

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

**BEFORE SHRI N.K. BILLAIYA, ACCOUNTANT MEMBER, AND  
MS ASTHA CHANDRA, JUDICIAL MEMBER**

ITA No. 914/DEL/2023 [A.Y. 2014-15]

M/s Comviva Technologies Ltd Vs.  
5, 7 and 8<sup>th</sup> Floor Capital Cyberscape  
Golf Extension Road, Sector - 59  
Gurgaon, Haryana

The Dy. C.I.T.  
Circle - 4(2)  
New Delhi

PAN: AABCB 0102 A

(Applicant)

(Respondent)

Assessee By : Shri Vishal Kalra, Adv  
Ms. Sumisha Murgal, CA  
Shri Kashish Gupta, CA

Department By : Shri T. James Singson, CIT- DR

Date of Hearing : 07.12.2023  
Date of Pronouncement : 12.02.2024

**ORDER**

**PER N.K. BILLAIYA, ACCOUNTANT MEMBER:-**

This appeal by the assessee is preferred against the order dated 31.01.2023 by the NFAC, Delhi pertaining to A.Y. 2014-15.

2. The grievances of the assessee read as under:

"1. That on facts and circumstances of the case and in law, the Ld. CIT(A) has erred in upholding the order passed by the Additional Commissioner of Income Tax, Special Range-2, New Delhi ('the Ld. AO') while completing the assessment of the Appellant at an income of INR 983,452,460 as against income of INR 945,082,580 returned by the Appellant.

1.1 That on facts and in circumstances of the case and in law, the Ld. CIT(A) has grossly erred in ignoring the additional evidences filed by the Appellant and passed a non-speaking order upholding the adjustments made by the Ld. AO with respect to a) ad-hoc disallowance of foreign travelling and conveyance expenditure; b) ad-hoc disallowance of software service charges; c) ad-hoc disallowance of employee benefit expenses; d) denying part of foreign tax credit; and e) denying part of credit for taxes withheld at source, without providing any cogent reasons thereof.

2. That on facts and in circumstances of the case and in law, the order passed by the Ld. CIT(A) is void and bad in law, as it has not considered the remand report dated 22 August 2019 issued by the Ld. AO in the case of the assessee for the relevant AY.

2.1 That on facts and in circumstances of the case and in law, the order passed by the Ld. CIT(A) is bad in law as much as per the remand report given by the Ld. AO, no adverse inference was drawn.

2.2 That on facts and in circumstances of the case and in law, the Ld. CIT(A) has erroneously observed that the appellant's submissions filed before their office are same as the submissions filed before the Ld. AO during assessment proceedings, ignoring the voluminous details filed as additional evidence and considered by Ld. AO in his remand report as well.

2.3 That on facts and in circumstances of the case and in law, the Ld. CIT(A) has erred in not considering the second additional evidence application dated 22 November 2019 filed by the Appellant, providing supporting documents with respect to employee benefit expenses incurred by the appellant for the relevant AY and upholding the ad-hoc disallowance in this regard, without providing any explanation thereof.

3 That on facts and in circumstances of the case and in law, the Ld. CIT(A) has grossly erred in upholding the ad-hoc disallowance of 5 percent made by the AO on account of foreign travelling and conveyance expenditure amounting to

Rs. 11,215,554, alleging that such expenditure has not been incurred wholly and exclusively for the purpose of business and profession and that no supporting bills and vouchers were submitted.

3.1 That on facts and in circumstances of the case and in law, the Ld. CIT(A) has erred in disregarding the remand report dated 22 August 2019 wherein no adverse inference was drawn by the Ld. AO, after duly examining the supporting vouchers/ invoices filed by the Appellant with respect to foreign travelling and conveyance expenditure, vide additional evidence application dated 28 March 2019.

4 That on facts and in circumstances of the case and in law, the Ld. CIT(A) has grossly erred in upholding the ad-hoc disallowance of 5 percent on account of software service charges incurred in foreign currency amounting to INR 14,321,131, made by the Ld. AO on the ground that there is a significant increase in expenses and no supporting bills and vouchers were submitted.

4.1 That on facts and in circumstances of the case and in law, the Ld. CIT(A) has erred in disregarding the remand report dated 22 August 2019 wherein no adverse inference was drawn by the AO, after duly examining the supporting vouchers/ invoices filed by the Appellant with respect to

software service charges, vide additional evidence application dated 28 March 2019.

5 That on facts and in circumstances of the case and in law, the Ld. CIT(A) erred in upholding the ad-hoc disallowance of 5 percent on account of employee benefit expenses incurred in foreign currency amounting to INR 12,833,190, made by the Ld. AO on the ground that amount of expenditure is higher vis-a-vis preceding year and is not backed by any proof.

5.1 That on facts and in circumstances of the case and in law, the Ld. CIT(A) has erred in not considering the additional evidence application dated 22 November 2019 filed by the Appellant containing supporting documents in relation to employee benefit expenses incurred, against which no remand report has been received by the Appellant.

6 That on facts and in circumstances of the case and in law, the Ld. CIT(A) and Ld. AO have erred in denying foreign tax credit to the extent of INR 9,09,61,221 as claimed by the Appellant in the return of income, without providing any reasons thereof.

7. That on facts and in circumstances of the case and in law, the Ld. CIT(A) and Ld. AO have erred in denying the

credit for taxes withheld at source amounting to INR 3,34,74,497 as claimed by the Appellant in the return of income, without providing any reasons/ explanation thereof.

That the above grounds of appeal are without prejudice to each other.

