

**IN THE INCOME TAX APPELLATE TRIBUNAL
“D” BENCH, AHMEDABAD**

**BEFORE SHRI SIDDHARTHA NAUTIYAL, JUDICIAL MEMBER &
SHRI NARENDRA PRASAD SINHA, ACCOUNTANT MEMBER**

आयकर अपील सं./I.T.A. No. 1097Ahd/2023
(निर्धारण वर्ष / Assessment Years: 2014-15)

Appsemantics Infotech Private Limited Office No. 701, Shilp Aaron Tower-A, Sindhu Bhavan Road, Bodakdev, Ahmedabad-380059	बनाम/ Vs.	The DCIT, Circle-1(1)(1), Ahmedabad
स्थायी लेखा सं./जीआइआर सं./PAN/GIR No. : AAICA5814F		
(Appellant)	..	(Respondent)

अपीलार्थी ओर से /Appellant by :	Shri Tushar R. Shah, A.R.
प्रत्यर्थी की ओर से/Respondent by :	Shri Sushil Kumar Katiar, Sr. DR

Date of Hearing	13/05/2024
Date of Pronouncement	17/05/2024

ORDER

PER SHRI NARENDRA PRASAD SINHA, AM:

This appeal is filed by the assessee as against the order of the National Faceless Appeal Centre (NFAC), Delhi, (in short ‘the CIT(A)’) dated 26.10.2023 for the Assessment Year 2014-15.

2. The assessee has raised the following grounds in this appeal:

1. The rectification order u/s. 154 rejecting rectification application passed by assessing officer and confirmed by first appellate authority is bad in law and

deserves to be uncalled for and rectification application filed by the appellant be allowed with consequential relief.

2. The demand of dividend distribution tax in respect of A.Y. 2014-15 is unjustified and uncalled for and credit of the same deserves to be given in respect of A.Y. 2015-16.

3. Without prejudice to the above, credit for the dividend distribution tax paid for A.Y. 2015-16 be allowed in respect of A.Y. 2014-15.

4. The appellant craves leave to add to or amend the grounds of appeal before disposal of the appeal.

3. The brief facts of the case are that the assessee had declared dividend of Rs.40,00,000/- on 25/08/2014 on which Dividend Distribution Tax (DDT) of Rs.6,79,800/- was paid on 27/08/2014. The details of DDT of Rs.6,79,800/- pertaining to A.Y. 2015-16 was wrongly shown in the Tax Audit Report in Form 3CD and in the Income Tax Return for the A.Y. 2014-15. The assessee had filed a rectification application u/s 154 of the Income Tax Act (hereinafter referred as 'the Act') before the A.O. on 31/12/2018 for the A.Y. 2014-15 and also for A.Y. 2015-16 with a request that the DDT of Rs.6,79,800/- which was wrongly shown in the Income Tax Return for A.Y. 2014-15 should be considered in the A.Y. 2015-16. The rectification application of the assessee was rejected vide order U/s. 154 dated 16/04/2019 passed by the AO. The assessee had preferred an appeal against the said order which was decided vide the impugned order and the Ld. CIT(A) upheld

the rejection of the rectification application. The assessee is in appeal before us.

4. Shri Tushar R. Shah Ld. A.R. of the assessee explained that there was a genuine mistake on the part of the assessee as the DDT paid on 27/08/2014 was wrongly shown in the return of A.Y. 2014-15 in place of A.Y. 2015-16. He submitted that the Department has not disputed the fact that DDT of Rs.6,79,800/- was paid on 27/08/2014. The question is about its accounting only. As the DDT was paid during the Financial Year 2014-15, it should have been accounted for in the return for A.Y. 2015-16. However, due to inadvertent mistake the assessee had wrongly accounted for it in the return for A.Y. 2014-15. When the mistake was noticed a revised Form 3CD for A.Y. 2014-15 and for A.Y.2015-16 was also filed with the Department, but the Ld. CIT(A) rejected it on the ground that it was not filed within time. The Ld. AR requested that a direction may be given for accounting of the DDT paid on 27/08/2014 in the correct Assessment Year.

