# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
## ORDINARY ORIGINAL CIVIL JURISDICTION
## WRIT PETITION (L) NO.11226 OF 2025

Archroma International (India) Private Limited
earlier known as Huntsman International (India)
Private Limited
Lighthall B Wing, Saki Vihar Road,
Andheri East, Mumbai 400072
PAN : AAACH149J .. Petitioner

Versus

1. Deputy Commissioner of Income Tax,
Circle 2(1)(1)
Room No.561, Aayakar Bhavan,
M. K. Road, Churchgate, Mumbai 400020

2. Deputy Commissioner of Income Tax,
(Transfer Pricing) – 2(2)(1),
Room No.561, Aayakar Bhavan,
M. K. Road, Churchgate, Mumbai 400020

3 Union of India
Through the Secretary,
Ministry of Finance,
Govt. Of India,
North Block,
New Delhi – 110 001 .. Respondents.

***Mr. J. D. Mistry, Senior Advocate,*** *with Mr. Paras Savla, Mr. Harsh Shah, Mr. Pratik Poddar, Mr. Rajnandini Shukla, Advocates for the Petitioner.*

***Ms. Sushma Nagaraj,*** *with Mr. Abhinav Palsikar, Advocates for the Respondents.*

**CORAM: B. P. COLABAWALLA &**
**AMIT S. JAMSANDEKAR, JJ.**

**Judgment Reserved On : 16th September, 2025**

**Judgment Pronounced On: 10th October, 2025**

**JUDGMENT (*PER Amit Satyavan Jamsandekar, J* ).**

1. Rule. Rule made returnable forthwith. The Respondents waive service. With the consent of the parties, taken up for final hearing.

2. By the present Petition, filed under Article 226 of the Constitution of India, 1950, the Petitioner is challenging the inaction of the Respondents of not giving effect to the directions dated 19th March 2020 of the Dispute Resolution Panel ("DRP") and consequently not processing the refund claim of the Petitioner. The directions were given by the DRP to the 1st Respondent under Section 144(C)(5) of the Income Tax Act, 1961 ("the Act").

3. The main issue raised in the petition is the effect of not completing the assessment within a period of one month from the end of the month in which the Assessing Officer receives such directions from the DRP under Section 144(C) (5) of the Act. According to the Petitioner, if the Assessing Officer fails to complete the assessment within the time frame as prescribed by Section 144 (C) (13), the transfer pricing addition ought to be treated as *non est* on the ground that it becomes time barred.

4. The facts and circumstances relating to the dispute, which is the subject matter of the present Petition, are as follows:-

(i) The Petitioner filed its Return of Income for AY 2010-2011 on 14th October, 2010. In the said Return of Income, the Petitioner declared its total income as Rs.78,58,40,928.00. The Petitioner claimed a refund of Rs.3,32,90,793.00 arising out of (a) tax deducted at source of Rs.60,49,110.00; and (b) advance tax paid of Rs. 29,51,10,000.00.

(ii) The Return of Income filed by the Petitioner was selected for a scrutiny assessment under Section 143(2)

of the Act. The order to that effect was passed on 21st September, 2011.

(iii) During the assessment proceedings, a reference was made to the 2nd Respondent, to determine the Arm's length price of the international transactions entered into by the Petitioner. The transfer pricing proceedings culminated in an order dated 28th January, 2014, under Section 92CA(3) of the Act. By the said order, the 2nd Respondent proposed a transfer pricing adjustment of Rs.5,26,86,111.00, which was concerning the 'Corporate Service Charges'.

(iv) On 26th February, 2014, the Petitioner filed a submission before the 1st Respondent, by which the Petitioner claimed depreciation on intangibles and challenged the disallowance made under Section 14(A) of the Act. The Petitioner further claimed depreciation on goodwill.

(v) Thereafter, on 12th March, 2014, the 1st Respondent issued a draft assessment order under Section 144 C (1) of the Act. By the draft assessment order, the 1st Respondent computed the total income at Rs.89,46,03,871/- as against the Return of Income of

Rs.78,58,40,928/-. By the draft assessment order dated 12th March, 2014, the 1st Respondent proposed additional disallowances to the Petitioner's Return of Income. By the draft assessment order, the 1st Respondent also did not allow a depreciation claim on goodwill, which was made by the petitioner vide the letter dated 26th February, 2014.

