

**IN THE INCOME TAX APPELLATE TRIBUNAL  
JABALPUR BENCH, JABALPUR**  
*(through web-based video conferencing platform)*

BEFORE SHRI SANJAY ARORA, HON'BLE ACCOUNTANT MEMBER &  
SHRI MANOMOHAN DAS, HON'BLE JUDICIAL MEMBER

I.T.A. No. 05/JAB/2022  
(Asst. Year : 2016-17)

Birla Cable Limited, 01, Birla Cable Ltd., P.O. Chorhata Udyog Vihar, Rewa (MP).  [PAN: AABCB 1380 L]	vs.	Asst. CIT, CPC – TDS, Bhopal.
(Appellant)		(Respondent)

Appellant by : Shri Sapan Usrethe, Advocate  
Respondent by : Shri S.K. Halder, Sr. DR  
  
Date of hearing : 25/03/2022  
Date of pronouncement : 01/04/2022

**ORDER**

Per Manomohan Das, JM:

This is an Appeal by the Assessee agitating the Order passed by the Id. Commissioner of Income Tax (Appeals), National Faceless Appeal Centre (NFAC), dated 22-11-2021 under section 250 of the Income Tax Act, 1961 (the “Act” hereinafter) for assessment year 2016-17.

2. The facts of the case are that the assessee is a company deriving income from the business of manufacture and sales of optical fibre cables, polythene insulated jelly filled telephone cables and other variants of telecom cable. During the concerned assessment year, the assessee purchased machineries from a foreign supplier and paid the price of that machinery on deferred payment basis, entailing

interest. TDS (@ 10%) on interest was also deducted by the assessee at the time of payment of the price (which included the interest component) of the machinery to the foreign supplier in accordance with the provisions of Article 11 of DTAA with Austria. However, the CPC has issued notices to the assessee for default for short deduction of tax at source under section 200A of the Act. The CPC has passed order against the assessee under s. 200A of the Act for the Quarters 3 and 4 with regard to TDS and demands for Rs. 60,840/- and Rs.22,890/-, including interest at Rs. 6,516/- and 448/-, raised for the said two Quarters respectively. Aggrieved with the order of the CPC, the assessee preferred an appeal before the Id. CIT(A), raising as many as six grounds on merits, which correspond with the stated facts.

3. The Id. CIT (A) has dismissed the appeal of the assessee vide para No. 5.2 of his order on the ground that the assessee has filed a single composite appeal instead of two different appeals. The contents of this para *inter alia* state that the composite appeal filed against two different orders is not maintainable as per law and, therefore, does not require further adjudication. In view of the facts stated above, the appeal was dismissed as non-maintainable. The assessee has carried the matter in further appeal before us.

4. We have heard the parties before us, and given our careful consideration to the matter.

The assessee has submitted that he was constrained to file a composite appeal as the portal did not allow the appellant to file two appeals for the same year. It was, under the circumstances, required to wait for the disposal of one appeal for filing another appeal. As noticed, the Id. CIT(A) has, though condoned the delay in filing the appeal by the assessee, dismissed the same citing the reason of non-maintainability of a single, composite appeal. In our view, the Id. CIT(A) ought to have been disposed of by the Id. CIT (A) on merits, giving an opportunity to the assessee for filing two separate appeals, for the ends of justice. Accordingly, we are inclined to direct the Id. CIT(A) to give an opportunity to the assessee for

filing two separate appeals, and hear the same in case the assessee files two separate appeals within 30 days of this order. The assessee, in filing a single appeal against two separate appealable orders, has no doubt committed an error, which is explained to be caused by circumstances beyond its' control, but should not, on that account, suffer a prejudice and, in our view, his right to be heard and secure a decision on merits, a statutory right, duly exercised, ought not to be jeopardised on that score, which we therefore restore. The Id. CIT(A) shall, to enable the same, condone the delay in filing the appeals, complying thus with the principles of natural justice. The Id. CIT(A) shall dispose the appeals on merits, in accordance with law, per a speaking order, upon allowing the assessee a reasonable opportunity of hearing. The impugned order is set aside with the foregoing directions.

We decide accordingly.

5. In the result, the assessee's appeal is allowed for statistical purposes.

*Order pronounced in open Court on April 01, 2022*

sd/-  
(Sanjay Arora)  
Accountant Member

sd/-  
(Manomohan Das)  
Judicial Member

Dated: 01/04/2022

*vr/-*

*Copy to:*

1. The Appellant: Birla Cables Limited, 01, Birla Cable Ltd., P.O. Chorhata Udyog Vihar, Rewa (MP)
2. The Respondent: Asst. CIT, CPC – TDS, Bhopal
3. The CIT(Appeals), NFAC, Delhi.
4. The Sr. DR, ITAT, Jabalpur
5. Guard file.

By order

(VUKKEM RAMBABU)  
Sr. Private Secretary,  
ITAT, Jabalpur.