5. The Ld. D.R. on the other hand submitted that as per Minutes of Minutes of Annual General Meeting of the assessee

company dated 25th August 2014, the final dividend of Rs.400/- per equity share was declared for the financial year ended on 31/03/2014. Thus the dividend was pertaining to A.Y. 2014-15 only, on which the DDT was paid. He further submitted that if the assessee had made certain mistake in the Income Tax Return, the same could have been rectified only by filing a revised return and that there was no mistake apparent from record, which could have been rectified u/s 154 of the Act by the A.O.

6. We have carefully considered the facts of the case and the materials brought on record. There is no dispute to the fact that dividend of Rs.40,00,000/- was declared on 25/08/2014 on which DDT of Rs.6,79,800/- was paid on 27/08/2014. The question is only about correct accounting of the DDT. The contention of the Revenue is that this dividend was declared for the year ended on 31/03/2014 and, therefore, the DDT pertained to the A.Y. 2014-15. The Ld. CIT(A) has also held that the declaration of dividend and tax thereon pertained to A.Y. 2014-15. This contention of the Revenue is not found correct. The provision of Section 115-O(3) clearly stipulates that the company had to pay DDT on distributed profits to the credit of Central Government within 14 days from the date of (a) declaration of dividend or (b) distribution of

dividend or (c) payment of dividend, whichever was earliest. When the dividend was declared and payment of DDT was made in the financial year 2014-15 it could not have been accounted for in the return for earlier year. The DDT has to be accounted for only in the return for the financial year in which it was actually paid. As the DDT was paid on 27-08-2014 in this case, it should have been accounted for in return for the financial year 2014-15 relevant to the A.Y. 2015-16.

7. The assessee had filed a revised Form 3CD for A.Y. 2014-15 and 2015-16 on 21/05/2019 rectifying the mistake in accounting of DDT. The Ld. CIT(A) has rejected the revised Form 3CD on the ground that the revised Form 3CD were required to be filed before the end of the relevant assessment year only. The assessee is not making any fresh claim by way of the revised Form 3CD but it was only rectifying the mistake in accounting of DDT. The finding of the Ld. CIT(A) is that declaration of dividend and tax thereon pertained to A.Y. 2014-15. Even though, the dividend was declared for the year ended on 31/03/2014, the declaration took place in the financial year 2015-16 and DDT was also paid during this year only. Therefore, the payment of DDT should have been accounted for in the return for A.Y. 2015-16

and not in the A.Y. 2014-15. In the course of hearing, the Ld. A.R. has submitted that no dividend was declared neither any such DDT was paid in the preceding financial year 2013-14 which could have been accounted for in the return for the A.Y.2014-15.

8. In view of above facts and the discussions, the Department should allow credit for DDT of Rs.6,79,800/- paid on 27/08/2014 in the A.Y. 2015-16. At the same time the Department should withdraw the credit for DDT of Rs.6,79,800/- claimed in the return for the A.Y.2014-15.

9. In the result, the appeal filed by the Assessee is allowed.

This Order pronounced on 17/05/2024

Sd/-
(SIDDHARTHA NAUTIYAL)
JUDICIAL MEMBER True Copy
Ahmedabad; Dated 17/05/2024

Sd/-
(NARENDRA PRASAD SINHA)
ACCOUNTANT MEMBER

Rajesh

आदेश की प्रतिलिपि अग्रेषित/Copy of the Order forwarded to :

1. अपीलार्थी / The Appellant
2. प्रत्यर्थी / The Respondent.
3. संबंधित आयकर आयुक्त / Concerned CIT
4. आयकर आयुक्त(अपील) / The CIT(A)-
5. विभागीय प्रतिनिधि, आयकर अपीलीय अधिकरण, अहमदाबाद / DR, ITAT, Ahmedabad
6. गार्ड फाईल / Guard file.

आदेशानुसार/ BY ORDER,

उप/सहायक पंजीकार (Dy./Asstt. Registrar)
आयकर अपीलीय अधिकरण, अहमदाबाद / ITAT, Ahmedabad