(vi) The Petitioner, being aggrieved by the draft assessment order dated 12th March, 2014, filed its objections before the DRP under Section 144 C (2) of the Act. The Petitioner also filed additional grounds of challenge/objections to the draft assessment order before the DRP.

(vii) On 13th November, 2014, the DRP provided its directions in accordance with the provisions of Section 144 C (5) of the Act. The DRP, in its directions, allowed the depreciation on goodwill claimed by the Petitioner. Further, the DRP directed the Assessing Officer to give effect to the direction as per the provisions of Section 144 C (13) of the Act.

(viii) Thereafter, the 1st Respondent, on 31st December, 2014, passed the final assessment order, under Sections 144 C (3) read with 144(C) (13) of the Act and determined the Petitioner's income as Rs.89,46,03,871/-.

(ix) It was the case of the Petitioner that the 1st Respondent erred in not following the directions issued by the DRP on 13th November, 2014, by which the DRP allowed the depreciation on goodwill. Therefore, the Petitioner, on 18th December, 2015, filed an Appeal before the Mumbai Bench of Income-Tax Appellate Tribunal, Mumbai, and challenged the final assessment order dated 31st December, 2014, passed by the 1st Respondent.

(x) The Tribunal decided the Appeal filed by the Petitioner on 18.12.2015. As far as the transfer pricing adjustment of Rs.5,26,86,111.00 is concerned, the Tribunal remanded the matter back to the file of the DRP for fresh adjudication. The remand was following the precedent adopted in the Petitioner's own case of earlier Assessment Year i.e. A.Y. 2009 & 2010. The Tribunal directed the DRP to pass a speaking and reasoned order after affording a reasonable opportunity

of being heard to the Petitioner. Thus, the petitioner's ground concerning the erroneous disallowance of the corporate service charge was treated as allowed by the tribunal for statistical purposes. Further, the Tribunal allowed the Petitioner's claim of depreciation on intangibles. It also allowed the Petitioner's claim for depreciation on goodwill and directed the 1st Respondent to follow the directions of the DRP regarding the claim. The Tribunal further deleted the disallowance under Section 14 (A) of the Act and also allowed payment under Section 43 (B) of the Act. Thus, the Appeal of the Petitioner was partly allowed.

(xi) The 1st Respondent, being aggrieved by the decision of the Tribunal dated 18th December, 2015, filed an Appeal bearing No. Income Tax Appeal No.1619 of 2016 before this Court. The said Appeal came to be admitted by this Hon'ble Court on 30th January, 2019.

(xii) Thereafter, the 1st Respondent passed an order on 2nd August, 2019, by which the 1st Respondent gave effect to the Tribunal's order dated 18th December, 2015, and determined the Petitioner's income at

Rs.77,55,27,905.00, and a refund payable as of Rs.1,81,35,950.00. It is the case of the Petitioner that, the order passed by the 1st Respondent on 2nd August, 2019, granted relief on all issues which were decided in favour of the Petitioner. However, the order did not reduce the taxable income by the transfer pricing adjustment of Rs. 5,26,86,111.00.

(xiii) In the meanwhile, the DRP issued fresh directions to the Transfer Pricing Officer ("TPO") on 19th March, 2020. The DRP issued these directions in the remand proceedings, which were ordered by the Tribunal on 18th December, 2015, in an Appeal filed by the Petitioner.

(xiv) The DRP, by its directions dated 19th March, 2020, directed the Assessing Officer / TPO to re-examine the corporate service charges on the lines of its directions for AY 2014-2015. The operative part of the DRP directions dated 19th March, 2020, reads as follows:

> *"3.3 Since, the facts of the case are similar in nature, **the A.O./T.P.O.** is directed to re-examine the corporate service*

*charges (Rs.5,71,27,337/-) segment-wise on the same lines as above, and allow that part of the same which is found acceptable based on the applicability of arms's length principle. The objections are disposed off accordingly."*

