

IN THE INCOME TAX APPELLATE TRIBUNAL

"C" BENCH, MUMBAI

BEFORE SHRI OM PRAKASH KANT, ACCOUNTANT MEMBER AND

SHRI SANDEEP SINGH KARHAIL, JUDICIAL MEMBER

ITA no.3673/Mum./2023

(Assessment Year : 2014-15)

Dy. Commissioner of Income Tax
Circle-2(3)(1), Mumbai

..... Appellant

v/s

IndusInd Bank Ltd.
8th Floor, Tower-1, One World Centre
841, S.B. Marg, Prabhadevi 400 013
PAN – AAACI1314G

..... Respondent

Cross Objection no.122/Mum./2023

(Arising out of ITA no.3673/Mum./2023)

(Assessment Year : 2014-15)

IndusInd Bank Ltd.
8th Floor, Tower-1, One World Centre
841, S.B. Marg, Prabhadevi 400 013
PAN – AAACI1314G

..... Cross Objector
(Original Respondent)

v/s

Dy. Commissioner of Income Tax
Circle-2(3)(1), Mumbai

..... Respondent
(Original Appellant)

Assessee by : Shri Kalpesh Unadkat a/w
Ms. Priyanka Jain

Revenue by : Shri Solgy Jose T. Kottaram

Date of Hearing – 11/12/2023

Date of Order – 18/12/2023

ORDER

PER SANDEEP SINGH KARHAIL, J.M.

The present appeal by the Revenue and cross objection by the assessee have been filed challenging the impugned order dated 07/03/2023, passed

under section 250 of the Income Tax Act, 1961 ("*the Act*") by the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, New Delhi, [*learned CIT(A)*], for the assessment year 2014-15.

2. In its appeal, the Revenue has raised the grounds challenging the relief granted by the learned CIT(A) on merits. While the assessee has filed the cross objection challenging the initiation of reassessment proceedings under section 147 of the Act. Apart from the aforesaid jurisdictional ground, the assessee has also challenged the assessment order passed manually on 05/12/2019 without mentioning the Document Identification Number ("*DIN*") in terms of the CBDT Circular No.19 of 2019 dated 14/08/2019. As the aforesaid issue raised by the assessee vide its cross objection is the jurisdictional issue, which goes to the root of the matter. Therefore, we are considering the same at the outset.

3. Having considered the submissions of both sides and perused the material available on record, we find that the assessee is engaged in the business of banking. During the year under consideration, the assessee filed its return of income on 28/11/2014 declaring a total income of Rs. 2105,16,22,590. The return filed by the assessee was selected for scrutiny under CASS and accordingly, the assessment was completed under section 143(3) of the Act vide order dated 29/12/2017 determining the total income of the assessee at Rs. 2317,05,50,835. Subsequently, vide notice dated 31/03/2019 issued under section 148 of the Act proceedings under section 147 of the Act were initiated in the case of the assessee. Vide order dated 05/12/2019 passed under section 143(3) read with section 147 of the Act the

total income of the assessee was assessed at Rs 2330,69,73,520 after making disallowance under section 35D and section 36(1) of the Act.

4. It is evident from the record that the aforesaid order dated 05/12/2019 was passed manually. We further find that a demand notice under section 156 of the Act was also issued manually on 08/12/2019. Thereafter, vide intimation letter dated 09/12/2019 computation sheet was provided to the assessee having DIN 20141096127. The said intimation letter further mentioned that this DIN may be treated as a common DIN for the relevant order and all its annexures.

5. As per the assessee, since the assessment order dated 05/12/2019 passed under section 143(3) read with section 147 of the Act was passed without mentioning DIN, the same is in contravention to the CBDT Circular No. 19 of 2019 and thus is bad in law. On the other hand, the Revenue placed reliance upon the aforesaid intimation letter dated 09/12/2019, wherein it was mentioned that the DIN generated in respect of the computation sheet of the order under section 143(3) read with section 147 of the Act may be treated as common DIN for the relevant order and all its annexures.

