

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

BEFORE SHRI PRASHANT MAHARISHI, AM  
AND  
SHRI RAHUL CHAUDHARY, JM

**ITA No. 107/Mum/2022**

(Assessment Year 2015-16)

Tata Communications Payment  
Solutions Ltd.  
Plot no.C21 and C36,  
Bandra Kurla Complex,  
Mumbai-400 051

Vs.

The DCIT,  
Circle 14(3)(1)  
Aayakar Bhavan,  
Mumbai-400 020

**(Appellant)**

**(Respondent)**

**PAN No. AADCB3924G**

**Assessee by** : Shri Heman Desai &  
Shri Kaikobad Damania, ARs'  
**Revenue by** : Shri Amol Kirtane, CIT DR

**Date of hearing:** 12.05.2022  
**Date of pronouncement :** 23.05.2022

**ORDER**

**PER PRASHANT MAHARISHI, AM:**

01. This appeal is filed by Tata Communications Payment Solutions Limited (the appellant/ assessee) for Assessment Year 2015-16 against the order passed by the National Faceless Appeal Center (NAFAC) [the learned CIT (A)] dated 29<sup>th</sup> November, 2011 vide DIN & Order no. ITBA/NFAC/S/250/2021-22/1037321569(1).

02. The assessee has raised following grounds of appeal:-

*"Being aggrieved by the Order dated 29<sup>th</sup> November 2021 passed under section 250 of the income tax Act*

1961 (hereinafter referred to as the Act"), by the Hon'ble Commissioner of Income Tax (Appeals) National Faceless Appeal Centre (hereinafter referred to as the Hon'ble CIT(A), the Appellant prays and submits the following Ground of Appeal for your sympathetic consideration. which may kindly be considered and adjudicated:

1. No direction given to the Learned AO to pass a speaking order for allowing carry forward of losses claimed by the Appellant:

*On the facts and the circumstances of the case and in law, the Hon'ble CIT(A) has erred in not directing the Learned AO to pass a speaking order for allowing carry forward of the unabsorbed depreciation and business loss of earlier years and current year as per the provisions of section 32(2) and 72 of the Act, respectively.*

2. Short grant of interest under section 244A of the Act

*a) On the facts and the circumstances of the case and in law, the Hon'ble CIT(A) has erred in not allowing interest under section 244A of the Act, on refund, up to the date of refund cheque.*

*b) The Appellant submits that the learned AO be directed to recompute and grant interest under section 244A of the Act, up to the date of issue of refund cheque and in accordance with law.*

*The Appellant craves leave to add, alter, amend, substitute or withdraw the above ground of appeal and to submit such statements, documents and papers as may be considered necessary at any time before or at the time of the appellate hearing.*

*The Appellant prays that appropriate relief be granted based on the said ground of appeal and the facts and circumstances of the case."*

03. The brief fact of the case shows that assessee is engaged in the business of ATM management and allied services. It filed its return of income on 30<sup>th</sup> November, 2015 declaring total income of ₹217,36,12,673/-. The return was picked up for scrutiny and assessment order was passed under section 143(3) of the Income-tax Act, 1961 (the Act) on 12<sup>th</sup> December, 2017. The return of income was accepted as it is and no addition / disallowance was made. The assessee preferred the appeal before the learned CIT (A) stating that there was no direction in the assessment order to carry forward assessed loss as business loss and also unabsorbed depreciation as per the provision of Section 32(2) and Section 72 of the Act. Assessee is also aggrieved with the order of learned Assessing Officer as not granting the interest under Section 244A of the Act up to the date of issue of refund cheque. The learned CIT (A) dismissed both the grounds. On the issue of carried forward loss of unabsorbed depreciation, he held that the order of the learned Assessing Officer is without making any adjustment to the total income of the assessee and therefore, there is no

need to pass any speaking order. With respect to the second issue of allowing interest under section 244A of the Act, he held that interest on refund is to be granted till the date of grant of refund and not till the date of issue of refund. Therefore, assessee is aggrieved with the decision of the learned CIT (A) and has preferred this appeal.

04. The learned Authorized Representative submitted that the business loss is required to be determined by the learned Assessing Officer for carry forward. The order of the learned Assessing Officer is silent on that. On the issue of grant of refund till the date of issue of refund, it was submitted that the issue is squarely covered in favour of the assessee vide the decisions of Hon'ble Bombay High Court in case of CIT vs. Pfizer Limited [1991] 191 ITR 626 (Bom) and also of City bank NA Mumbai Vs. CIT in ITA No. 6 of 2001 as well as the decision of CIT vs. K.E.C International in ITA No. 1038 of 2000. It is further stated that in assessee's own case for AY 1999-2000 in ITA No. 7096/Mum/2016, the co-ordinate Bench has dealt with this issue in Paragraph no. 8, in favour of the assessee.
05. The learned Departmental Representative vehemently supported the order of the learned CIT(A) stating that there is no grievance as the returned income of the assessee is accepted.
06. On the issue of carry forward of unabsorbed depreciation and carry forward of unabsorbed business loss, the Bench asked the learned Authorized Representative that whether the learned Assessing Officer in subsequent years has not

granted credit of the same, the response of the learned Authorised Representative was in negative and stating that there is no such disallowance made by the learned Assessing Officer, however, for the sake of clarity the same is required to be determined.

07. We have carefully considered the rival contentions and perused the orders of the lower authorities. On the first issue, with respect to carry forward of unabsorbed depreciation and business loss, we find that the learned Assessing Officer has granted assessee the same in subsequent years and therefore, assessee is not aggrieved with that. Even otherwise, we direct the learned Assessing Officer to determine the carried forward of loss to be set off against subsequent years and up to which assessment year. Further, the unabsorbed depreciation becomes the depreciation of current year in the subsequent year; we do not find any reason to give any direction to the learned Assessing Officer. On both these issues, the assessee has been granted requisite relief without any dispute by the learned Assessing Officer therefore, we do not find that it needs any interference from our side. Accordingly, ground no.1 of the appeal is dismissed.
08. With respect to ground no. 2, we find that the issue is squarely covered in favour of the assessee by the decision of Hon'ble Bombay High Court as well as assessee's own case for Assessment Year 1999-2000. In view of this, we direct the learned Assessing Officer to allow interest up to



the date of issue of refund under Section 244A of the Act.  
Accordingly, ground no. 2 of the appeal is allowed.

09. In the Result, the appeal filed by the assessee is partly allowed.

Order pronounced in the open court on 23.05.2022.

Sd/-  
(RAHUL CHAUDHARY)  
(JUDICIAL MEMBER)

Sd/-  
(PRASHANT MAHARISHI)  
(ACCOUNTANT MEMBER)

Mumbai, Dated: 23.05.2022

*Sudip Sarkar, Sr.PS*

Copy of the Order forwarded to :

1. The Appellant
2. The Respondent.
3. The CIT(A)
4. CIT
5. DR, ITAT, Mumbai
6. Guard file.

BY ORDER,

True Copy//

Sr. Private Secretary/ Asst. Registrar  
Income Tax Appellate Tribunal, Mumbai