*(emphasis supplied)*

5. In this background, Mr. Mistry, the Learned Senior Counsel appearing on behalf of the Petitioner, submitted that the 1st Respondent was required to pass a final assessment order as mandated by the provisions of Section 144 (C) (13) of the Act, in conformity with the directions issued by the DRP on 19th March, 2020. He further submitted that the requirements of Section 144 (C) (13) is that the final assessment order ought to be passed within one month from the end of the month in which the 1st Respondent receives such directions. Mr. Mistry further submitted that the 1st Respondent did not follow the mandate of Section 144 (C) (13) and, therefore, the Petitioner, by its letter dated 5th August, 2020, requested the 1st Respondent to give effect to the directions of the DRP passed on 19th March, 2020. Mr. Mistry submitted that after the letter dated 5th August, 2020, the

representative of the Petitioner constantly followed up on the matter and visited the office of the 1st Respondent on several occasions to ascertain the status of the pending proceedings.

6. Mr. Mistry has drawn our attention to the statement made in paragraph 19 of the petition, where the Petitioner has stated that during their visits to the office of the 1st Respondent, the officer assured the authorised representative of the Petitioner that the issues concerning the specific assessment year in question would soon be taken up for consideration. Mr. Mistry also took us through the dates, which are drawn on the basis of internal records of the Petitioner, on which the representatives of the Petitioner visited the office of the 1st Respondent. According to the Petitioner, there was no response from the 1st Respondent. Therefore, on 12th August, 2024, the Petitioner, by its letter, requested the 1st Respondent to declare the second round of proceedings for giving effect to the DRP's directions dated 19th March, 2020, as barred by limitation. On 5th September, 2024, the Petitioner sent a reminder to the 1st Respondent once again requesting that the proceedings that was to be given effect as per

the DRP's directions dated 19th March, 2020, be declared as barred by limitation, and that the taxes paid in excess of the amount payable ought to be refunded to the Petitioner along with applicable interest. The Petitioner sent similar reminders on 24th December, 2024, 16th January, 2025, and 28th February 2025.

7. Mr. Mistry, the Learned Senior Counsel, submitted that Section 144 (C) (13) of the Act has a strict timeline and the timeline provided by the provisions of Section 144 (C) (13) of the Act are mandatory. The 1st Respondent does not have discretion to deviate from the strict timeline provided by the Section. The 1st Respondent ought to complete the assessment, that too in conformity with the directions of the DRP, within one month from the end of the month in which such direction is received. He submitted that, as per the scheme of the Act, the only step which remains after the DRP gives the directions under section 144 C (5) of the Act is to give effect to the same within the time limit as provided by Section 144 C (13) of the Act. Mr. Mistry further submitted that if this timeline, as provided by the Section, is not abided by the 1st Respondent, and if the directions of the DRP are

not given effect to by the 1st Respondent, then the proceedings ought to be treated as barred by limitation and the consequences must follow. He submitted that, in the present case, as a consequence, the Petitioner is entitled to a refund of the excess taxes paid by the Petitioner.

8. Mr. Mistry, the Learned Senior Counsel, also submitted that by virtue of the scheme of Section 144(C) and the applicable provisions of Section 153, the entire proceedings from the beginning are vitiated.

9. Mr. Mistry also drew our attention to the decisions in ***Roca Bathroom Products (P) Ltd. Vs. Dispute Resolution Panel-2, Bangalore [2021] 127 Taxman.com 332***, passed by the learned Single Judge of the Madras High Court, and ***Commissioner of Income Tax Vs. Roca Bathroom Products (P.) Ltd***, ***[2022] 140 Taxman.com 304***, passed by the Division Bench of the Madras High Court, and also decision of this Hon'ble Court in ***Shelf Drilling Ron Tappmeyet Ltd. Vs. Assistant Commissioner of Income Tax (International Taxation), [2023 SCC Online Bom***

***1589].*** He submitted that, in the case of ***Shelf Drilling Ron Tappmeyer Ltd., [Bombay]***, this Hon'ble High Court has considered both the decisions delivered in ***Roca Bathroom Products (P) Ltd.*** passed by the Single Judge and the Division Bench of the Madras High Court.