6. From the perusal of the CBDT Circular No.19 of 2019 dated 14/08/2019, we find that in order to maintain a proper audit trail of all the communication, the CBDT in the exercise of its power under section 119 of the Act had decided that no communication shall be issued by any income tax authority, inter-alia, relating to assessment to the assessee or any other person, on or after 01/10/2019 unless a computer-generated DIN has been

allotted and duly quoted in the body of such communication. In the present case, it is undisputed that such a DIN as required in para 2 of the aforesaid Circular is not mentioned in the body of the assessment order dated 05/12/2019. Further, para 3 of the aforesaid circular provided certain exceptional circumstances under which communication may be issued manually but only after recording reasons in writing and with the prior written approval of the Chief Commissioner/Director General of Income Tax. It is further provided that the communication issued under these exceptional circumstances shall state the fact that the communication is issued manually without a DIN and shall also mention the date of obtaining the written approval of the Chief Commissioner/Director General of the Income Tax for issuance of manual communication in the format as provided in the aforesaid Circular. In the present case, ostensibly there is no such mention of exceptional circumstances under which the assessment order was issued manually without mentioning the DIN or the date of obtaining required approval, as provided in para 3 of the aforesaid Circular, in the assessment order.

7. It is pertinent to note that para 4 of CBDT's Circular No.19 of 2019 specifically provides that any communication which is not in conformity with para 2 and para 3 shall be treated as invalid and shall be deemed to have never been issued. In *Ashok Commercial Enterprises v/s ACIT*, [2023] 154 taxmann.com 144 (Bombay), the Hon'ble jurisdictional High Court held that the object of the said Circular is clear and laudatory and intended to ensure that proper trail of all assessment and other orders are maintained and

further that any deviation therefrom can only be undertaken after prior written approval of the higher authorities under the Act. Accordingly, the Hon'ble jurisdictional High Court quashed the communication issued without mentioning DIN as per CBDT's Circular No.19 of 2019. To a similar effect is the decision of the Hon'ble Delhi High Court in CIT v/sBrandix Mauritius Holdings Ltd., [2023] 149 taxmann.com 238 (Delhi).

8. Further, it is pertinent to note that para 2 of CBDT Circular No.19 of 2019 specifically mentions that the computer-generated DIN is to be duly quoted in the body of communication, which in the present case is the assessment order dated 05/12/2019. Therefore, we are of the considered view that the intimation letter dated 09/12/2019 intimating that the DIN generated in respect of the computation sheet may be treated as common DIN for the relevant order and all its annexures is not sufficient compliance with the aforesaid Circular No.19 of 2019, as no DIN is mentioned in the body of assessment order passed on 05/12/2019. Accordingly, the assessment order dated 05/12/2019 passed under section 143(3) read with section 147 of the Act is set aside as being not in compliance with the CBDT Circular No.19 of 2019.

9. As the relief has been granted to the assessee on this short issue, the other jurisdictional grounds raised in the assessee's cross objection are rendered academic and therefore are left open. Grounds no.4 and 5 raised in assessee's cross objection are dismissed as not pressed. As the assessment order is quashed, the ground raised in Revenue's appeal on merits is rendered academic and therefore is dismissed.

10. In the result, the cross objection by the assessee is allowed, while the appeal by the Revenue is dismissed.

Order pronounced in the open Court on 18/12/2023

Sd/-
OM PRAKASH KANT
ACCOUNTANT MEMBER

Sd/-
SANDEEP SINGH KARHAIL
JUDICIAL MEMBER

MUMBAI, DATED: 18/12/2023

Copy of the order forwarded to:

- (1) *The Assessee;*
- (2) *The Revenue;*
- (3) *The PCIT / CIT (Judicial);*
- (4) *The DR, ITAT, Mumbai; and*
- (5) *Guard file.*

Pradeep J. Chowdhury
Sr. Private Secretary

True Copy
By Order

Assistant Registrar
ITAT, Mumbai