

IN THE INCOME TAX APPELLATE TRIBUNAL
(DELHI BENCH "FRIDAY/A" NEW DELHI)

BEFORE SHRI G.S. PANNU, VICE PRESIDENT
AND
SHRI AMIT SHUKLA, JUDICIAL MEMBER

ITA NO. 479/DEL/2021

AY : 2016-17

AND

Stay Application No.70/Del/2021

(In ITA No. 479/DEL/2021)

AY : 2016-17

COMPTEL COMMUNICATIONS INDIA VS. NATIONAL e-Assessment
PRIVATE LIMITED, CENTRE, NEW DELHI
KHASRA NO. 37/11, 37/28,
KAPASHERA BEHIND
RAJASTHAN HIGHWAY PETROL
PUMP,
NEW DELHI - 110 037
PAN: AAEECC8166G)

(Applicant)

(Respondent)

Applicant by : Sh. Deepak Chopra, Adv, & Sh. Ankul
Goyal, Adv.

Respondent by : Sh. Mahesh Thakur, Sr. DR.

ORDER

PER G.S. PANNU, VP

This appeal filed by the Assessee is directed against the final assessment order passed by the National e-assessment Centre, New

Delhi dated 30.03.2021 pertaining to assessment year 2016-17 consequent to the directions passed by the Ld. DRP u/s. 144C dated 16.10.2020 when the captioned Stay Application came up for hearing, the Ld. AR for the assessee pointed out that the entire disputed demand of Rs. 6,34,21,040/- is on account of a single addition of Rs. 12,06,83,668/-, which has arisen on the basis of a wrong manifestation on the part of the income-tax authorities regarding the plea of the assessee. Elaborating the point, it is sought to be explained that the addition of Rs. 12,06,83,668/- has been made on account of mismatch of the figure of revenue disclosed in the Financial Statement vis-à-vis Form No. 26AS. The Ld. AR pointed out that assessee has been consistently submitting before the lower authorities, on the basis of a reconciliation statement that the differential amount stands offered for taxation in assessment year 2015-16. Our attention was drawn to para no. 4.2 of the Ld. DRP's order dated 16.10.2020 in this regard. The Ld. AR submitted that the entire controversy would involve appreciation of material which is already on record and, therefore, at the present stage, if it is deemed fit, appropriate directions may be issued to the Assessing Authority; and, thus the Appeal itself can be disposed off.

2. In the course of hearing, the suggestion of the Ld. AR was put-across to the Ld. Sr. DR who does not have any objection to the

disposal of the appeal itself by restoring the matter to the file of the Assessing Officer for appropriate verification of the claim of the assessee that differential amount has been offered to tax in assessment year 2015-16.

3. In deference to the plea of both sides, the appeal is being disposed-off at this stage itself by adverting to the preliminary plea of the appellant to restore the matter back to the file of the assessing authority for appropriate verification of the claim of the assessee. Accordingly, the rival counsels have been heard and the relevant record perused. From the discussion in the orders of the authorities below, it clearly emerges that the dispute between the Assessee and the Assessing Officer is on account of Rs. 12,06,83,668/- representing the difference between the amount of revenue taken as per the Financial Statements vis-à-vis the amount stated in Form No. 26AS. The plea of the assessee is that the said amount has already been subjected to tax in the earlier assessment year 2015-16. The claim of the assessee has been that the amounts have been offered to tax in accordance with the revenue recognition principles and accounting policy regularly adopted by it, and that the differential amount has already been offered to tax in another assessment year. Quite clearly, if the proposition canvassed by the assessee is found to be in order, it would result in a double addition,

in as much as – once in the other assessment year and again in the instant assessment year, a situation which is impermissible. Whether or not such an amount has been offered for taxation in assessment year 2015-16 is a matter which would require verification of the factual state of affairs of the assessee. We are inclined to accept the plea of the assessee that the necessary exercise be carried out by the Assessing Officer because of appellant's assertions that the necessary material in support of the said plea is already forming part of the proceedings before the lower authorities. In fact, the Ld. DRP has not proceeded to carry out any verification primarily noting that the plea of the assessee before it was that the impugned differential amount was taxed in assessment year 2015-16 whereas before the Assessing Officer, it was claimed to have been taxed in assessment year 2017-18. In our view, the correct approach would have been to carry out a factual verification of the claim rather than rejecting it out rightly. Therefore, considering the entirety of facts and circumstances, we deem it fit and proper in deference to plea of both the sides to set aside the impugned addition and restore the matter back to the Ld. Assessing Officer to pass a decision 'afresh' on the aspect of the efficacy of the addition of Rs. 12,06,83,668/- in the current assessment year. The assessee shall be at liberty to lead such evidences as it may deem fit in order to support and

substantiate its Return of income on the impugned aspect. The Assessing Officer is directed to consider the submissions and the material put-forth by the assessee and thereafter pass a speaking order as per law.

4. Accordingly, without going into the merits of the dispute before us, the captioned Appeal of the assessee is disposed off as above. Since, the Appeal is disposed-off, as aforesaid, the stay application filed by the assessee is rendered infructuous and is dismissed.

Above was dictated and pronounced at the conclusion of virtual hearing on 28th May, 2021 in the presence of both the parties.

Sd/-

(AMIT SHUKLA)
JUDICIAL MEMBER

Sd/-

(G.S. PANNU)
VICE PRESIDENT

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|--------------|---------------|--------|------------|
| 1. Appellant | 2. Respondent | 3. DIT | 4. CIT (A) |
| 5. DR, ITAT | | | |

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By Order,

Assistant Registrar, ITAT,
Delhi Benches