10. Mr. Mistry submitted that the decision of this court in ***Shelf Drilling Ron Tappmeyer Ltd.*** was the subject matter of challenge before the Hon'ble Supreme Court in the case of ***Asst. Commissioner of Income Tax Vs. Shelf Drilling Ron Tappmeyer Ltd. [SLP/20569 – 20572/2023 dated 8/8/2025]***. In that case, the Hon'ble Supreme Court has dealt with the issues concerning the interpretation of Section 144 (C) and 153 of the Act and the timelines provided therein. Her Ladyship Justice Nagarathna J. in her judgment dated 8th August, 2025 in ***Shelf Drilling Ron Tappmeyer Ltd.*** has framed the issue in the following words:

> ***"2.2 ...The question which falls for our consideration is on the applicability of Section 153 to a proceeding under Section 144 C of the act namely, whether the period of eleven months as envisaged under Section 144 C of the Act should be over and above the limitation period***

***prescribed, particularly, under section 153 (1) or (3), as the case may be. In other words, whether the time consumed for concluding the proceeding under section 144 C has to be subsumed within the limitation prescribed under section 153 (1) or (3) or as the case may be."***

The Bench of two Hon'ble Judges of the Supreme court have delivered a split verdict in ***Shelf Drilling Ron Tappmeyer Ltd***. on the above issue. The larger bench to decide the issues has not yet been constituted, and therefore, the issue is still pending before the Hon'ble Supreme Court.

11. Mr Mistry further submitted that all the above-referred Judgments and the issues which are pending before the Hon'ble Supreme Court are larger issues about the interpretation of Sections 144(C) and 153 of the Act and the timelines provided therein. He submitted that, in the present case, the larger interpretation of Sections 144(C) and 153 of the Act is not the subject matter.

12. However, he submitted that his submissions relating to the larger issue of interpretation of Section 144 C and that of Section

153 of the Act be kept open, and his submissions only on the mandate of Section 144 (C) (13) of the Act, and more particularly the timeline given in the Section, be considered for deciding the present matter.

13. Ms. Nagaraj, appearing on behalf of the Revenue, submitted that the timelines under Section 144 (C) (13) of the Act would not be applicable in the facts and circumstances of the present case. According to the Revenue, if the DRP passes directions in a matter that was the subject of remand and if the directions are passed in the second round, then the timelines provided under Section 144(C)(13) of the Act are not applicable. Therefore, according to the revenue, the 1st Respondent is not bound to complete the assessment within one month from the end of the month in which such directions are received. He further submitted that the 1st Respondent is in the process of completing the assessment. According to the revenue, not passing the final assessment order within the time frame provided by the Section, does not vitiate the proceedings, and the same cannot be treated as time barred. Ms. Nagaraj further submitted that the larger issue of interpretation of

Section 144 C and that of Section 153 of the Act relating to the timelines is pending before the Hon'ble supreme Court in ***Asst. Commissioner of Income Tax Vs. Shelf Drilling Ron Tappmeyer Ltd. [SLP/20569 – 20572/2023 dated 8/8/2025].*** Therefore, reliance ought not to be placed on the decisions of this Court in ***Shelf Drilling Ron Tappmeyer Ltd. (Supra)*** or that of the Madras High Court in ***Roca Bathroom Products (P) Ltd. (Supra).*** In any case, Ms. Nagaraj submitted that the 1st Respondent is in the process of completing the assessment as per the provisions of Section 144 C (13) of the Act.

14. We have considered the above submissions made on behalf of the Petitioner and the Revenue.

15. There is no dispute about the facts, circumstances, and the sequence of events and communications addressed by the Petitioner to the 1st Respondent. Admittedly, directions were given by the DRP in the second round of proceedings on 19th March, 2020. The 1st Respondent has received the directions of the DRP, and there is no dispute even on this aspect.

16. Thus, the core issue revolves around whether the transfer pricing addition of Rs. 5,26,86,111.00 should be treated as *non-est* on the ground that the proceedings to give effect to the DRP's directions dated 19th March, 2020, are now barred by limitation.

