



ITA No.6028/Mum/2016  
OOCL Logistics (India) Private Limited  
Assessment Year-2009-10

**आयकर अपीलीय अधिकरण “डी” न्यायपीठ मुंबई में।**  
**IN THE INCOME TAX APPELLATE TRIBUNAL**  
**“D” BENCH, MUMBAI**

श्री शक्तिजीत दे, न्यायिक सदस्य एवं  
श्री मनोज कुमार अग्रवाल, लेखा सदस्य के समक्ष।  
**BEFORE SHRI SAKTIJIT DEY, JM AND**  
**SHRI MANOJ KUMAR AGGARWAL, AM**

आयकर अपील सं./I.T.A. No.6028/Mum/2016  
(निर्धारण वर्ष / Assessment Year: 2009-10)

OOCL Logistics (India) Private Limited ICC Chambers, 5 <sup>th</sup> Floor Saki Vihar Road, Powai Opp. Santogen Silk Mills Mumbai-400 072	बनाम/ Vs.	Deputy Commissioner of Income Tax-7(3)(1) Room No.12, Ground Floor Aaykar Bhavan, M.K.Road Mumbai-400 020
स्थायी लेखा सं./जी आइ आर सं./PAN/GIR No. <b>AAACO-7690-K</b>		
(अपीलार्थी/ Appellant)	:	(प्रत्यर्थी / Respondent)

Assessee by	:	Abhishek Tilak, Ld.AR
Revenue by	:	Ram Tiwari, Ld. DR

सुनवाई की तारीख/ Date of Hearing	:	18/07/2018
घोषणा की तारीख / Date of Pronouncement	:	25/07/2018

**आदेश / ORDER**

**Per Manoj Kumar Aggarwal (Accountant Member)**

1. Aforesaid appeal by assessee for Assessment Year [AY] 2009-10 contest the order of the Ld. Commissioner of Income-Tax (Appeals)-13 [CIT(A)], Mumbai, *Appeal No.CIT(A)-13/DCIT-7(3)(1)/70/2015-16* dated 08/07/2016 by raising following several grounds of appeal, the head of which reads as under:-



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1. **GROUND 1:** *The Learned CIT(A) has erred in observing that the Authorized Representative ('AR') of the Appellant has not pressed ground no.2 and 3 (i.e. ground related to non-receipt of refund and short grant of interest under section 244A of the Act) during the course of appellate proceedings.*
2. **GROUND 2:** *Non-receipt of refund by the Company.*
3. **GROUND 3:** *Short grant of interest under section 244A of the Act*

The assessment for impugned AY was framed by *Ld. Deputy Commissioner of Income Tax-Circle 7(1), Mumbai [AO] u/s 143(3) of the Income Tax Act, 1961* on 26/12/2011 accepting the *business loss* of Rs.222.70 Lacs filed by the assessee on 30/09/2009. As evident from grounds of appeal, the assessee is aggrieved by non-grant of refund & consequential interest for the impugned AY.

2. The Ld. CIT(A), upon appeal, has concluded the matter by making following observations:-

2. Grounds of appeal- *The following are the grounds of appeal in this case*

1. *"The learned AO erred in restricting the credit for taxes deducted at source (TDS) to RS.42,60,94/- as against the credit of RS.45,93,018/- as claimed by the appellant.*

2. *The learned AO erred in stating that a refund of Rs.46,16,231/- (inclusive of interest of Rs.3,61,641/- under section 244A of the Act) has been paid to the appellant.*

3. *Consequently, the interest granted under section 244A of the Act is lower than the correct amount of interest due to the appellant."*

3. Ground No.1- *Vide this ground, the appellant has protested against the short-grant of credit of TDS. While the appellant had claimed credit of Rs.45,93,018/-, the AO had granted it only to the extent of Rs.42,60,904/-. The AO is directed to grant the credit claimed by the appellant subject to the verification. To that extent, ground no.1 is taken to have been allowed.*

4. Ground nos.2 and 3- *Vide these grounds the appellant had protested against the short-grant of interest under section 244A of Income Tax Act, 1961 on the refund granted to the appellant as also against the incorrect statement of the AO that refund had been granted. Before me, the AR of the appellant has not pressed these two grounds stating that while the refund has since been granted, short-grant of interest has also since been rectified by the AO. A noting to this effect has also been endorsed on the order-sheet by the AR. Ground nos.2 and 3 are accordingly dismissed.*

5. *To summarize, while ground no.1 is allowed, ground nos.2 and 3 are dismissed.*



Aggrieved, the assessee is in further appeal before us.

3. The Ld. AR, drawing our attention to the documents placed on record, submitted that the refund for the impugned AY was due to the assessee along with interest, which has not been granted to the assessee and therefore, the matter may be set aside to lower authorities for proper appreciation of factual matrix. It was further submitted that the observations made by Ld. CIT(A), in this regard, were erroneously submitted by the assessee. The Ld. DR submitted that the refund has been adjusted against the demand of earlier years.

4. Upon due consideration, we find that the returned loss filed by the assessee has been accepted and the assessee had claimed a refund of Rs.43.43 Lacs in return of income filed on 30/09/2009. As against the same, the assessee has been granted a refund of Rs.7,350/- on 29/12/2011. The Ld. AR has submitted that the demand in other years has been adjusted from refund of AY 2012-13 and not from the refund of impugned AY and the submissions made by the assessee before Ld. CIT(A), in this regard, was inadvertent error. It is also noted that the assessee has filed rectification application u/s 154 before both the lower authorities. Hence, without delving much deeper into the issue, the matter stand remitted back to the file of Ld.AO for re-determination of correct refund amount as well as interest due to the assessee with a direction to grant legitimate refund as due to the assessee. The assessee is directed to provide sufficient documentary evidences to Ld. AO, in this regard.

5. The appeal stands allowed for statistical purposes.

*Order pronounced in the open court on 25<sup>th</sup> July, 2018*



Sd/-  
**(Saktijit Dey)**  
न्यायिक सदस्य / **Judicial Member**

Sd/-  
**(Manoj Kumar Aggarwal)**  
लेखा सदस्य / **Accountant Member**

मुंबई Mumbai; दिनांक Dated : 25.07.2018  
Sr.PS:-Thirumalesh

**आदेशकीप्रतिलिपिअग्रेषित/Copy of the Order forwarded to :**

1. अपीलार्थी/ The Appellant
2. प्रत्यर्थी/ The Respondent
3. आयकरआयुक्त(अपील) / The CIT(A)
4. आयकरआयुक्त/ CIT– concerned
5. विभागीयप्रतिनिधि, आयकरअपीलीयअधिकरण, मुंबई/ DR, ITAT, Mumbai
6. गार्डफाईल / Guard File

**आदेशानुसार/ BY ORDER,**

**उप/सहायकपंजीकार (Dy./Asstt.Registrar)**  
**आयकरअपीलीयअधिकरण, मुंबई / ITAT, Mumbai**