

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

**BEFORE SHRI SHAMIM YAHYA, ACCOUNTANT MEMBER AND
SHRI ANUBHAV SHARMA, JUDICIAL MEMBER**

**ITA No.849/Del/2022
[Assessment Year: 2017-18]**

Toyoda Micromatic Machinery India Private Limited, C/o- JTEKT India Ltd. 38/6, National Highway-8, Delhi Jaipur Road, Gurugram, Haryana-1220001, PAN-AADCT0116G	Vs	Deputy Commissioner of Income Tax-25(1), C.R. Building, Indraprastha Marg, IP Estate, Delhi-110002
Assessee		Revenue

Assessee by	Mr. Rishabh Malhotra, AR
Revenue by	Sh. Manvendra Goyal, CIT(DR)

Date of Hearing	27.09.2023
Date of Pronouncement	09.10.2023

ORDER

PER SHAMIM YAHYA, AM,

This appeal by the assessee is directed against the order of the Assessing Officer/National Faceless Appeal Centre, Delhi, dated 25.02.2022 passed u/s 143(3)/144C(13) r.w.s. 144B of the Income Tax Act, 1961 (hereinafter 'the Act') arising out of order of Dispute Resolution Panel dated 17.01.2022 pertaining to AY 2017-18.

2. Although the assessee has raised many grounds. At the outset, the ld. Counsel for the assessee pressed ground no.4 that the Ld. Transfer Pricing Officer has issued the transfer pricing order u/s 92CA of the Act without quoting the mandatory DIN in conformity with para 2 and 3 of

Circular No.19/2019 dated 14 August 2019. Further, it is plea that the order of the DRP is also without DIN.

3. We have heard both the parties and perused the record. The ld. Counsel for the assessee submitted that the TPO order doesn't bear DIN in the light of Circular No.19/2019 dated 14.08.2019. The said transfer pricing order is *void-ab-initio*. It is also submitted that DRP order also falls in the definition of communication for the purpose of CBDT Circular and it also doesn't have DIN. Hence, it was pleaded that the whole proceeding is vitiated.

4. Upon careful consideration, we find that admittedly in the impugned transfer pricing order, there is no DIN Number in its body. The issue that a simultaneous DIN number was generated and communicated have been considered by Co-ordinate Bench of the Tribunal in the case of Abhimanyu Chaturvedi vs DCIT in ITA Nos.2486, 2487 and 2488/Del/2022. The relevant paragraph of this order is reproduced hereunder:-

"15.1 In this context from the aforesaid Circular no. 19/2019 it can be noted that it mandates that if the 'communication' is issued under aforesaid three exceptions the 'communication' shall state the fact that the 'communication' is issued manually without a DIN and the date of obtaining of the written approval of the Chief Commissioner / Director General of Income-Tax for issue of manual communication in the following format-

".....This communication issues manually without a DIN on account of reason/reasons given in para 3 (i)/3(ii)/3 (iii)/3 (iv)/3 (v) of the CBDT Circular No ... dated ... (strike off those which are not applicable) and with the approval of the Chief Commissioner / Director General of Income Tax vide numberdated ... "

15.2 To make it crystal clear here the words 'Communication' is not used to define merely the mode of transmission of the information but the circular No 19 of 2019 makes it clear by defining it in following words "However, it has been brought to the notice of the Central Board of Direct Taxes (the Board) that there have been some instances in which the notice, order, summons, letter and any correspondence (hereinafter referred to as "communication"). So the assessment order itself is a communication and all compliances expected have to be specific to the assessment order.

15.3 Coming back to the assessment orders, in fact as para no. 1 to 3.1 of the assessment order dated 09.08.2021 are considered they mention that notice u/s 153A of the Act was issued through ITBA portal. Subsequent notice u/s 143(2) of the Act was also issued through ITBA Portal. Thus, the notices for the purpose of assessment were issued through ITBA Portal and if thereafter the assessment was carried out manually the assessment order should have mentioned the aforesaid fact to comply with the mandate of Circular with regard to communications issued manually.

16. Further, the Bench takes note of the instructions dated 25.10.19, which lay down that when a document is prepared outside ITBA system and uploaded manually, a DIN is required to be generated prior to uploading the document in ITBA. The instructions make it imperative that the DIN so generated has to be used for reference and quoting a document number in a physical copy. The instructions specifically provide that the user (assessing officer) should physically sign the document after quoting DIN, before uploading. Meaning thereby that generation of DIN is condition precedent for making an assessment manually or otherwise on the ITBA and then before it is uploaded on ITBA, first it should have DIN bearing on its face and then only it should be signed. Thus for the purpose of section 153A/ 143(3) of the Act, the assessment can be said to be 'made' only when the DIN is quoted on the order before it is signed. If without first generating the DIN and before it is quoted on the order, the order is signed, the order is non-est.

17. The Bench is of considered view that forwarding of the intimation of generation of the DIN in ITBA is only a subsequent action and that is not part of assessment order. The manner in which the word 'communication' is defined shows every notice, order, summons, letter and any correspondence from Tax authorities should have a DIN quoted and it is for this reason that the Intimation issued about the DIN of assessment order itself has a DIN quoted on it.

18. In the case in hand the facts coming from the assessment order when considered establish that DIN was not generated prior to uploading the document in ITBA. It is also established that the DIN was not quoted before it was physically signed by the Ld. AO. The generation of DIN subsequently and generation of intimation to be sent to assessee are of no consequence for the purpose of assessment and raising the demand.”

5. In the light of the aforesaid order, we are of the opinion that simultaneous issue of the DIN number is insignificant and superfluous exercise, in the absence of mentioning the DIN number on the body of the communication. Hence, the grounds taken up for discussion are decided in favour of the assessee. Remaining grounds become superfluous. Hence, the appeal is allowed. The TPO's order and the DRP order is set-aside being null and void. As a consequence, the assessment order also becomes null and void.

6. In the result, the appeal of the assessee stands allowed.

Order pronounced in the open court on 09th October, 2023.

Sd/-
[ANUBHAV SHARMA]
JUDICIAL MEMBER

Delhi; Dated: 09.10.2023.

Shekhar

Copy forwarded to:

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

Sd/-
[SHAMIM YAHYA]
ACCOUNTANT MEMBER

Asst. Registrar,
ITAT, New Delhi