,67,96,443/- made by Assessing officer on account of CVD (Modvat) paid on goods in transit to be adjusted against excise duty on finished products steel coils?

(5) Whether Hon'ble ITAT erred in deleting the addition of Rs. 6,18,68,222/- made by Assessing officer on account of Custom Duty



paid Goods in Transit under inspection?

(6) Whether Hon'ble ITAT erred in deleting the addition of Rs. 30,48,61,320/- made by Assessing officer on account of Custom Duty on Inventory in closing stock?

(7) Whether Hon'ble IT AT erred in deleting the addition of Rs. 43,11,000/- made by Assessing officer on account of expenditure on Excise Duty paid?

(8) Whether Hon'ble ITAT erred in deleting the addition of Rs. 33,00,89,403/- made by Assessing officer on account of FPI- OE Components?

(9) Whether Hon'ble ITAT erred in deleting the addition of Rs. 11,30,00,000/- made by Assessing officer on account of disallowance of expense on CSR?

(10) Whether in the facts and circumstances of the case the Hon'ble IT AT was correct in law in considering an agreement in severable when it clearly states that royalty is for two things one for licensed information and one for licensed trademarks both clearly defined in the definition part of the agreement in article 1.04 and article 1.06 respectively?

(11) Whether in the facts and circumstances of the case the Hon'ble IT AT was correct in law in holding that a mere fact of combined payment for two kind of royalty for licensed information and licensed trademark make the agreement in-severable?

(12) Whether in the facts and circumstances of the case the Hon'ble ITA T was correct in law in holding that primary intent of license is transfer of technology and not trademark usage when the agreement expressly provides for the same and licensed trademark is defined and specifically detailed in exhibit B attached to the agreement?

(13) Whether in the facts and circumstances of the case the Hon'ble ITAT was correct in law in not appreciating that the economic conditions, market conditions, ownership conditions etc have changed over the years and situation do not remain same over the years?

(14) Whether in the facts and circumstances of the case the Hon'ble ITAT was correct in not appreciating that aligning of the logo of Suzuki with Maruti and reposition of logo of Suzuki on the vehicle led to any benefit to the establishment of brand Suzuki in India?

(15) Whether in the facts and circumstances of the case the Hon'ble IT AT was correct in not appreciating that if Maruti was paying licensed trade name royalty to Suzuki, then Suzuki should also be



paying back the trade name royalty to Maruti?

(16) Whether in the facts and the circumstances of the case the Hon'ble ITAT was correct in ignoring the well established doctrine of 'substance over form' (applied by the Courts in numerous judicial decisions) indicating that transfer pricing regulations are to be applied keeping in mind the overall scheme of the taxpayer's business arrangement?

(17) Whether in the facts and circumstances of the case the Hon'ble ITAT was correct in not appreciating that SUZUKI was a relatively weak brand in India as brand does not develop in absentia?

(18) Whether in the facts and circumstances of the case the Hon'ble ITAT was correct in ignoring the fact that economic ownership of the Suzuki brand has increased in India by virtue of its alignment with local Maruti brand, which in turn, is going to augment of other Suzuki products?

(19) Whether in the facts and circumstances of the case the Hon'ble ITAT was correct in ignoring that the process of reinforcement of value of 'Suzuki' brand has started because 'Suzuki' being a very low value brand in Indian market was used along with Maruti' trade mark in co-branding process. This resulted in migration of intangible embedded in 'Maruti' brand to 'Suzuki' brand due to association of both the brands together?"

