

**IN THE INCOME TAX APPELLATE TRIBUNAL,
DELHI BENCH: 'D' NEW DELHI**

**BEFORE SHRI G.S. PANNU, HON'BLE PRESIDENT
AND
SHRI SAKTIJIT DEY, JUDICIAL MEMBER**

ITA No.2085/Del/2018
Assessment Year: 2013-14

M/s. Telstra Singapore Pte., Ltd., Singapore, 8, Cross Street, 20-00 PWC Building, Singapore	Vs.	DCIT (International Taxation), Circle-3(1)(1), New Delhi
PAN :AADCT5366N		
(Appellant)		(Respondent)

Appellant by	Sh. S.K. Aggarwal, CA
Respondent by	Sh. Bhuvnesh Kulshrestha, CIT(DR)

Date of hearing	03.10.2022
Date of pronouncement	26.12.2022

ORDER

PER SAKTIJIT DEY, JM:

This is an appeal by the assessee against order dated 25.01.2018 of learned Commissioner of Income Tax (Appeals)-23, New Delhi.

2. The basic grievance of the assessee is against dismissal of assessee's appeal in limine on the ground of delay.

3. Briefly the facts necessary for disposal of the appeal are, the assessee is a non-resident corporate entity incorporated in

Singapore and tax resident of Singapore. A draft assessment order in case of the assessee was framed on 29.02.2016. Copy of the draft assessment order was served on the assessee on 11.03.2016. Since, the assessee did not file any objections against the draft assessment order within the stipulated period of 30 days, the Assessing Officer passed the final assessment order on 26.04.2016. Against the final assessment order so passed, the assessee preferred an appeal before learned Commissioner (Appeals) on 03.09.2016. While taking up the appeal for hearing, learned Commissioner (Appeals), on verifying the memorandum of appeal in Form 35, noticed that the assessee has mentioned the date of service of the assessment order/notice of demand as 04.08.2016. As observed by learned Commissioner (Appeals), finding abnormality in the date of receipt shown by the assessee, he made an inquiry with the Assessing Officer and vide letter dated 24.11.2017, the Assessing Officer communicated that as per speed post tracking through which the final assessment order was sent to the assessee, it was found that the order was served at the Singapore office of the assessee on 16.05.2016. On the basis of the aforesaid facts, learned Commissioner (Appeals) was of the view that the appeal filed by the assessee is barred by

limitation. Accordingly, he called upon the assessee to explain, as to why the appeal belatedly filed should not be dismissed. Though, before learned Commissioner (Appeals) the assessee insisted that the appeal was filed in time, however, learned Commissioner (Appeals) remained unconvinced and ultimately dismissed the appeal in limine on the ground of limitation.

4. Before us, learned counsel appearing for the assessee submitted that the final assessment order was dispatched to a wrong address which is not the address as per the return of income filed by the assessee. He submitted, for this reason, the assessee did not receive the assessment order. Subsequently, after obtaining a certified copy, the assessee filed the appeal within time. He submitted, before the first appellate authority, the assessee had furnished documentary evidences to demonstrate that the assessee had shifted its office to a new address. He submitted, since, the assessee did not receive a copy of the assessment order, he filed the appeal after obtaining a certified copy of the said order. Thus, he submitted, the appeal was filed within the period of limitation. Therefore, he made a submission for restoring the matter back to the first appellate authority for deciding on merits.

5. Learned Departmental Representative relied upon the observations of learned Commissioner (Appeals).

6. We have considered rival submissions and perused the materials on record. Undisputedly, learned Commissioner (Appeals) has disbelieved assessee's claim that the assessment order was served on 04.08.2016. Based on the report of the Assessing Officer that as per speed post tracking the assessment order was served at the office of the assessee at Singapore on 16.05.2016, learned Commissioner (Appeals) has dismissed assessee's appeal on the ground of limitation. From the respective orders of the Assessing Officer and learned Commissioner (Appeals), it is observed that the assessment order was sent to the following address:

*"1 Jalan Kilang Timor
#01-09, Pacific Centre,
Singapore- 159303*

7. Whereas, in the return of income filed for the impugned assessment year, the assessee had shown the following address:

*"B Cross Street,
#22-00, PWC Building,
Singapore"*

8. In fact, before learned Commissioner (Appeals), the assessee had furnished various other documentary evidences to demonstrate that the change of address was duly notified to the

Assessing Officer and other departmental authorities much prior to the passing of the final assessment order. Thus, it is borne out from record that the assessment order, having been sent to a wrong address was not served on the assessee. Thus, assessee's contention that it filed the appeal after obtaining a certified copy of the assessment order, is acceptable. In any case of the matter, no prejudice is going to be caused to the Revenue if assessee's appeal is decided on merits.

9. In view of the aforesaid, without expressing any opinion on merits, we are inclined to set aside the impugned order of learned Commissioner (Appeals) and restore the matter back to him for deciding *de novo*, on merits, after due and reasonable opportunity of being heard to the assessee. Grounds are allowed for statistical purposes.

10. In the result, the appeal is allowed for statistical purposes.

Order pronounced in the open court on 26th December, 2022

**Sd/-
(G.S. PANNU)
PRESIDENT**

**Sd/-
(SAKTIJIT DEY)
JUDICIAL MEMBER**

Dated: 26th December, 2022.

RK/-

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

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Asst. Registrar, ITAT, New Delhi