

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH : E : DELHI

BEFORE SHRI C.M. GARG, JUDICIAL MEMBER
AND
SHRI M. BALAGANESH, ACCOUNTANT MEMBER

ITAs No.6899 to 6901/Del/2019
Assessment Year: 2017-18

New Delhi Television Ltd.,
207, Okhla Industrial Estate, Phase-III,
New Delhi – 110 020. Vs ACIT,
CPC-TDS,
Ghaziabad.

PAN: AAACN0865D

(Applicant)

(Respondent)

Assessee by : Shri Shaantanu Devansh, Advocate &
Ms Tanya, Advocate
Revenue by : Ms Raja Rajeshwari R. Sr. DR
Date of Hearing : 24.05.2023
Date of Pronouncement : 01.06.2023

ORDER

PER M. BALAGANESH, AM:

These appeals in ITAs No.6899 to 6901/Del/2019 for AY 2017-18 arise out of the order of the Commissioner of Income Tax (Appeals)-41, New Delhi [hereinafter referred to as 'Id. CIT(A)', in short] in Appeals No.455/18-19/CIT(A)-41, 454/18-19/CIT(A)-41 and 453/18-19/CIT(A)-41, respectively dated 25.06.2019 against the orders of intimation u/s 154 and u/s 200A/206CB (in ITA No.6901/Del/2019) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 05th August, 2017, 08th August, 2018 and 14th February, 2017, respectively, passed by the Id. Assessing Officer, CPC (TDS) Ghaziabad, (hereinafter referred to as 'Id. AO').

2. The present appeals are filed against the order dated 05.08.2017 of the CPC passed u/s 201(1A) of the Act wherein the CPC has charged interest u/s 201(1A) of the Act for the delayed remittance of TDS by one day on two occasions. These orders were confirmed by the Learned Commissioner of Income Tax (Appeals) – 41 , New Delhi (hereinafter referred to as the Id. CIT(A)) vide orders dated 10.06.2019.

3. The appeal preferred in ITA No. 6899/Del/2019 relates to quarterly return filed in Form 24Q (3rd quarter). The appeal preferred in ITA No. 6900/Del/2019 relates to quarterly return filed in Form 26Q (3rd quarter). The appeal preferred in ITA No. 6901/Del/2019 relates to quarterly return filed in Form 27Q (3rd quarter).

4. Identical issue is involved in all these appeals and hence they are taken up together and disposed of by this common order for the sake of convenience.

5. The only identical issue involved in all these appeals is as to whether the Id. CIT(A) was justified in confirming the levy of interest u/s 201(1A) of the Act in respect of remittance of tax deducted at source with a delay of one day on two occasions, in the facts and circumstances of the case. Consequentially, whether the assessee would be liable for interest u/s 220(2) of the Act for the non-payment of the said demand ?

6. We have heard the rival submissions and perused the materials available on record. We find that the assessee had filed respective quarterly returns in Form No. 24Q (for salaries) ; Form No. 26Q (for payments falling within the ambit of provisions of section 194C and 194J of the Act) and Form No. 27Q (for payments made to non-residents). In all the aforesaid returns, the Id. CPC had charged interest u/s 201(1A) of the Act for the delay in remittance of tax deducted at source (TDS) in respect of the following two months:-

<u>Month of Default</u>	<u>Due Date</u>	<u>Date of Deposit</u>	<u>Delay</u>
October 2016	07.11.2016	08.11.2016	1 day
November 2016	07.12.2016	08.12.2016	1 day

