

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

Before Sh. C. N. Prasad, Judicial Member

Dr. B. R. R. Kumar, Accountant Member

ITA No. 3381/Del/2023 : Asstt. Year: 2021-22

&

SA No. 447/Del/2023 : Asstt. Year: 2021-22

Oliver Wyman Ltd., 7 th Floor, MPD Towers, Golf Course Road, Sector-43, DLF QE S.O., Gurgaon, Haryana-122002	Vs	DCIT/ACIT, International Taxation, Gurgaon-122001
(APPELLANT)		(RESPONDENT)
PAN No. AABCO0593J		

**Assessee by : Sh. Himanshu Sinha, Adv. &
Sh. Jainender Kataria, Adv.**

Revenue by : Sh. Vizay B. Vasanta, CIT-DR

Date of Hearing: 26.12.2023

Date of Pronouncement: 28.12.2023

ORDER

Per Dr. B. R. R. Kumar, Accountant Member:

The present appeal and the Stay Application has been filed by the assessee against the order dated 27.10.2023 passed by the AO u/s 143(3) r.w.s. 144C(13) of the Income Tax Act, 1961.

2. The assessee has raised the grounds with regard to non-mentioning of DIN in the DRP communication.

3. This issue of quashing of the order owing to absence of quoting of mandatory DIN by the Officers in their orders stands adjudicated by the Co-ordinate Bench of ITAT in the case of Sh. Rajesh Chaudhary in ITA No. 1615 & 1616/Del/2021 and CO Nos. 151 & 152/Del/2022 vide order dated 18.10.2023.

4. For the sake of ready reference, the said order is reproduced as under:

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

*BEFORE SHRI SAKTIJIT DEY, VICE-PRESIDENT
AND*

DR. B.R.R KUMAR, ACCOUNTANT MEMBER

*ITA Nos.1615 & 1616/Del/2021
Assessment Years: 2013-14 & 2014-15*

<i>DCIT, CC-31, New Delhi</i>	Vs.	<i>Sh. Rajesh Chaudhary, SCF-24, Sector-12, Faridabad, Haryana</i>
PAN :AFSPC1241A		
(Appellant)		(Respondent)

And

C.O. Nos.151 & 152/Del/2022

[In ITA Nos.1615 & 1616/Del/2021

Assessment Years: 2013-14 & 2014-15

<i>Sh. Rajesh Chauchary, SCF-24, Sector-12, Faridabad, Haryana</i>	Vs.	<i>DCIT, CC-31, New Delhi</i>
PAN :AFSPC1241A		
(Appellant)		(Respondent)

<i>Date of hearing</i>	<i>10.10.2023</i>
<i>Date of pronouncement</i>	<i>18.10.2023</i>

ORDER

2. *The grounds raised in the cross-objections are as under:*

"1. *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 requiring mandatory DIN.*

2. *On the facts and circumstances of the case, the assessment framed u/s 153A, is bad in law in the absence of any incriminating material being found during the course of search."*

3. *As could be seen from ground no. 1 in the cross objections, the issue raised is a purely legal and jurisdictional going to the root of the matter. Therefore, we propose to deal with the issue at the very outset.*

4. *We have heard Sh. Ved Jain, learned counsel appearing for the assessee and learned Departmental Representative.*

5. *It is the case of the assessee that the impugned assessment orders have been communicated to the assessee without mentioning the Document Identification Number (DIN). Thus, he submitted that the assessment orders without DIN are invalid and have to be quashed. In this regard, he relied upon Circular No.19 of 2019, dated 14th August, 2019 issued by the Central Board of Direct Taxes (CBDT). He also relied upon a number of judicial precedents submitted in the legal compilation.*

6. *Defending the assessment orders, learned Departmental Representative drew our attention to a report dated 09.10.2023 received from the Assessing Officer, wherein, it is stated that, though, the DINs were generated on 30.12.2019, however, manual orders without DIN was uploaded because ITBA Portal was not allowing to generate DIN through ITBA system.*

7. *Having considered rival submissions, as a matter of fact, we find that the impugned assessment orders do not contain any DIN. To bring more transparency in the functioning of the department and creating audit trail, the CBDT has issued Circular No. 19 of 2019, which reads as under:*

"Circular No.19/2019

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

New Delhi, date the 14th of 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 toward total computerization of its work. This has led to a significant improvement in delivery of services and has also brought 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 (ITBA) 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 a 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 without a DIN on account of reason/reasons given in para 3(0)/3(11)/3610/30v)/36) 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 number..... dated.....

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.

5. *The communication issued manually in the three situations specified in para 3-(1). (ii) or (iii) above shall have to be regularized 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. *A reading of the aforesaid circular reveals that it has been issued by CBDT in exercise of powers conferred under section 119 of the Act, hence, has statutory effect. It mandates that on or after 1st day of October, 2019, no communication will be issued without a computer generated DIN, which has to be quoted in the body of the communication. Though, paragraph 3 of the aforesaid Circular provides that in certain exceptional circumstances, the communication may be issued manually without DIN, however, it has to be after recording reasons in writing in the file with prior written approval of the competent authority and such reasons must be recorded in the body of the communication along with the approval number and date of the approval of the competent authority.*

9. *In the facts of the present appeal, admittedly, though, the assessment orders have been issued without mentioning the DIN, however, in the body of the assessment orders, the Assessing Officer has neither provided reasons for issuing the assessment orders without DIN, nor he has mentioned the number and date of approval of the competent authority. Paragraph 4 of the extant circular states that any communication, which is not in conformity with paragraphs 2 and 3 of*

the circular shall be treated as invalid and shall be deemed to have never been issued.

10. Thus, keeping in view the clear language of the aforesaid Circular, the assessment orders have to be declared as non-est and deemed to have never been issued. While coming to such conclusion, we find support from various judicial precedents cited before us by learned counsel for the assessee, including the decision of Hon'ble Jurisdictional High Court in case of CIT Vs. Brandix Mauritius Holdings Ltd., 2023 (4) TMI 579, dated 20.03.2023. No contrary decision was brought to our notice by learned Departmental Representative. Further, learned Departmental Representative could not offer any convincing reasons, why the CBDT Circular No. 19/2019 should not be applicable in letter and spirit.

11. In view of the aforesaid, we are inclined to quash the impugned assessment orders. As a natural corollary, the impugned orders of learned first appellant authority would have no leg to stand. Accordingly, they are set aside.

12. Since, we have quashed the assessment orders, the issues arising in Revenue's appeal, which are on merits, have become academic. Hence, there is no need for adjudicating them.

13. Resultantly, Revenue's appeals are dismissed and assessee's cross-objections are allowed, as indicated above.

Order pronounced in the open court on 18th October, 2023

*Sd/-
(DR. B.R.R. KUMAR)
ACCOUNTANT MEMBER*

*Sd/-
(SAKTIJIT DEY)
VICE-PRESIDENT*

Dated: 18th October, 2023.

5. In the absence of any material change in the factual matrix and legal proposition, we hereby hold that the Assessment Order have to be declared as non-est.

6. Since, the appeal of the assessee is allowed, the Stay Application of the assessee is dismissed as infructuous.

7. In the result, the appeal of the assessee is allowed and the SA of the assessee is dismissed.

Order Pronounced in the Open Court on 28/12/2023.

Sd/-

(C. N. Prasad)
Judicial Member

Dated: 28/12/2023

Subodh Kumar, Sr. PS

Copy forwarded to:

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

Sd/-

(Dr. B. R. R. Kumar)
Accountant Member

ASSISTANT REGISTRAR