

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH, 'B': NEW DELHI
BEFORE, SHRI M. BALAGANESH, ACCOUNTANT MEMBER**

And

SHRI YOGESH KUMAR US, JUDICIAL MEMBER

**ITA No.2937/DEL/2022
[Assessment Year: 2012-13]**

DCS Infrastructure Pvt. Ltd. A-115, 2 nd Floor, Vikas Marg, Shakarpur Delhi-110092	Vs	Income Tax Officer, Ward-7(2), New Delhi
PAN-AABCD7828H		
Assessee		Revenue

Assessee by	Sh. Ved Jain, Adv. & Sh. Aman Garg, CA
Revenue by	Sh. Vivek Kumar Upadhyay, Sr. DR

Date of Hearing	20.12.2023
Date of Pronouncement	21.12.2023

ORDER

PER M. BALAGANESH AM,

This appeal by the Assessee arises out of the order of the National Faceless Appeal Centre/Learned Commissioner of Income Tax (Appeals), New Delhi, [hereinafter referred to as 'Ld. CIT(A)', in short] in Appeal No.CIT(A), Delhi-3/10389/2019-20, Assessment Year 2012-13, dated 30.11.2022 against the order of assessment passed u/s 147 r.w.s 144 of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 18.12.2019 by the Income Tax Officer, Ward-7(2), New Delhi (hereinafter referred to as 'Ld. AO').

2. The assessee vide letter dated 19.12.2023 had filed an additional ground before us which reads as under :-

"On the facts and circumstances of the case the assessment order is null and void as the same is in violation of CBDT Circular No.19/2019 dated 14th August 2019 requiring mandatory DIN."

3. We have heard the rival submissions and perused the materials available on record. We deem it fit and appropriate to address the additional ground raised by the assessee first, as it goes to the root of the matter and being a legal issue not requiring verification of any fresh facts thereon.

4. We find that the assessment order is framed u/s. 144 r.w.s. 147 of the Act dated 18.12.2019 determining total income of the assessee at Rs.2,89,66,358/- for the assessment year 2012-13. In the entire assessment order, the Ld. AO had not mentioned the Computer Generated Document Identification Number (DIN) which is a mandatory requirement as per the CBDT Circular No.19/2019 dated 14.08.2019. For the sake of convenience, the said CBDT Circular 19/2019 dated 14.08.2019 is reproduced as under :-

Circular No. 19/ 2019

***Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes***

New Delhi, dated the 14th August, 2019

Subject: Generation/allotment Quoting of Document Identification Number in Notice Order Summons letter correspondence issued by the Income-tax Department reg.

With the launch of various e-governance Initiatives, Income-tax Department is moving ward al computerization of its work. This has led is a significant improvement in delivery if services and has also bright greater transparency in the functioning of the tax-

administration. Presently, almost all notices and orders are being generated electronically on the Income Tax Business Application (TBA) platform. 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") were found to have been issued manually, without maintaining a proper audit trail of such communication.

2. In order to prevent such instances and to maintain proper audit trail of all communication, the Board in exercise of power under section 119 of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), has decided that no communication shall be issued by any income-tax authority relating to assessment, appeals, orders, statutory or otherwise, exemptions, enquiry, investigation, verification of information, penalty, prosecution, rectification, approval etc. to the assessee or any other person, on or after the 1st day of October, 2019 unless computer-generated Document Identification Number (DIN) has been allotted and is duly quoted in the body of such communication.

3. In exceptional circumstances such as,-

(i) when there are technical difficulties in generating/allotting/quoting the DIN and issuance of communication electronically: or

(ii) when communication regarding enquiry, verification etc. is required to be issued by an income-tax authority, who is outside the office. for discharging his official duties; or

(iii) when due to delay in PAN migration, PAN is lying with non-jurisdictional Assessing Officer; or

(iv) when PAN of assessee is not available and where a proceeding under the Act (other than verification under section 131 or section 133 of the Act) is sought to be initiated: or

(v) When the functionality to issue communication is not available in the system. the communication may be issued manually but only after recording reasons in writing in the file and with prior written approval of the Chief Commissioner/Director General of income-tax. In cases where manual communication is required to be issued due to delay in PAN migration, the proposal seeking approval for issuance of manual communication shall include the reason for delay in PAN migration. The communication issued under aforesaid circumstances 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 with a DIN on account of reason/reasons given in para 3(i)/3(ii)/3(iii)/3(iv)/3(v) of the Circular Nodated (strike off those which are not applicable) and with the approval of the Chief Commissioner/Director General of Income Tax vide numberdated....

4. Any communication which is not in conformity with Para-2 and Para-3 above, shall be treated as invalid and shall be deemed to have never been issued.

(emphasis supplied by us)

5. The communication issued manually in the three situations specified in para 3-(1). (i) or (ii) above shall have to be regularised within 15 working days of its issuance. by-

- i. uploading the manual communication on the System.*
- ii. compulsorily generating the DIN on the System:*
- iii. communicating the DIN so generated to the assessee/any other person as per electronically generated pro-forma available on the System.*

6. An intimation of issuance of manual communication for the reasons mentioned in para 3(v) shall be sent to the Principal Director General of Income-tax (Systems) within seven days from the date of its issuance.

7. Further, in all pending assessment proceedings, where notices were issued manually. prior to issuance of this Circular, the income-tax authorities shall identify such cases and shall upload the notices in these cases on the Systems by 31th October, 2019.

8. Hindi version to follow.

(Sarita Kumari)
Director (ITA.II), CBDT

5. In view of the above, the Ld. AR pointed out that the entire assessment requires to be treated as null and void. We find that the CBDT circular referred (supra) mandates that no communication shall be issued by any income tax authority relating to assessment, appeals, order etc on or after 01.10.2019 unless a Computer Generated Document Identification Number(DIN) has been allotted and is duly quoted in the body of such communication. Admittedly in the instant

case, there is no mention of computer generated DIN in the body of the assessment order framed on 18.12.2019 which has been served on the assessee. We further find that the coordinate Bench of this Tribunal in the case of Sunder Lal Bajaj HUF Vs. DCIT in ITA No.3009/Del/2022 dated 15.11.2023 by following the decision of the Hon'ble Jurisdictional High Court in the case of Brandix Mauritius Holdings Pvt. Ltd. 2023 (4) TMI 579 dated 20.03.2023 had cancelled the assessment as invalid for not mentioning computer generated DIN in the body of the order. Similar view was also taken by the Hon'ble Bombay High Court in Ashok Commercial Enterprises Vs. ACIT in WP Numbers 2595 of 2021 and others dated 04.09.2023 reported in 2023 (9) TMI 335 and Hon'ble Calcutta High Court in the case of PCIT Vs. TATA Medical Centre Trust, reported in 2023 (9) TMI 1324 dated 26.09.2023.

6. Further we find that the Ld. CIT(DR) before us was not able to point out that the case falls under any of the exceptions provided in para-3 of the said circular 19/2019 dated 14.08.2019. Accordingly the additional ground raised by the assessee deserves to be allowed in the instant case and in view of the same, adjudication of the other grounds (i.e. original grounds) becomes academic in nature and they are left open.

7. In the result, the appeal of the assessee is allowed.

Order pronounced in the open court on 21st December, 2023.

Sd/-
(YOGESH KUMAR US)
JUDICIAL MEMBER
Dated: 21.12.2023

Shekhar

Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Copy forwarded to:

1. Appellant
2. Respondent
3. CIT
4. CIT(Appeals)
5. DR: ITAT

ASSISTANT REGISTRAR

ITAT NEW DELHI