11. Mr. Ajay Vohra, learned Senior Counsel for the respondent has drawn our attention to the order dated 28.03.2024 passed in ITA No. 196/2017 concerning the respondent assessee itself for the AY-2007-08. According to him, the issues which have been raised are covered by the judgments of this Court in various appeals concerning the Revenue for various Assessment Years. Mr. Abhishek Maratha, learned Senior Standing Counsel for the Revenue does not contest the submission made by Mr. Vohra. In other words, it is his submission, question Nos. 1, 2, 5 and 6 is covered by the judgment of this Court in ITA No. 196/2017 for the AY-2007-08. Similarly question No. 3 and 4 is covered by judgment of this Court in ITA No. 196/2017 relatable to AY-2007-08. It is additionally noted that this issue is



covered in terms of judgments of this Court in ITA No. 250/2005 relatable to AY-1999-2000. Q.No.7 is covered by ITA No. 976/2005 for AY 2000-01. In so far as question No. 8 is concerned, the same is covered by the judgment of this Court in ITA No. 196/2017 AY-2007-08. Similarly, question No. 9 is covered by the judgment for the Assessment Year of 2009-10 in ITA No. 439/2019 as the same issue was proposed by Revenue but no question of law was framed by this Court and the same was rejected. Similarly on the royalty issue concerning question Nos. 10 to 19, the issues are covered in terms of judgment of this Court ITA No. 34/2014 relatable to AY-2005-06. The above is tabulated as under :

S.No.	Issue	Amount Involved (in Rs.)	Remarks	Question of Law raised ?	Remark by the Revenue (Whether issues raised by the Revenue are covered or not)
ITA 321/2025 – arising out of appeal filed by Respondent assessee before ITAT					
1.	Excise duty paid i.e. balance in PLA (a)Excise Duty on Vehicles (b)R&D Cess on vehicles	16,42,033/- 5,84,293/-	– Covered in favour by order of <u>this Court</u> for: • AY 1994-95, 1995-96, 1996-97 reported in 255 CTR 140 (Para 15-16) • AY 1999-00 in ITA No. 31/2005 (Para 16-20) • AY 2000-01 in ITA No. 442/2005 (Para 3) – On the aforesaid issue of PLA balance, <u>the department has not preferred an appeal before the Supreme Court against aforesaid order(s) passed by this Court for AY 1999-00 and 2000-01.</u> – Appeal filed by the department,	Yes	Yes Question of Law No. 1 in ITA, - Page No. 12



S.No.	Issue	Amount Involved (in Rs.)	Remarks	Question of Law raised ?	Remark by the Revenue (Whether issues raised by the Revenue are covered or not)
			inter-alia, on this issue before this Court for AY 2007-08, 2008-09 and 2009-10 have not been admitted.		
2.	Customs Duty paid on import of components for export purposes for which exports has been made	54,19,86,424/-	- Covered in favour by order of this Court for: • AY 1999-2000 in ITA No. 250/2005 (Para 6) • AY 2005-06 in ITA No. 171/2012 (Para 3) • AY 2005-06 in ITA No. 172/2012 (Para 3) • AY 2006-07 in ITA No. 381/2016 (Para 3) - The aforesaid orders passed by this Court have now been confirmed by the Supreme Court vide order dated 27.03.2025. - Appeal filed by the department, inter-alia, on this issue before this Court for AY 2007-08, 2008-09 and 2009-10 have not been admitted.	Yes	Yes Question of Law 2 in Appeal of Revenue - Page No. 12
3.	Customs Duty (CVD) paid to be adjusted against excise duty payable on finished products.	27,29,78,059/-	- The orders passed by this Court on this issue for AY 1999-00, 2000-01, 2001-02, 2005-06 and 2006-07 have now been confirmed by the Supreme Court vide order dated 27.03.2025. - Appeal filed by the department, inter-alia, on this issue before this Court for AY 2007-08, 2008-09 and 2009-10 have not been admitted.	Yes	Yes Question of Law No. 3 and 4 in ITA, Page Nos 12 & 13
4.	Customs Duty on Goods in Transit/und	6,18,68,222/-	- The orders passed by this Court on this issue for AY 1999-00, 2000-01, 2001-02, 2005-06 and 2006-07	Yes	Yes Question Law No.



