IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2026

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.30852 of 2023
and
W.M.P.Nos.30514 & 30515 of 2023

M/s. Eversendai Construction Pvt Ltd.
Plot No.1 & 2, The Lords,
Block - 1, 5th Floor,
Thiru-Vi-Ka Industrial Estate
Jawaharlal Nehru Road,
Ekkaduthangal, Guindy, Chennai – 32
[PAN: AACCE2174N]
Represented by its Director
Mr. K. Saravanan ... Petitioner

Vs.

1. The Deputy Commissioner of Income Tax,
   Transfer Pricing Officer – 1(2),
   5th Floor, Tower-I, BSNL Building,
   No.16, Greams Road,
   Chennai – 600006.

2. The Deputy Commissioner of Income Tax,
   Corporate Circle – 2(1),
   Aayakar Bhavan,
   Chennai. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st Respondent and quash the impugned giving effect order dated 19.05.2023 for AY 2013-14 in PAN: AACCE2174N in DIN: Letter No. ITBA/COM/F/17/2023-24/1052993653(1) and 1st Respondent to give proper and specific effect on working capital issue as per Income Tax Appellate Tribunal Order (ITA No.2084/Chny/2017) dated 04.11.2022.

For Petitioner : Mr.S.P.Chidambaram

For Respondents : Mr.B.Ramana Kumar
Senior Standing Counsel

ORDER

The petitioner is before this Court against the impugned Communication dated 19.05.2023 of the 1st respondent, which is purportedly a giving-effect order for the Assessment Year 2013-2014 to the order of the Income Tax Appellate Tribunal dated 04.11.2022.

2. The petitioner is aggrieved by a part of the impugned giving-effect order, which reads as under:-

"8.2 --------------------------We direct the TPO to reconsider the issue of working capital adjustment in light of

various averments made by the assessee and also evidences placed on record.”

Respectfully following the order of the Hon’ble ITAT, the adjustment proposed in the order u/s 92CA(3) dt:28.10.2016 is re-worked as under:

Final list of comparables:

Name of the Company	***OP/OC(%)***
Everest Infra Energy Ltd.	*19.01*
Petron Engineering Construction Ltd.	*3.97*
Rishi Laser Ltd.	*1.80*
U B Engineering Ltd.	*5.26*
Mean	***7.51%***

Computation of ALP of the transaction:

Value of the international transaction = Rs. 15,68,80,440/-

Margin of the assessee company = 3.35%

Margin of the comparable companies = 7.51%

Cost	***Markup(%)***	***Sales***
100	*3.35*	*103.35*
100	*7.51*	*107.51*

*ALP of the international transaction = 15,68,80,440 * 107.51/103.35 = 16,31,95,124*

Difference: Rs.63,14,684/- (Rs.16,31,95,124–Rs.15,68,80,440)

Hence an adjustment of Rs 63,14,684/- is proposed on the international transaction relating to sales.

3. The grievance of the petitioner is that a part of the Tribunal's order has not been complied with. In this connection, a reference is made to Paragraph 8.2 of the Order dated 04.11.2022 of the Tribunal, which reads as under:-

> *"8.2 We have heard both the parties perused the materials available on record and gone through orders of the authorities below. There is no dispute with regard to the fact that the working capital plays an important role in operating margin of any entity including that of the assessee. Therefore, when assessee seeks adjustment for working capital considering the amount of working capital employed in their business consisting of own funds and borrowed funds in light of working capital position of comparable goes, then it is duty of the TPO to provide necessary working capital adjustment while computing operating margin of the assessee and this position is supported by the decision of ITAT Chennai Benches in the case of M/s. Doosan Power Systems India Pvt. Ltd., v. ACIT (OSD) in IT (TP) A No.83/Chny/2018 dated 31.03.2021, where similar decision has been reiterated by the Tribunal. Therefore, by following the decision of ITAT, we direct the TPO to reconsider the issue of working capital adjustment in light of various averments made by the assessee and also evidences placed on record."*

4. The impugned communication is defended by the respondents. It is submitted that after the Tribunal passed the Order dated 04.11.2022, a Communication dated 04.05.2023 was issued to the petitioner, in which the

petitioner was specifically asked to furnish the following details:-

> *"In this regard, you are hereby required to furnish the following information/ documents:*
>
> *1. Details of reimbursement of expenses paid along with invoices and justification for the method adopted for Arm's length Price.*
>
> *2. Details of working capital of the assessee company for the F.Y 2012-13 relevant to the A.Y 2013-14 and the impact of the same on the profit."*

5. It is submitted by the Learned Senior Standing Counsel for the respondents that the petitioner has not furnished the aforesaid information, and therefore, it is submitted that the impugned giving-effect order was issued based on the records available.

6. According to the petitioner, the petitioner sent a Communication dated 10.05.2023, wherein it was stated as under:-

> *"Dear Sir, With respect to the above mentioned notice, we wish to submit that the details were submitted to your goodself vide submissions dated 09.02.23 and 17.02.23. The acknowledgement copies of the same is attached for reference. Request you to kindly take the above on record."*

7. I have considered the submissions of the learned counsel for the petitioner and learned Senior Standing Counsel for the respondents.

8. The details that had been furnished earlier on 08.02.2023 and 17.02.2023 by the petitioner which have been enclosed at Page Nos.104 and 128 of the typed set of papers in the writ booklet indicate that the petitioner failed to comply with the reasonable requirements contemplated in the Communication dated 04.05.2023 issued by the respondent, which preceded the impugned giving-effect order dated 19.05.2023.

9. The petitioner merely provided an excel sheet calculation of the profit level indicator - adjusted margin without furnishing the working capital details for the Assessment Year 2013-2014 and its impact on profit and thus, the impugned giving-effect order has been issued by the respondent.

10. It is evident that the petitioner was stingy in providing the details called for by the respondent vide Communication dated 04.05.2023, which preceded the impugned giving-effect order dated 19.05.2023. The petitioner ought to have co-operated with the department by furnishing the details called for and providing a proper explanation as to how the profit level

indicator (PLI) adjusted margin was arrived at 5.73%.

11. Since the information was not furnished, the impugned giving-effect order was passed, which will have a cascading effect on the ultimate assessment order to be made for the relevant assessment year.

12. Under these circumstances, the case is remitted back to the 1st respondent to pass a fresh order on merits, subject to the petitioner providing all particulars that would be required in terms of the Communication dated 04.05.2023 issued by the respondent.

13. It is made clear that mere filing of calculations is not sufficient. It has to be properly authenticated and substantiated by the petitioner with all documents duly certified by a Chartered Accountant.

14. The petitioner shall therefore comply with the above direction by uploading the aforesaid details in the IT portal, as expeditiously as possible. The respondents shall issue a suitable direction to the portal administration to open the portal for the petitioner to upload the aforesaid details.

15. Subject to the petitioner complying with the above stipulation, the 1st respondent shall proceed to pass a fresh order on merits, as expeditiously as possible, preferably within a period of three (3) months from the date of uploading of the aforesaid details.

16. It is needless to state that, before passing any such order, the petitioner shall be heard.

17. This Writ Petition stands disposed of with the above directions. Consequently, connected miscellaneous petitions are closed. No costs.

05.01.2026

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Neutral Citation : Yes / No

To

1. The Deputy Commissioner of Income Tax,
   Transfer Pricing Officer – 1(2),
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   No.16, Greams Road,
   Chennai – 600006.

2. The Deputy Commissioner of Income Tax,
   Corporate Circle – 2(1),
   Aayakar Bhavan, Chennai.

C.SARAVANAN, J.

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