7. In respect of delay of 1 day in remittance of TDS for the month of October 2016, the assessee had submitted that Corporation Bank Website was not working on 07.11.2016, which is a designated bank for collection of TDS. In support of this proposition, the Id. AR drew our attention to Pages 4 to 6 of the Paper Book containing the email exchanged between the employees of the assessee company and the screen shot depicting the fact that the Bank's website was not working. It was also submitted that the assessee had never defaulted in remittance of TDS except for the months of October and November 2016, wherein there was delay by 1 day in each of the months. We find that the TDS was remitted to the account of the Central Government on 08.11.2016. In our considered opinion, this delay in remittance of TDS by one day is due to the technical glitches / reasons beyond the control of the assessee and hence we hold that the assessee cannot be penalized by way of interest u/s 201(1A) of the Act for the same. The Id. DR before us vehemently argued that the chargeability of interest u/s 201(1A) of the Act is automatically calculated by the CPC based on the dates mentioned by the assessee in its quarterly results and the same is mandatory in nature. She argued that there is no provision in the Act to waive the said interest u/s 201(1A) of the Act. Moreover, the said interest is compensatory in nature and the Government was deprived of its legitimate dues in time and hence the said charging of interest u/s 201(1A) of the Act would have to be upheld and consequentially interest u/s 220(2) of the Act also would be liable on the assessee for not paying the demand raised. We are unable to comprehend ourselves to accept to this argument of the Id.DR, in as much as, the delay had occurred not due to willful default on the part of the assessee, which is evident from the reason stated supra. The reason stated by the assessee had not been found to be false. Even though the chargeability of interest u/s 201(1A) of the Act, as rightly pointed out by the Id. DR is automatic in nature,

still the same cannot be levied on the assessee in the peculiar facts and circumstances of the instant case, as the interest liability had been fastened on the assessee for reasons beyond the control of the assessee. Hence we hold that there is no default committed by the assessee while remitting the TDS for the month of October 2016 on 08.11.2016. Accordingly, we direct the Id. AO to delete the interest charged u/s 201(1A) of the Act for the alleged default for the month of October 2016.

8. In respect of delay in remittance of TDS for the month of November 2016, we find that the assessee had tendered the payment in online mode to the account of Central Government in the designated bank on 07.12.2016 itself. However, the bank had processed the said payment only on 08.12.2016. This fact is evident from the tax remittance challan enclosed in page 8 of the paper book, wherein the Bank mentions the date as 07.12.2016 (00:00:00 hrs) under the column 'Request Date & Time' and 08.12.2016 (04:45:20 hrs) under the column 'Executed Date & Time'. The Id.AR before us submitted that though the transaction is made online by the assessee, still when the transactions are routed through National Electronic Fund Transfer (NEFT) mode, still the bank takes few hours to process the said payment and accordingly the bank after processing mentions the date of execution as the immediately succeeding day. This fact is also evident from the fact that the time of execution of the said TDS remittance is mentioned in the tax paid challan as 04:45:20 hours, which is 4.45. AM and 20 seconds. This clinching evidence goes to prove that the assessee had made the remittance on the previous day itself i.e on 08.12.2016 and bank had taken its usual time for processing the said payment. It is also crucial to note that the bank had debited the account of the assessee company for TDS payment on 07.12.2016 itself. This goes to prove that the amounts had already left the control and custody of the assessee and the same got reflected in the account of the Central Government on the next day after taking usual processing time by the bank. For this delay of 1 day (practically it is only few hours), the

assessee cannot be fastened with interest liability u/s 201(1A) of the Act. The Id. DR before us reiterated the same submission as was made in earlier case by stating that there is no provision in the Statute to waive of this interest liability u/s 201(1A) of the Act. We are unable to comprehend ourselves to accept to this argument of the Id.DR, in as much as, the delay had occurred not due to willful default on the part of the assessee, which is evident from the reason stated supra. The reason stated by the assessee had not been found to be false. Even though the chargeability of interest u/s 201(1A) of the Act, as rightly pointed out by the Id. DR is automatic in nature, still the same cannot be levied on the assessee in the peculiar facts and circumstances of the instant case, as the interest liability had been fastened on the assessee for reasons beyond the control of the assessee. Hence we hold that there is no default committed by the assessee while remitting the TDS for the month of November 2016 on 08.12.2016. Accordingly, we direct the Id. AO to delete the interest charged u/s 201(1A) of the Act for the alleged default for the month of November 2016.

9. Accordingly, the grounds raised by the assessee are allowed in all the three appeals.

10. In the result, all the appeals of the assessee are allowed.

Order pronounced in the open court on 01.06.2023.

Sd/-

(C.M. GARG)
JUDICIAL MEMBER

Sd/-

(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 01.06.2023.

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Copy forwarded to :

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

Asstt. Registrar, ITAT, New Delhi