17. As rightly submitted by Mr. Mistry, we are concerned with a limited issue of Section 144 (C) (13), which is the timeline provided by the Section and the consequence of not giving effect to the DRP directions within a period of one month from the end of the month in which such direction is received. Therefore, we have not considered any of the above referred judgments of the Learned Single Judge or the Division bench of the Mardras high Court or the judgment of this Court in ***Shelf Drilling (supra)*** which are the subject matter of split judgment in ***Asst. Commissioner of Income Tax Vs. Shelf Drilling Ron Tappmeyer Ltd. [SLP/20569 – 20572/2023 dated 8/8/2025].*** The issue being that only of interpretation of section 144 C (13), we have independently analysed and interpreted the same and kept the argument of Mr. Mistry on the larger issue of the timelines arising out of Section 153 and 144 C of the Act and its interpretation

expressly open. Therefore, we have confined our analysis and findings only to the interpretation of Section 144 (C) (13) of the Act for the purpose of deciding the present matter.

18. In the scheme of Section 144 C, the procedure begins with Sub Section (1) of Section 144 C. It requires the Assessing Officer to forward a draft assessment order to the eligible assessee [as defined in Section 144 C (15) (b)] in case he proposes to make, on or after the 1st October, 2009, any variation which is prejudicial to the interest of such assessee.

Section 144 C (1) reads as follows:

> *"144 C (1) The Assessing Officer shall, notwithstanding anything to the contrary contained in this Act, in the first instance, forward a draft of the proposed order of assessment (hereafter in this section referred to as the draft order) to the eligible assessee if he proposes to make, on or after the 1st day of October, 2009, any variation which is prejudicial to the interest of such assessee."*

19. Admittedly, the petitioner being an eligible assessee, the 1st Respondent sent a draft assessment order to the Petitioner on 12th March, 2014. Once the Assessing officer invokes the provisions of Section 144 C (1), then the assessee on the receipt of the draft

order has two options under Section 144C(2); i) file his acceptance of the variations to the Assessing officer; or ii) file his objections, if any, to such variations either with the DRP or the Assessing officer.

20. Section 144 C (2) reads as follows:

> *"144 C (2) On receipt of the draft order, the eligible assessee shall, within thirty days of the receipt by him of the draft order,—*
> *(a) file his acceptance of the variations to the Assessing Officer; or*
> *(b) file his objections, if any, to such variation with,—*
> *(i) the Dispute Resolution Panel; and*
> *(ii) the Assessing Officer."*

21. In the present case, the Petitioner filed its objections with the DRP. Therefore, the provisions of Section 144 C (5) were triggered. Section 144 C (5) reads as follows:

> *"144 C (5) The Dispute Resolution Panel shall, in a case where any objection is received under sub-section (2), issue such directions, as it thinks fit, for the guidance of the Assessing Officer to enable him to complete the assessment."*

22. Section 144C also mandates a further step which is required to be taken after the proceedings under Section

144 (C) (5) of the Act are over. That further step is provided for in Section 144 (C) (13) of the Act, which reads as follows :-

> *"144 C (13)* ***Upon receipt*** *of the directions issued under sub-section (5), the Assessing Officer* ***shall***, ***in conformity*** *with the directions, complete,* ***notwithstanding anything to the contrary contained in section 153 or section 153B****, the assessment without providing any further opportunity of being heard to the assessee,* ***within one month from the end of the month in which such direction is received" (emphasis supplied****).*

23. The requirements of Section 144 C (13) are:

(a) There ought to be directions passed by the DRP as per sub-section (5) of Section 144(C);

(b) The directions passed by the DRP under Section 144 C (5) ought to be received by the Assessing Officer;

(c) It casts a burden on the Assessing officer by the mandatory language of the Section to complete the assessment; And

(d) That the Assessing Officer ought to complete the assessment within one month from the end of the month in which such direction of the DRP is received.

24. The language of Section 144 C (13) is clear, unambiguous and mandatory. It provides a mechanism for the steps that must be taken after proceedings under subsection (5) of Section 144(C) are completed. The mechanism envisaged under the section has a strict timeline, which cannot be deviated from by the Assessing Officer. The words used by Section 144 C (13) reads as "*the Assessing Officer* ***shall****, in* ***conformity with the directions****, complete, ..., the assessment without providing any further opportunity of being heard to the assessee,...*" ***(emphasis supplied)***. Therefore, the Assessing officer ought to complete the assessment and that too in conformity with the directions given by the DRP under sub-section (5) of Section 144(C) of the Act. The word '***shall***' in the Section makes the provision mandatory.

