

IN THE INCOME TAX APPELLATE TRIBUNAL  
MUMBAI BENCH "C", MUMBAI

BEFORE SHRI PRASHANT MAHARSHI (ACCOUNTANT MEMBER) &  
KAVITHA RAJAGOPAL (JUDICIAL MEMBER)

ITA No. 1226/MUM/2021 (A.Y.2013-14)

Implemia Services and Solutions Pvt Ltd, 401, Embassy Centre, Nariman Point, Mumbai-400 021 <b>PAN : AABCI2382R</b>	vs	Deputy Commissioner of Income Tax, Circle 34), Mumbai Aayakar Bhavan, M.K. Road, Mumbai.
<b>APPELLANT</b>		<b>RESPONDENT</b>

Assessee represented by	Shri Praveen Jain
Department represented by	Shri Nihar Ranjan Samal, Sr AR

Date of hearing	29/06/2022
Date of pronouncement	21/09/2022

**ORDER**

Per Kavitha Rajagopal (JM):

This appeal has been filed by the assessee as against the order of the Ld. Commissioner of Income-tax (Appeals), National Faceless Appeal Centre (NFAC), Delhi dated 09.04.2021 passed under section 250 of the Income Tax Act, 1961, relevant to assessment year 2013-14.

2. The assessee is engaged in the business of providing staffing service, caretaking services and facilitating management services, is a successor of European Aviation Holding Company Pvt Ltd (EAHCL), which was a leading general aviation company which has invested in an array of services spread across aircraft trading MRO, flying academy and charter services.

3. It is seen that EAHCL was merged with the assessee company since 01<sup>st</sup> April, 2017 pursuant to the order of Hon'ble National Company Law Tribunal, Mumbai dated 28/03/2018. It is observed that the assessee filed its return of income on 28/11/2013 declaring total income of Rs.12,31,58,643/-. The assessee's case was selected for scrutiny under CASS and assessment order under section 143(3) of the I.T. Act, 1961 was passed on 23/03/2016 determining total income at Rs.12,08,58,640/- under normal provisions of the Act. The assessee stated that there were two appeals pending before the Ld.CIT(A), viz. (i) Appeal No.CIT(A) 2, MUMBAI/10180/2016-17, Manual register No.CIT(A)-2/IT/94/16-17 as a successor to the erstwhile European Aviation Holding Company Limited ("EAHCL") filed on April 28,2016; and (ii) Appeal No.CIT(A) 1, MUMBAI/10341/2016-17 for the Implenia Services and Solution Private Limited ("ISSPL") filed on April 29, 2016. The assessee further stated that in the pending appeal of erstwhile EAHCL, the assessee had filed declaration under section 4 of Direct Taxes Vivadh se Vishwas Scheme and that the assessee had filed declaration in Forms 1 & 2 electronically on July 29, 2020. It is further stated that the certificate in Form 3 was received by the assessee on 17/12/2020 pursuant to which the assessee filed a letter for withdrawal of appeal pending before Ld.CIT(A). Subsequent to this, the assessee vide order dated 10/03/2021 received full and final settlement under Direct Taxes Vivadh se Vishwas Scheme in Form 5 and order under section 250 was passed dismissing the appeal filed by the assessee. It is further stated by the assessee that inadvertently, an error has crept in, in which the order dismissing the appeal mentioned in CIT(A) 1, MUMBAI/10341/2016-17 instead of specifying CIT(A) 2, MUMBAI/10180/2016-17 (manual register No.CIT(A)-

2/IT/94/16-17). Resultantly, the appeal filed by the assessee has been erroneously / inadvertently dismissed instead of appeal of the erstwhile EAHCL. The assessee further states that the assessee intends to contest the appeal before the Ld.CIT(A) and that the assessee has opted for Direct Taxes Vivadh se Vishwas Scheme only for the appeal pertaining to erstwhile EACHL and not that of the assessee's appeal. The assessee prayed that the appeal No. CIT(A) 1, MUMBAI/10341/2016-17 be set aside and that the assessee may be given opportunity of being heard and to decide the appeal de novo on merits.

4. Having heard the rival submissions and perused the materials on record, it is observed that the assessee has challenged the ground of levy of interest under section 234C of the Act of Rs.4,24,80,680/- levied by the Assessing Officer. The Ld.CIT(A) has dismissed the said appeal on the ground that the assessee has opted for resolution of the matter under the Direct Taxes Vivadh se Vishwas Act, 2020 instead of dismissing the appeal filed by the erstwhile EACHL. The Ld.DR had nothing to controvert the same.

5. From the above observation, we are of the view that the Ld.CIT(A) has inadvertently dismissed the assessee's appeal challenging the ground of levy of interest under section 234C of the Act instead of dismissing the appeal filed by the erstwhile EACHL.

6. From the above observation, we deem it fit to restore the appeal to the file of the Ld.CIT(A) for de novo adjudication by providing opportunity of being heard to both the parties.

7. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open Court on 21<sup>st</sup> day of September, 2022.

Sd/-

sd/-

<b>(PRASHANT MAHARSHI)</b>	<b>(KAVITHA RAJAGOPAL)</b>
<b>ACCOUNTANT MEMBER</b>	<b>JUDICIAL MEMBER</b>

Mumbai, Dated: 21/09/2022

Pavanan

**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.

//True Copy//

BY ORDER,

(Dy./Asstt. Registrar)  
**ITAT, Mumbai**