

**INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "C": NEW DELHI
BEFORE SHRI M. BALAGANESH, ACCOUNTANT MEMBER
AND
SHRI YOGESH KUMAR U.S., JUDICIAL MEMBER**

**ITA No.5541/Del/2018
(Assessment Year: 2014-15)**

GIIR Communications India Pvt. Ltd, 306-307, Corporate Suites, District Centre, Jasola, New Delhi (Appellant) PAN: AADCG6239R	Vs. DCIT, Circle-10(1), New Delhi (Respondent)
--	---

Assessee by :	Shri K. Sampath, Adv Shri V. Rajakumar, Adv
Revenue by:	Shri Sandip Kumar Mishra, Sr. DR
Date of Hearing	29/02/2024
Date of pronouncement	09/05/2024

ORDER

PER M. BALAGANESH, A. M.:

1. The appeal in ITA No.5541/Del/2018 for AY 2014-15, arises out of the order of the Commissioner of Income Tax (Appeals)-35, New Delhi [hereinafter referred to as 'ld. CIT(A)', in short] in Appeal No. 416/2016-17 dated 29.06.2018 against the order of assessment passed u/s 143(3) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') dated 23.12.2016 by the Assessing Officer, DCIT, Circle-10(1), New Delhi (hereinafter referred to as 'ld. AO').
2. The only issue to be decided in this appeal is as to whether the ld. CIT(A) was justified in confirming the addition made in the sum of Rs 1,71,63,460/- on account of mismatch in receipts between Profit and Loss Account and Form 26AS in the facts and circumstances of the instant case.

3. We have heard the rival submissions and perused the materials available on record. The assessee company is engaged in the business of advertisement, media planner and in providing media related services. The return of income for the Asst Year 2014-15 was filed by the assessee on 27.9.2014 declaring Nil income under normal provisions of the Act and Book Profits of Rs 2,42,55,251/- u/s 115JB of the Act. The assessee maintains its books of accounts in SAP software and financial statements are drawn based on the figures reflected in SAP software. The assessee claimed TDS of Rs 17,16,346/- on its receipts in the income tax return filed on the basis of Form 26AS but considered in SAP software. The Id. AO observed that there was some difference in gross receipts reflected in Form 26AS and that declared by the assessee in the return. It was found that TDS of Rs 17,16,346/- was reflected in Form 26AS but not considered in SAP software. The Id. AO asked the assessee to prove the fact whether the corresponding receipts attributable to TDS claim had been offered to tax by the assessee during the year under consideration. It was explained that at the year end, the assessee recognizes its income on provisional basis against unrealized income and TDS receivable is recognised only on payment from the client or if it is reflected in Form 26AS. As and when payment is realized from the party, it makes respective entries in subsequent year in the books. It was submitted that the payments were received from the clients in the month of April 2014 and accordingly accounted for in the SAP software in Asst Year 2015-16. But since the corresponding TDS is reflected in Form 26AS, the same was claimed by the assessee in the return for Asst Year 2014-15. It was also submitted that in SAP software, there is no scope for passing any backdated entries by the assessee. It was also submitted that as far as the income offered to tax is concerned, the assessee had only considered the receipts reflected in Form 26AS while filing the return. It was explained that domestic sales eligible for tax deduction as per Form 26AS was Rs 22.32 crores against which TDS was

done for Rs 1.40 crores. This has been considered in the return of income by the assessee. The TDS reconciliation for the same as per Form 26AS and TDS receivable as per books was filed by the assessee. The Id. AO however ignored the contentions of the assessee and extrapolated the receipts based on TDS mismatch of Rs 17,16,346/- and arrived at the income of Rs 1,71,63,460/- and made addition to that extent in the assessment. This action of the Id. AO was upheld by the Id. CIT(A).

4. The Id. AR before us drew our attention to the complete reconciliation of party wise receipts together with TDS thereon from Page 85 of the Paper Book. Further the assessee had filed additional evidences under Rule 29 of the Income Tax Appellate Tribunal Rules 1963 furnishing further details party wise. These additional evidences, in our considered opinion, are crucial for adjudication of the issue in dispute before us but these details were admittedly not filed before the Id. AO. The same requires factual verification. Hence in the interest of justice and fair play, we deem it fit and appropriate to restore this issue to the file of Id. AO for denovo adjudication in accordance with law and in the light of the additional evidences filed by the assessee before us. With these directions, the ground raised by the assessee is allowed for statistical purposes.

5. In the result, the appeal of the assessee is allowed for statistical purposes.

Order pronounced in the open court on 09/05/2024.

-Sd/-
(YOGESH KUMAR U.S.)
JUDICIAL MEMBER

-Sd/-
(M. BALAGANESH)
ACCOUNTANT MEMBER

Dated: 09/05/2024
A K Keot

Copy forwarded to

1. Applicant
2. Respondent
3. CIT
4. CIT (A)
5. DR:ITAT

ASSISTANT REGISTRAR
ITAT, New Delhi