

**IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "SMC", MUMBAI**

BEFORE SHRI MAHAVIR SINGH, VICE PRESIDENT

ITA NO. 1004/MUM/2020 : **A.Y : 2013-14**

Diligent Media Corporation Limited,
2nd floor, Continental Building,
135, Dr. A.B. Road, Worli,
Mumbai 400 018. (Appellant)
PAN : AACCD1338F

Vs. Dy. Commissioner of Income
Tax – 6(2)(2), Mumbai.
(Respondent)

Appellant by : **None**
Respondent by : **Shri Vivek Perampurna**
Date of Hearing : **25/10/2021**
Date of Pronouncement : **25/10/2021**

ORDER

This appeal by the assessee is arising out of the order of Commissioner of Income Tax (Appeals)-12, Mumbai (in short 'CIT(A)') in Appeal No. CIT(A)-12/10702/2016-17 dated 26.11.2019. The assessment was framed by Dy. Commissioner of Income Tax - 6(2)(2), Mumbai for Assessment Year 2012-13 vide his order dated 31.03.2016 under Section 143(3) of the Income Tax Act, 1961 (hereinafter referred to as 'the Act').

2. At the outset, it is noticed that the issue of mismatch of AIR information amounting to Rs.2,99,744/- is in relation to some parties numbering 5 (out of 862 transactions, 857 are verified). It means that this is a very small issue and I am hearing this appeal *ex parte qua* the assessee.

3. The only issue in this appeal of assessee is as regards the order of CIT(A) confirming the action of the Assessing Officer in making addition in regard to unreconciled AIR data to the extent of Rs.2,99,744/- as against the total turnover of Rs.1,58,19,60,000/-. For this, assessee has raised the following three Grounds of appeal :-

“1. The Learned Commissioner of Income Tax-(A) (“Hereinafter referred to as CIT-A”) has erred on the facts and circumstances of the case as well as in law, in confirming the action of the Ld. Assessing Officer in making addition of Rs.2,99,744/- on the ground of mismatch of AIR.

WITHOUT PREJUDICE

2. The Ld CIT-A has erred in law on facts and in the circumstances of the case in not appreciate the fact that merely unreconciled AIR data of Rs.2,99,744/- against the total turnover of Rs.1,58,19,60,000/- and AIR amount for reconciliation of Rs.22,09,38,000/- for the year under appeal.

3. The Ld CIT A has erred in law on facts and in the circumstances of the case in not considering the fact that the Ld AO did not exercise his power under Section 133 6 or under other relevant provisions of having the above issue independently verified as to whether the above unreconciled amount of Rs.2,99,744/- was the appellant’s income or not.

4. The Ld CIT A has erred in law, on facts and in the circumstances of the case in dismissing the ground relating to levy of interest under Section 234B of the Act.”

4. I have gone through the orders of the lower authorities and notice that the assessee’s total turnover is to the extent of Rs.1,58,19,60,000/-, out of which AIR transactions for reconciliation is of about Rs.22,09,38,000/-. The total entities involved are 862 entities/transactions out of which the assessee could reconcile about 857 entities/transactions. It means that only 5 parties

were not traced. The assessee before the Assessing Officer as well as before the CIT(A) filed complete details in respect of these parties. Now, the total onus is with the Assessing Officer to verify from these parties. When this proposition was put to the learned Sr. DR, he fairly conceded that the matter can be restored back to the file of the Assessing Officer. After considering the submissions of the learned Sr. DR and going through the case records, I am of the view that let the Assessing Officer verify these 5 entities/transactions amounting to Rs.2,99,744/-. The Assessing Officer will go through the information and in case need be, he can call these parties for verification as the assessee has submitted the complete details. At the most, the Assessing Officer can ask the assessee to re-submit the details. The Assessing Officer will carry out the exercise and only in case he finds any discrepancy, he can make the addition.

5. In the result, appeal of the assessee is allowed for statistical purpose.

Order pronounced in the open court on 25th October, 2021.

Sd/-
(MAHAVIR SINGH)
VICE PRESIDENT

Mumbai, Date : 25th October, 2021

SSL

Copy to :

- 1) The Appellant
- 2) The Respondent
- 3) The CIT(A) concerned
- 4) The CIT concerned
- 5) The D.R, "SMC" Bench, Mumbai
- 6) Guard file

By Order

Dy./Asstt. Registrar/Sr. PS
I.T.A.T, Mumbai