

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCHES "D", MUMBAI

Before Shri P K Bansal, Vice President &
Shri Amarjit Singh, Judicial Member

ITA No.1497/Mum/2016
Assessment Year : 2012-13

DCIT (IT)- 3(3)(1) Mumbai	Vs.	Quintiles Inc.. C/o Deloitte Haskins & Sells,CA, Tower 3, 27 th -32 nd Floor, India Bulls Finance Centre, Elphinstone Mill Compound, Mumbai 400 013
(Appellant)		PAN AAACQ2008D (Respondent)

Appellant By : Shri R P Meena
Respondent By : Ms Urvi A Mehta

Date of Hearing :13.11.2017

Date of Pronouncement : 27.11.2017

ORDER

Per P K Bansal, Vice-President:

This appeal has been filed by the Revenue against the order of the
DRP-2, Mumbai, dated 14.12.2015, for A.Y. 2012-13 in which directions were
issued u/s. 144C(5) of the Income tax Act, 1961, by taking the following
effective grounds of appeal:

*"1 Whether on the facts and in circumstances of the case and in
law the Ld. DRP was justified in holding that the assessee Company
is not liable to interest u/s. 234B of the Act, despite decision of
Hon'ble Delhi High Court in the case of Alkatel Lucent USA Inc. vs.
DCIT"*

2. We have heard the rival submissions and carefully considered the same along with the orders of the authorities below. The only issue involved in this appeal relates to levy of interest u/s. 234B of the Act. After hearing both the parties, we noted that this issue is no more res integra in view of the decision of the jurisdictional High Court in the case of Director of Income-tax (International Taxation) vs. NGC Network Asia LLC 313 ITR 187 (Bom), in which the High Court has clearly held that when a duty was cast on the payer to deduct the tax at source, on failure of the payer to do so, no interest could be imposed on the assessee u/s. 234B. It is not denied that payer in the impugned case was under an obligation to deduct the tax at source but he has not deducted the tax at source on the income on which assessment has been made in the hands of the assessee. The Assessing Officer levied interest u/s. 234B as the advance tax paid by the assessee including the TDS was less than the amount the assessee was under an obligation to pay. The fact remains that there was failure on the part of the assessee to pay advance tax only in respect of the income which is subject to deduction of tax at source. Thus, interest was levied on the assessee to the failure of the payer to deduct tax at source.

3 The decision of the jurisdictional High Court is binding on us. We, therefore, do not find any illegality or infirmity in the order of the DRP on the issue.

4. In the result, the appeal filed by the Revenue stands dismissed.

Order pronounced in the open court on 27th day of November, 2017.

Sd/-
(Amarjit Singh)
JUDICIAL MEMBER

Mumbai; Dated: 27th November, 2017

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Copy of the Order forwarded to :

1. The Appellant.
2. The Respondent.
3. The CIT(A), Mumbai
4. The CIT
5. DR, 'E' Bench, ITAT, Mumbai

BY ORDER,

#True Copy #

Assistant Registrar
Income Tax Appellate Tribunal, Mumbai