

**IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH "A" DELHI**

**BEFORE SHRI CHANDRA MOHAN GARG, JUDICIAL MEMBER  
&  
SHRI PRADIP KUMAR KEDIA, ACCOUNTANT MEMBER**

I.T.A. No.1782 & 1783/DEL/2021  
Assessment Years 2009-10

M/s. Sahara India Financial Corporation Ltd., 613, ACR Building Annexe, Bir Chand Path, Patna.	Vs.	Dy. Commissioner of Income Tax, TDS Circle, Patna.
TAN/PAN: PTNS02495D		
(Appellant)		(Respondent)

Appellant by:	Shri Dinesh Verma Adv Shri Hardeep Singh CA Shri Sarvesh Srivastava Adv		
Respondent by:	Shri V. Praveen Sidharth, CIT-DR		
Date of hearing:	01	11	2022
Date of pronouncement:	01	11	2022

**ORDER**

**PER PRADIP KUMAR KEDIA, A.M.:**

Both the captioned appeals bear the identical objections and therefore, have been heard together and being adjudicated by way of this common order.

ITA No.1782/Del/20121 Assessment Year 2009-10

2. As per the grounds of appeal, the assessee has challenged the first appellate order dated 30.09.2021 arising from the order dated 27.12.2012 passed by the DCIT, TDS Patna ('AO' in short) under Section 200A of the Act whereby the appeal of the assessee, against the income tax demand of Rs.7,16,990/- imposed by the Assessing Officer pursuant to intimation under Section 200A of the Act in respect of Quarter 1 with reference to Form No. 26Q, has been dismissed by the CIT(A).

3. When the matter was called for hearing, the ld. counsel pointed out that the assessee has challenged the impugned order passed by the Assessing Officer under Section 200A relevant to Assessment Year 2009-10 before the CIT(A) Dhanbad Camp Patna. The CIT(A) Dhanbad/Patna vide first appellate order dated 11.06.2014 found that the assessee cannot be treated as assessee in default with reference to Section 200A of the Act. Thus, the assessee was exonerated from the demand imposed by the Assessing Officer under Section 200A of the Act. Thereafter, the CIT(A)-23 New Delhi also strangely adjudicated the appeal of the assessee against the order passed by the Assessing Officer under Section 200A of the Act vide order dated 30.09.2021. The CIT(A) Delhi has followed the findings recorded by the CIT(A) Patna but however has dismissed the appeal wrongly on the ground that CIT(A) Dhanbad has already passed order in the matter. In this factual backdrop, it is the case of the assessee that the CIT(A) should not have dismissed the appeal as such since the relief was granted by the counterpart CIT(A) Dhanbad. As stated, the right course of action which could be suggested in the instant case is 'appeal is dismissed as infructuous' instead of 'appeal is dismissed' simplicitor.

4. In the absence of any objection to the suggestions so made and also in the light of the facts placed before us, we find rationale in the plea of the assessee. Paragraph 8 of the order of the CIT(A) thus stands modified which shall be read as '*In the result, the appeal is dismissed as infructuous*' instead of In the result the appeal is dismissed.

5. ITA No.1783/Del/2021 relates to identical issue with reference to Quarter 3 of the same assessment year. Apart from this, no other change in the factual position has been provided me. The observations made in respect of Quarter 1 in ITA No.1782/Del/2021

thus shall apply *mutatis mutandis*. Paragraph 8 of the impugned order of the CIT(A) dated 30.09.2021 in relation to Quarter 3 also stands identically modified and shall be read as ‘In the result the appeal of the assessee is dismissed as infructuous’.

6. In the result, both the appeals of the assessee are allowed for statistical purposes.

**Order pronounced in the open Court on 01/11/2022.**

Sd/-

**[CHANDRA MOHAN GARG]  
JUDICIAL MEMBER**

DATED: /11/2022

*prabhat*

Sd/-

**[PRADIP KUMAR KEDIA]  
ACCOUNTANT MEMBER**