That the Appellant craves leave to add, alter, amend or withdraw any ground of appeal either before or at the time of hearing of this appeal."

3. Representatives of both the sides were heard at length. Case records carefully perused.

4. Substantive grievance of the assessee relates to the adhoc disallowance of expenses on foreign travelling and conveyance, software service charges and employee benefit expenses.

5. In so far as expenses on account of foreign traveling and conveyance and software service charges are concerned, before the Id. CIT(A), the assessee had furnished some additional evidences which were transmitted to the Assessing Officer for verification and the Assessing Officer submitted his remand report after verification /examination of the documents which read as under:

319



OFFICE OF THE  
ADDL. COMMISSIONER OF INCOME TAX,  
SPECIAL RANGE-2, CENTRAL REVENUE BUILDING,  
I. P. ESTATE, NEW DELHI-110002

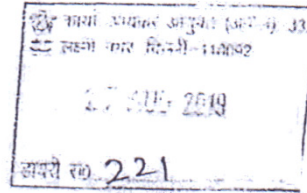
OS  
R. S. T. in  
for hear

F.No. Addl.CIT/Special Range-2/Remand Report /2019-20479

Dated 22.08.2019

To

The Commissioner of Income tax (Appeals)-33  
Room No. 212, 2<sup>nd</sup> Floor,  
Aaykar Bhawan, Laxmi Nagar,  
New Delhi -110092



Sir,

**Sub:-** Report on the Additional Evidence submitted by the assessee under Rule 46A of the I.T. Rules in the case of M/s Comviva Technologies Ltd., Appeal No. 518/17-18 for the A.Y. 2014-15, PAN: AABCB0102A-reg.

Kindly refer to your office letter F.No. CIT(A)-33/46A/2019-20/02 dated 01.04.2019 whereby a remand report has been called for from the undersigned on the above mentioned case. The above letter was received in the office only on 02.04.2019.

2. The assessee submitted additional evidences on the following grounds in the appeal of the assessee before the Ld. CIT(A):-

*"Ground No.4: That the Ld. AO has erred on facts and in law in making adhoc disallowance of 5% of foreign travelling and conveyance expenditure amounting to Rs.1,12,15,554/- alleging that the same has not been incurred wholly and exclusively for purpose of business.*

*Ground No.5: That the Ld. AO has erred on facts and in law in making adhoc disallowance of 5% of software service charges incurred in foreign currency amounting to Rs.1,43,21,131/-."*

3. In regard to additional evidence on the Ground No. 4, the assessee submitted employee-wise/journey wise details of the foreign travelling and conveyance expenditure so incurred along with the sample vouchers/invoices and relevant supporting documents from page 1 to 150 and page 371 to 2105 of the paperbooks. After checking the vouchers/invoices on sample basis, no adverse inference has been drawn.

4. In regard to additional evidence on the Ground No. 5, the assessee submitted vendor-wise details along with sample invoices of the software service charges so incurred from page 151 to 370 of the paperbooks. After checking the vouchers/invoices on sample basis, no adverse inference has been drawn.

6. In light of the above, since the Assessing Officer himself has accepted the expenditure after verification, we do not find any reason for the impugned addition. We, accordingly, direct the Assessing Officer to delete the disallowance of expenditure relating to foreign travelling and conveyance and software service charges. Ground Nos. 2 and 3 are allowed.

7. In so far as Ground Nos. 2.3 and 5 relating to adhoc disallowance on employee benefit expenses are concerned, we find that the remand report of the Assessing Officer is silent on this aspect. Though the assessee had filed some additional evidences, which were sent to the Assessing Officer for verification, since the Id. CIT(A) has accepted additional evidences and since the Assessing Officer has submitted remand report on issue Nos. 2 and 3 [supra], we do not find any reason why the Assessing Officer should not verify additional evidences relating to employee benefit expenses.

8. We, accordingly, direct the Assessing Officer to verify the additional evidences and decide the issue afresh after affording reasonable and adequate opportunity of being heard to the assessee. Ground No. 2.3 and 5 are allowed for statistical purposes.

9. The other grounds relate to the denial of credit for taxes withheld at source.

10. We find that the Assessing Officer has denied credit of foreign tax to the extent of Rs. 9,09,61,221/- and further denied credit of taxes withheld amounting to Rs. 3,34,74,497/- as claimed by the assessee in its return of income without assigning any reason. We direct the Assessing Officer to allow credit after due verification and after affording reasonable and adequate opportunity of being heard to the assessee.

11. In the result, the appeal of the assessee in ITA No. 914/DEL/2023 is allowed in part for statistical purposes.

The order is pronounced in the open court on 12.02.2024.

**Sd/-**

**[ASTHA CHANDRA]  
JUDICIAL MEMBER**

**Sd/-**

**[N.K. BILLAIYA]  
ACCOUNTANT MEMBER**

Dated: 12<sup>th</sup> FEBRUARY, 2024.

VL/

Copy forwarded to:

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

Asst. Registrar,  
ITAT, New Delhi

Date of dictation	
Date on which the typed draft is placed before the dictating Member	
Date on which the typed draft is placed before the Other Member	
Date on which the approved draft comes to the Sr.PS/PS	
Date on which the fair order is placed before the Dictating Member for pronouncement	
Date on which the fair order comes back to the Sr.PS/PS	
Date on which the final order is uploaded on the website of ITAT	
Date on which the file goes to the Bench Clerk	
Date on which the file goes to the Head Clerk	
The date on which the file goes to the Assistant Registrar for signature on the order	
Date of dispatch of the Order	