S.No.	Issue	Amount Involved (in Rs.)	Remarks	Question of Law raised ?	Remark by the Revenue (Whether issues raised by the Revenue are covered or not)
	er inspection		have now been confirmed by the Supreme Court vide order dated 27.03.2025. – Appeal filed by the department, inter-alia, on this issue before this Court for AY 2007-08, 2008-09 and 2009-10 have not been admitted.		5 Page No.13 of ITA
5.	Customs duty included in closing inventory	30,48,61,320/-	– Covered in favour by order of this Court for: • AY 1999-2000 in ITA No. 250/2005 (Para 12-13) • AY 2000-01 in ITA No. 976/2005 (Para 3) • AY 2001-02 in ITA No. 519/2010 (Para 4) • AY 2005-06 in ITA No. 171/2012 (Para 3) • AY 2006-07 in ITA No. 381/2016 (Para 3) – The aforesaid orders passed by the High Court <u>have now been confirmed by the Supreme Court vide recent order dated 27.03.2025 (received on 09.04.2025)</u> passed in assessee's own case where the aforesaid issue has been decided in favour of the assessee. – Appeal filed by the department, inter-alia, on this issue before this Court for AY 2007-08, 2008-09 and 2009-10 have not been admitted.	Yes	Yes Question of Law No. 6 Page No. 13 of ITA
6.	Customs Duty paid under protest	61,76,617/- 4,51,200/-	– Covered by order of this Court in the case of CIT v. Dharampal Satyapal Sons (P.) Ltd : 50 DTR 287 – Covered in favour by the order of	Not raised in appeal	Not Raised



S.No.	Issue	Amount Involved (in Rs.)	Remarks	Question of Law raised ?	Remark by the Revenue (Whether issues raised by the Revenue are covered or not)
	Sales Tax paid under protest		this Court in appellant's own case for AY 1999-00 in ITA No.250/2005 since the Court had allowed deduction for the duty amount which has been paid directly to the custom authorities.		
7.	Disallowance on account of expenditure on Excise duty	43,11,000/-	– Covered in favour by order of this Court for: • AY 2000-01 in ITA No. 976/2005) (Para 3) • AY 2001-02 in ITA No. 519/2010) (Ques 4, Para 6)	Yes	Yes Question of Law No. 7, Page No. 13 of ITA
8.	Disallowance on account of Provisional Liability-Expenditure on account of FPI-OE Components	33,00,89,403/-	– Appeal filed by the department, inter-alia, on this issue before this Court for AY 2007-08, 2008-09 and 2009-10 have not been admitted.	Yes	Yes Question of Law No. 8, Page No. 13 of ITA
9.	Disallowance of expenditure incurred on Corporate Social Responsibility	11,30,00,000/-	– Appeal filed by the department, inter-alia, on this issue before this Court for AY 2009-10 has not been admitted.	Yes	Yes Question No. 9, Page No.13 of ITA
10.	TP – Royalty	442,92,00,000	– Covered by order dated 03.02.2025 passed by this Court in Respondent's own case for AY 2005-06, 2007-08, 2008-09 and 2009-10	Yes	Yes Questions of law regarding the royalty aspect are covered.



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S.No.	Issue	Amount Involved (in Rs.)	Remarks	Question of Law raised ?	Remark by the Revenue (Whether issues raised by the Revenue are covered or not)
ITA 323/2025 – arising out of an appeal filed by the Appellant before ITAT					
11.	Deduction claimed on account of expenditure on scientific research under section 35(2AB)	246,65,38,122	– Covered by order dated 04.08.2017 passed by this Court in Respondent's own case reported in Maruti Suzuki India Ltd vs. Union of India: 397 ITR 728 (Del.) – Covered in favour by following orders: • CIT vs. Sandan Vikas (India) Ltd.: 335 ITR 117 (Del.) • CIT vs. Claris Lifesciences Ltd.: 326 ITR 251 (Guj.)	Not raised in appeal	

12. In view of the above, the appeal is dismissed.

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13. We find that identical proposed questions of law have been framed in this appeal as well.

14. In view of the fact that we have already dismissed ITA No. 321/2025, this appeal is also dismissed.

V. KAMESWAR RAO, J

VINOD KUMAR, J

AUGUST 21, 2025

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