25. Further, the Section also has a *non obstante* clause, and by that clause, it excludes the application of Section 153 or 153 B of the Act from the ambit of limitation provided by Section 144(C) (13). Thus, for the purpose of compliance of the provisions of Section 144(C) (13), the provisions of Sections 153 or 153 B are expressly excluded.

26. Therefore, by clear language of Section 144(C) (13) of the Act, the 1st Respondent ought to have completed the assessment order within a period of one month from the end of the month in which such direction of the DRP is received. We agree with the submissions of Mr. Mistry that the Assessing Office does not have any discretion after the DRP issues directions under section 144 C (5), and he cannot deviate from the procedure envisaged under the Section. In the present case, despite repeated reminders, the 1st Respondent has not completed the assessment in conformity with the directions of the DRP, as passed on 19th March 2020.

27. As far as the submission of the Revenue is concerned, that the provisions of the Act, and in particular Section 144 (C) (13), do not prescribe a specific time limit for the 1st Respondent to complete the assessment within the specified time when the case is of a remand by the Tribunal is concerned, we are of the view that the submission is not sustainable in view of the clear and unambiguous language of Section 144(C)(13) of the Act. If the submission of the Revenue is accepted, then the entire scheme and mandate of Section 144(C)(13) of the Act will be made

redundant. The Act does not make any distinction between ordinary cases and cases on remand. The provisions of Section 144(C)(13) apply equally to both situations.

28. Therefore, 1st Respondent cannot act beyond the mandate of Section 144 (C) (13) and also contrary to the directions given by the DRP in sub-section (5) of Section 144 (C) of the Act. The reason being, Section 144(C)(13) mandates that the 1st Respondent ought to complete the assessment ***in conformity with the direction*** of the DRP, that too within the strict timelines. Further, Section 144 C (10) makes a clear provision that the directions of the DRP are binding on the Assessing Officer. Section 144 C (10) reads as follows:

> *"144 C (10) Every direction issued by the Dispute Resolution panel shall be binding on the Assessing officer."*

29. Further, in the present case, the directions passed by the DRP on 19th March, 2020, also include the direction to the 1st Respondent that the 1st Respondent shall give effect to the

directions of the DRP as per the provisions of Section 144(C)(13) of the Act.

30. The scheme of the Section clearly provides that the Assessing Officer is bound by the directions and he has to complete the assessment within the timelines provided by the Section. The reason for imposing a strict timeline in the Section is that the Assessing Officer must follow the directions issued by the DRP, which are provided for his guidance in completing the assessment. It is a settled principle of law that, where a statute requires something to be done in a particular manner, it has to be done in that manner. The statutory provisions cannot be waived or deviated from. If the argument of the Revenue is accepted, then we will have to omit the mandatory provision from Section 144 C (13) while reading the Section. Such a route of interpretation is not permissible. All the words in the statute will have to be read and given a meaning.

31. Therefore, we reject the submission of the Revenue that in case of remand proceedings, the timelines provided by Section 144

C (13) are not applicable and the assessment can be completed beyond the time limits provided by the section.

32. In view thereof, it is clear that the proceedings pending before the 1st Respondent concerning the transfer pricing addition of Rs.5,26,86,111.00 are barred by limitation and now outside the purview of Section 144(C)(13) of the Act. The 1st Respondents cannot now invoke the provisions of Section 144 (C) (13) of the Act and complete the assessment because the time frame mandated by the Section has already expired. It is accordingly so declared.

33. Consequently, the transfer pricing adjustment of Rs.5,26,86,111.00 is treated as *non est* and ordered accordingly. The 1st Respondent is ordered and directed to recompute the Petitioner's total income for the AY 2010-2011 by excluding the transfer pricing adjustment of Rs.5,26,86,111.00. The refund, along with the statutory interest under Section 244(A) of the Act, if any, shall be paid to the Petitioner within eight weeks from the date of uploading of this order on the High Court's Website.

34. Rule is made absolute in the above terms and the Writ Petition is also disposed of in the terms thereof. However, there shall be no order as to costs.

35. Though we have disposed of the Writ Petition, we place it on Board for reporting compliance on **15th December, 2025.**

36. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

**[AMIT S. JAMSANDEKAR, J.]** **[B. P. COLABAWALLA, J.]**